Appendix A
Guidance for Wetland Related Elements in Nonpoint Source (NPS) Proposals

Background

Prior to European settlement, the state of Michigan contained an estimated 11 million acres of wetlands, covering approximately 30 percent of the state's land mass. Approximately 6.5 million acres of those original wetlands remain. The primary reasons for wetland losses have been drainage for conversion to agriculture and urban development. Watersheds are significantly influenced by their wetlands. Wetlands provide many valuable water quality related functions including storing floodwaters, trapping sediments and nutrients, and protecting erodible stream banks and shorelines. Wetlands also contribute to groundwater recharge and provide valuable fish and wildlife habitat. Restoring, enhancing, or protecting wetlands can have positive water quality impacts. Therefore, the NPS Program is encouraging the integration of wetland restoration and protection goals into local watershed management plans and supports the restoration and protection of wetlands as a means of addressing water quality concerns.

Planning Projects

Wetlands and Watershed Management Planning

All watershed plans should consider a wetlands component which results in the development of an inventory of existing wetlands, the identification of potential wetland restoration areas, and procedures and strategies to prioritize historically lost wetlands for restoration and existing wetlands for protection and preservation. Maps depicting current wetlands and areas with the potential for wetland restoration are available through the Wetlands Map Viewer or from Jeremy Jones; Wetlands, Lakes, and Streams Unit; Field Operations Support Section; Water Resources Division; at JonesJ28@Michigan.gov or 517-899-6122.

The Department of Environment, Great Lakes, and Energy (EGLE) endorses the use of a Landscape Level Wetland Functional Assessment (LLWFA) as a means to prioritize areas for wetland restoration and protection. Methodologies to conduct an LLWFA of existing and historically lost wetlands were developed by the United States Fish and Wildlife Service. EGLE has modified and refined the LLWFA process to reflect Michigan conditions. The LLWFA methodology is based on an inventory of existing wetlands, and a determination of the functions they are performing. This information is then used to prioritize them for protection and restoration. The LLWFA methodology will also allow the identification of historically lost wetlands, determine the functions they once provided, and to prioritize wetlands for restoration in order to obtain the most significant water quality improvements.

Elements for Inclusion in Watershed Management Plans

The following wetland related elements should be considered for watershed planning projects:

1) Compile wetland information on a watershed basis.
2) Assess local wetland protection capacity.
3) Identify wetland partners and roles.
4) Create an inventory of existing wetlands and potential wetland restoration sites within the watershed using Geographic Information System wetland related data layers (inventory/maps are now available from EGLE).

5) Conduct an LLWFA, or similar protocol, of the watershed to produce an analysis of both historic and present-day wetlands and their functions. The results are used to estimate the cumulative effect of historic wetland losses on the watershed and water quality. The results will assist the grantee in setting goals to replace wetland functions that have been lost since pre-settlement. The results will also be a critical source of information for developing procedures to prioritize existing wetlands for protection and preservation as well as prioritizing historically lost wetlands for restoration. **Note:** A map is included at the end of this guidance indicating areas where an LLWFA has been completed by EGLE or is underway.
6) Define wetland goals and objectives for the watershed.
7) Develop a wetland restoration strategy. The strategy should identify the tools that will be used to accomplish the physical restoration as well as a system to prioritize which historically lost or degraded wetlands should be restored.
8) Develop a wetland protection/preservation strategy. The strategy should specify the methods or tools that will be used to increase the protection of existing wetlands and to prioritize the preservation of the highest quality wetlands.
9) Screen “priority” wetlands for further assessment and field evaluation.

Projected Environmental Improvement

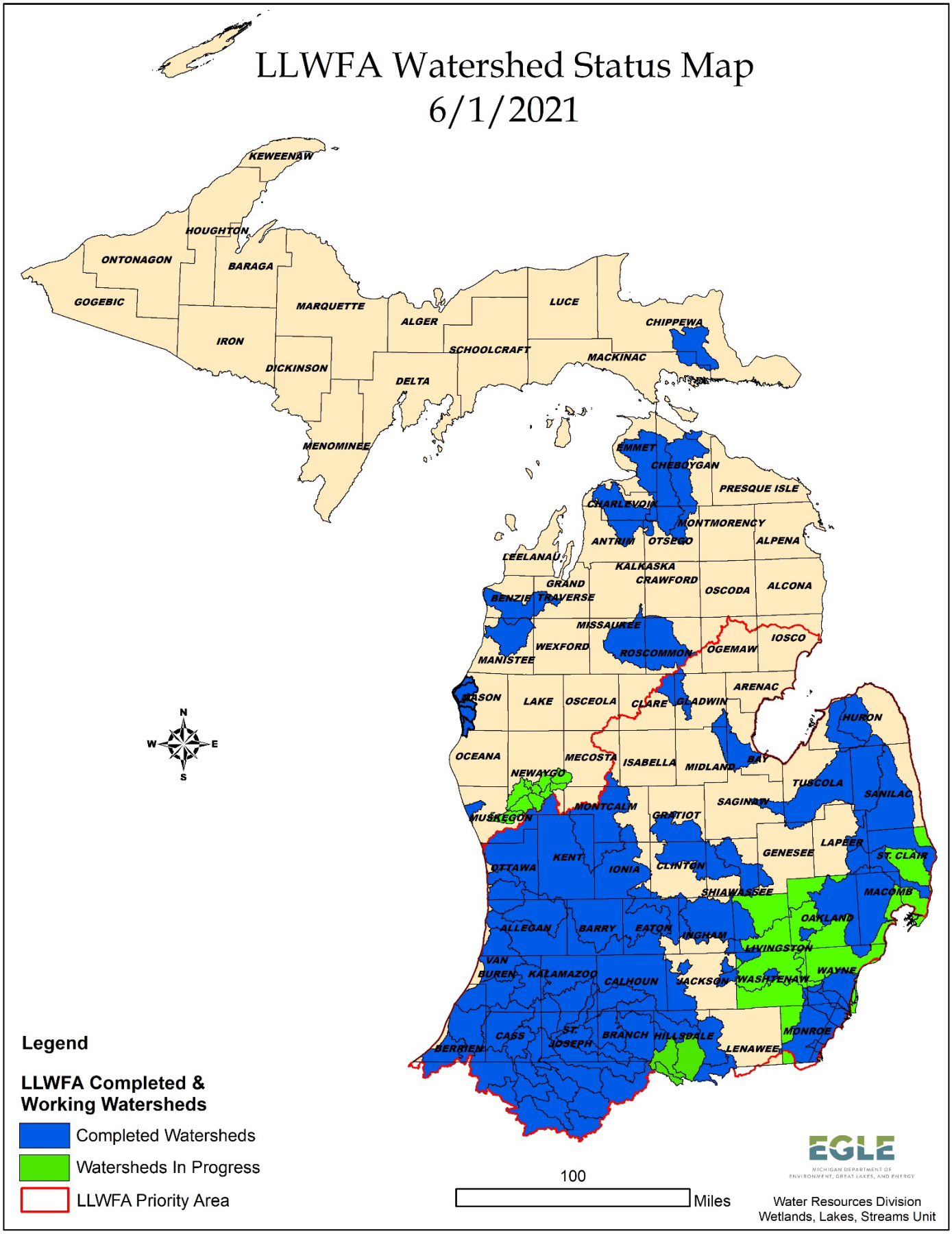
The short-term outcomes of this effort will be that grantees will gain an increased knowledge of where their wetlands are located, the specific functions that wetlands perform, and the overall importance of wetlands in the watershed. The expected transitional outcomes will be changes in practices that impact wetlands and local decisions that can protect or preserve wetlands. The anticipated long-term outcomes will be improved water quality as a result of existing wetlands that are protected and the restoration of wetlands that improve water storage and pollution removal capabilities.

Implementation Projects

Wetlands and Watershed Management Implementation

EGLE endorses the use of an LLWFA as a means to prioritize areas for wetland restoration and protection. Therefore, proposals in watersheds with a completed LLWFA must use the tool to identify specific wetlands to address the water quality concerns and critical areas identified in the watershed plan. Proposals in areas without an LLWFA must include the rationale or methodology used to select specific wetlands for restoration or protection. The rationale or methodology must include the water quality concerns and critical areas identified in the watershed plan. Proposals to restore or protect wetlands with NPS funds or for match must identify specific locations. Those that include landowner letters of support will rank higher than those lacking such support. Proposals that will utilize NPS funds for technical and staff support and restore or protect wetlands using other sources of funding (Farm Bill, for example) will not have to provide specific locations and best management practices at the proposal stage. Rather, such proposals must include a description of the protocol or methodology that will be used to target the pollutants/causes/sources and critical areas of the applicable watershed management plan.

LLWFA Watershed Status Map
6/1/2021



Appendix B
Watershed Management Planning Guidance and Criteria

The development of new watershed management plans and general updates of existing watershed management plans are not eligible under this Request for Proposals. However, limited funding is available for technical revisions of recent watershed management plans. Technical revisions must be a component of a larger nonpoint source (NPS) implementation project. Technical revisions consist of adding or updating information for specific pollutants, sources or causes for otherwise current and approved watershed management plans. Technical revisions could include, but are not limited to:

- Field inventories identifying specific sites that are the sources and causes of NPS pollutants impairing a designated use.
- Environmental or social monitoring.
- Incorporating the NPS load allocation from approved Total Maximum Daily Loads.
- Models that identify and prioritize areas for restoration or protection like the landscape level wetland functional analysis.

The NPS Program will continue to review and approve watershed management plans as meeting state and federal criteria. It is strongly encouraged that NPS staff is contacted for involvement and guidance early in all planning projects regardless of the project funding source.

State and Federal Guidance

State Guidance: Clean Michigan Initiative (CMI) Administrative Rules on Watershed Management Planning (Part 88, Water Pollution and Environmental Protection Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, [NREPA] MCL 324.8808).

Administrative Rules promulgated in October 1999 for CMI NPS Pollution Control Grants, require watershed management plans be approved by EGLE. In addition, the rules require EGLE to use CMI NPS funds to implement only EGLE-approved watershed management plans. The NPS Program produced a guidebook (the "Blue Book") for the development of watershed management plans that includes the required CMI elements and examples. The Guidebook is available on the NPS Program Web page in the Technical Assistance section, "Developing an Approvable Watershed Management Plan."

Federal Guidance: The United States Environmental Protection Agency's (USEPA) Nine Minimum Elements of Watershed Management Planning

To ensure that Section 319 projects make progress towards restoring waters impaired by NPS pollution, watershed-based plans that are implemented with Section 319 funds must include the nine minimum elements of watershed management planning. The USEPA believes that these nine elements are critical to assure that public funds are used effectively. The USEPA has developed a handbook describing these elements and including information on how these elements can be met. The handbook and additional guidance is available on the NPS Program Web page in the Technical Assistance section, "Developing an Approvable Watershed Management Plan."

Review Checklists

EGLE offers checklists for the CMI and 319 criteria. Stakeholders' use of these checklists will help ensure plans meet all criteria and help reduce the review time by EGLE staff.

- CMI element checklist for stakeholders.
- 319 element checklist for stakeholders.

Appendix C

General Guidance for Land/Water Interface Permits

Many activities that involve the physical alteration of aquatic ecosystems at the land/water interface (lakes, rivers/streams, wetlands, and Great Lakes and flood plains) require permits under the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

The following information is intended to be used as a general guide to assist grant applicants in determining if a State permit may be necessary to conduct activities involving physical alterations at the land/water interface. This is not an all-inclusive guide. Activities involving environmental areas, high-risk erosion areas, and critical dunes are not addressed here. Information specific to these programs is available on the Shorelands Management Web page. *Depending on the complexity of the activity, it may be prudent to secure necessary permits in advance of submitting a grant proposal.*

It is recommended that this information be used in consultation with Water Resources Division (WRD) field staff. In addition, professional consultants may provide assistance if practiced in the specific area of interest. The online Land and Water Interface Decision Tree may also be helpful. WRD staff contact information is available on the Floodplain Engineering Staff map.

Generally, most activities that involve or result in a use or physical change to a regulated aquatic resource at the land/water interface will require a permit (see page 3 for additional information).

Grant applicants are advised that *NOT ALL land/water interface activities can be permitted* and should therefore use sound environmental practices and methods when planning or designing a project. It is essential to avoid activities that cannot or are unlikely to be permitted when submitting proposals. When developing a project proposal, applicants should address the items listed below. These queries are intended to draw the applicants' attention to the possible need for permits and direct their efforts towards avoiding the need for a permit or towards increasing the potential of securing a permit.

1. Have all the *aquatic features, including flood plains*, where appropriate, been identified on the project plans? **Yes** ☐ **No** ☐

2. Have all the *regulated* natural resources been located on the project site(s) and identified on the plans? **Yes** ☐ **No** ☐

3. Does the grant proposal involve impacts to any of the following: inland lakes, the Great Lakes, streams, rivers, wetlands, or floodplains? Impacts would include activities such as dredging, excavating, filling, draining, constructing in, relocating, converting, increasing flows, or increasing water temperature (this is a partial list of usual activities and is not all-inclusive). If the answer is yes, a permit is required (unless specifically exempted).
   Yes ☐ **No** ☐

4. *Is the extent of impact to* the regulated resources *incidental (minor)* i.e., does it qualify as a minor activity under the NREPA, and is the bulk of the work on upland/non-flood plain with only a small ancillary activity (necessary to make the primary project functional) in the regulated resource? **Yes** ☐ **No** ☐

5. Is the work major (with significant impact to the resource) in nature (i.e., most or all of the planned work will occur in a regulated resource and will have considerable impact to the regulated resource)? **Yes** ☐ **No** ☐

6. Has the *design been adjusted to avoid and minimize* the impact to regulated resources? **Yes** ☐ **No** ☐

7. Have the best available design elements been utilized in developing the plan?
   Yes ☐ **No** ☐

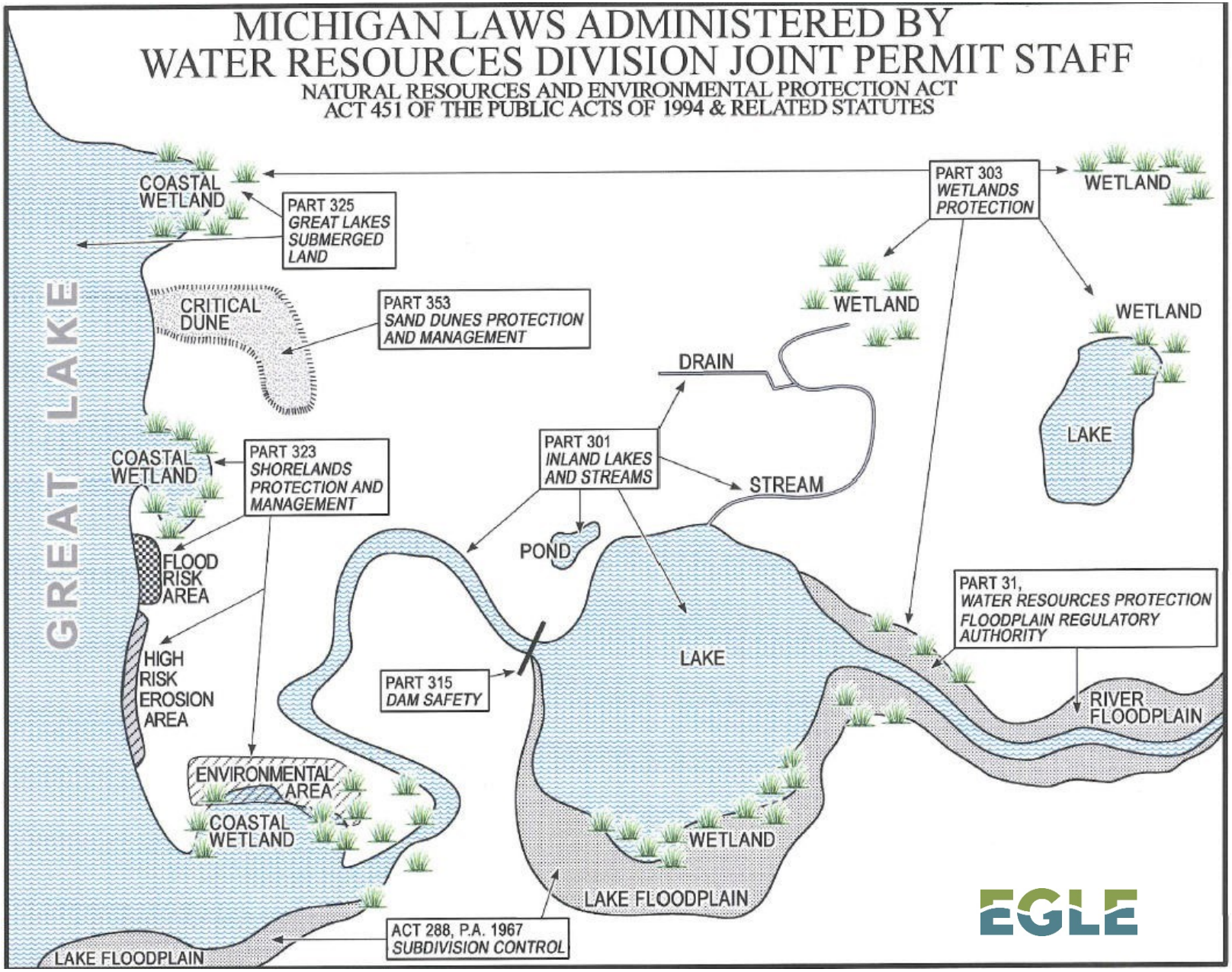
8. Have you contacted the WRD staff for advice or information? **Yes** ☐ **No** ☐

9. Has your consultant advised you of the need for and likelihood of acquiring needed permits? **Yes** ☐ **No** ☐

10. Have you *applied for a permit*? **Yes** ☐ **No** ☐

11. Have you determined whether or not the project can be accomplished if a permit cannot be granted for any regulated activity associated with the project? **Yes** ☐ **No** ☐

NOTE: Permit reviews are normally multi-faceted considering a number of elements. In addition to assessing those noted in item 3 above, some of the other resource specific elements that may be considered are wildlife habitat, fish habitat, degree of impact, alternatives, flood potential, amount of resource impacted, presence of endangered or threatened species, location of affected resource, relationship of affected resource to other features, ownership riparian rights, public trust, and public interest as well other elements. If a permit is required, it is crucial that the likelihood of securing such permit is addressed early in the process. There is no certainty that a permit can be issued until a permit application has been fully processed.


MICHIGAN LAWS ADMINISTERED BY
WATER RESOURCES DIVISION JOINT PERMIT STAFF
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT
ACT 451 OF THE PUBLIC ACTS OF 1994 & RELATED STATUTES
GREAT LAKE
COASTAL WETLAND
PART 325 GREAT LAKES SUBMERGED LAND
CRITICAL DUNE
PART 353 SAND DUNES PROTECTION AND MANAGEMENT
PART 303 WETLANDS PROTECTION
WETLAND
WETLAND
WETLAND
DRAIN
LAKE
COASTAL WETLAND
PART 323 SHORELANDS PROTECTION AND MANAGEMENT
PART 301 INLAND LAKES AND STREAMS
STREAM
POND
FLOOD RISK AREA
HIGH RISK EROSION AREA
PART 31, WATER RESOURCES PROTECTION FLOODPLAIN REGULATORY AUTHORITY
LAKE
PART 315 DAM SAFETY
RIVER FLOODPLAIN
ENVIRONMENTAL AREA
COASTAL WETLAND
WETLAND
LAKE FLOODPLAIN
ACT 288, P.A. 1967 SUBDIVISION CONTROL
LAKE FLOODPLAIN
EGLE

Appendix D
Guidance for Projects in Coastal Areas

The Coastal Nonpoint Pollution Control Program, established by Section 6217 of the federal Coastal Zone Act Reauthorization Amendments, addresses nonpoint source (NPS) pollution problems in coastal waters. Section 6217 requires states and territories with approved Coastal Zone Management Programs to develop Coastal Nonpoint Pollution Control Programs. In its program, a state or territory describes how it will implement nonpoint source pollution controls, known as management measures. This program is administered jointly by the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration.

As a condition of Michigan's Coastal Nonpoint Pollution Control Program, the Michigan Department of Environment, Great Lakes, and Energy (EGLE) has agreed to prioritize specific activities within Michigan's Coastal Nonpoint Boundary (Figure 1.) as well as requiring some additional elements in EGLE funded watershed management plan technical updates within the boundary. The priority activities and additional elements for technical updates are listed below.

Priority activities for implementation projects within Michigan's Coastal Nonpoint Boundary:

A. Projects implementing Low Impact Development/Green Infrastructure within urban clusters in the Coastal Nonpoint Source Boundary (Figure 2 and Table1).
B. Projects for the development of local stormwater ordinances for urban clusters in the Coastal Nonpoint Source Boundary that:
    a. reduce the average annual total suspended solids loadings by 80 percent,
    b. maintain post-development peak runoff rate and average volume at levels that are similar to pre-development levels.
C. Septic system inspect/repair/replace projects consistent with Appendix H and the approved watershed management plan for the targeted watersheds shown in Figure 3.
D. Projects for the update or development of local ordinances that require inspection and maintenance of residential septic systems.
E. Projects including social surveys within the Coastal Nonpoint Boundary must include an enhanced septic focused section consisting of selected stock questions and custom questions (available from NPS staff).

Additional planning elements for EGLE funded technical updates for watershed management plans within the Coastal Nonpoint Boundary:

1. All EGLE funded technical updates of watershed management plans covering Urban Clusters within the coastal nonpoint source boundary (Figure 2 and Table 1) will include recommendations for controlling post construction sediment and runoff rates and volumes (reduce the average annual total suspended solids

loadings by 80 percent and maintain post-development peak runoff rate and average volume at levels that are similar to pre-development levels).

2. All EGLE funded technical updates of watershed management plans within the coastal nonpoint source boundary will include an On-Site Disposal System (OSDS) section that includes system distribution and density information, a summary of pertinent water quality data, and a review of OSDS related codes and ordinances to support comprehensive approaches to deal with OSDS.
3. Specific OSDS maintenance and inspection recommendations will be included in all EGLE funded technical updates of watershed management plans covering water bodies with impairments or impacts caused by OSDS. EGLE encourages recommendations to support comprehensive approaches with a mix of regulatory and voluntary actions to best deal with existing and potential future problems.

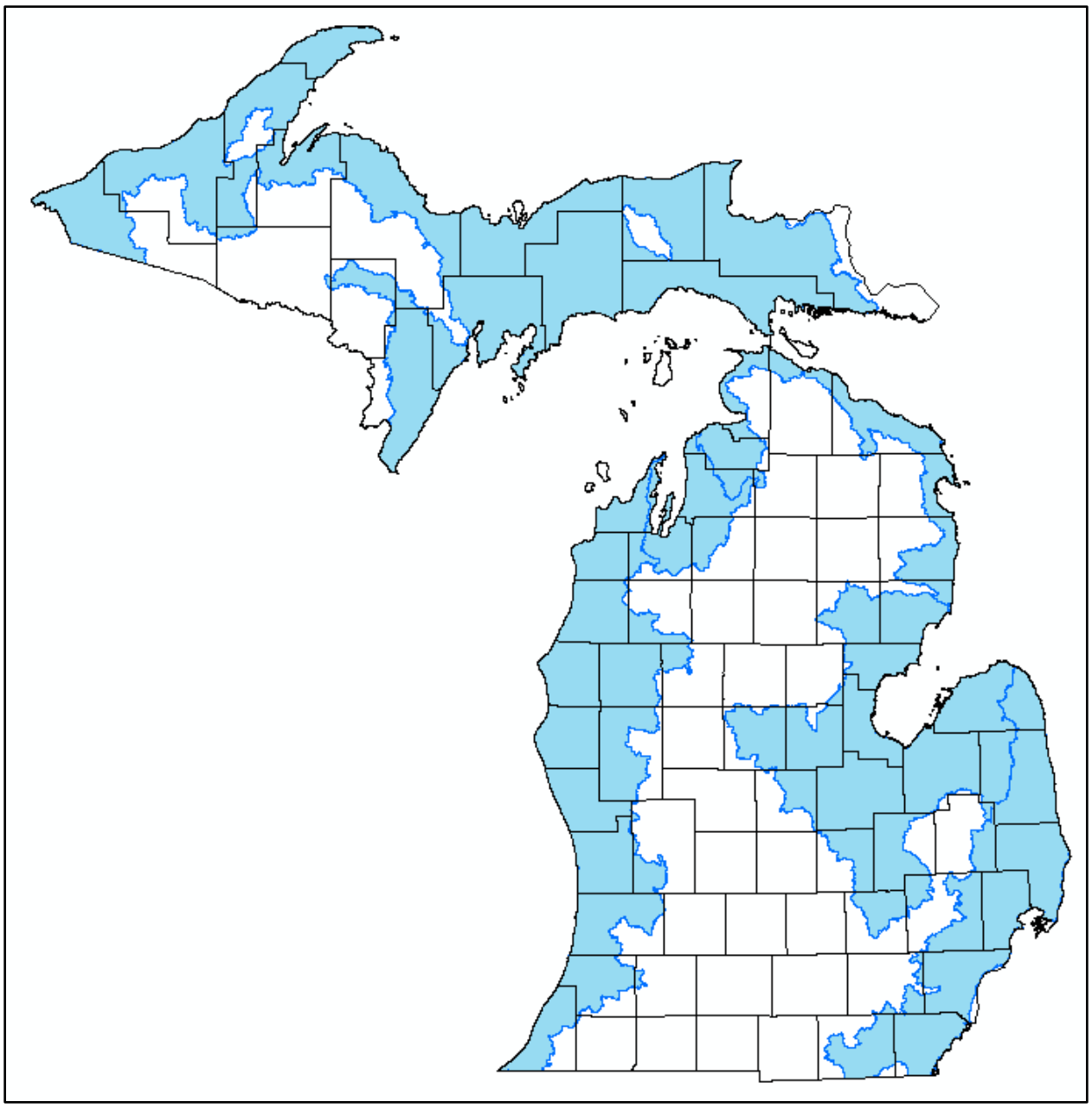


Figure 1 Michigan's Approved Coastal Nonpoint Boundary (shaded Blue)

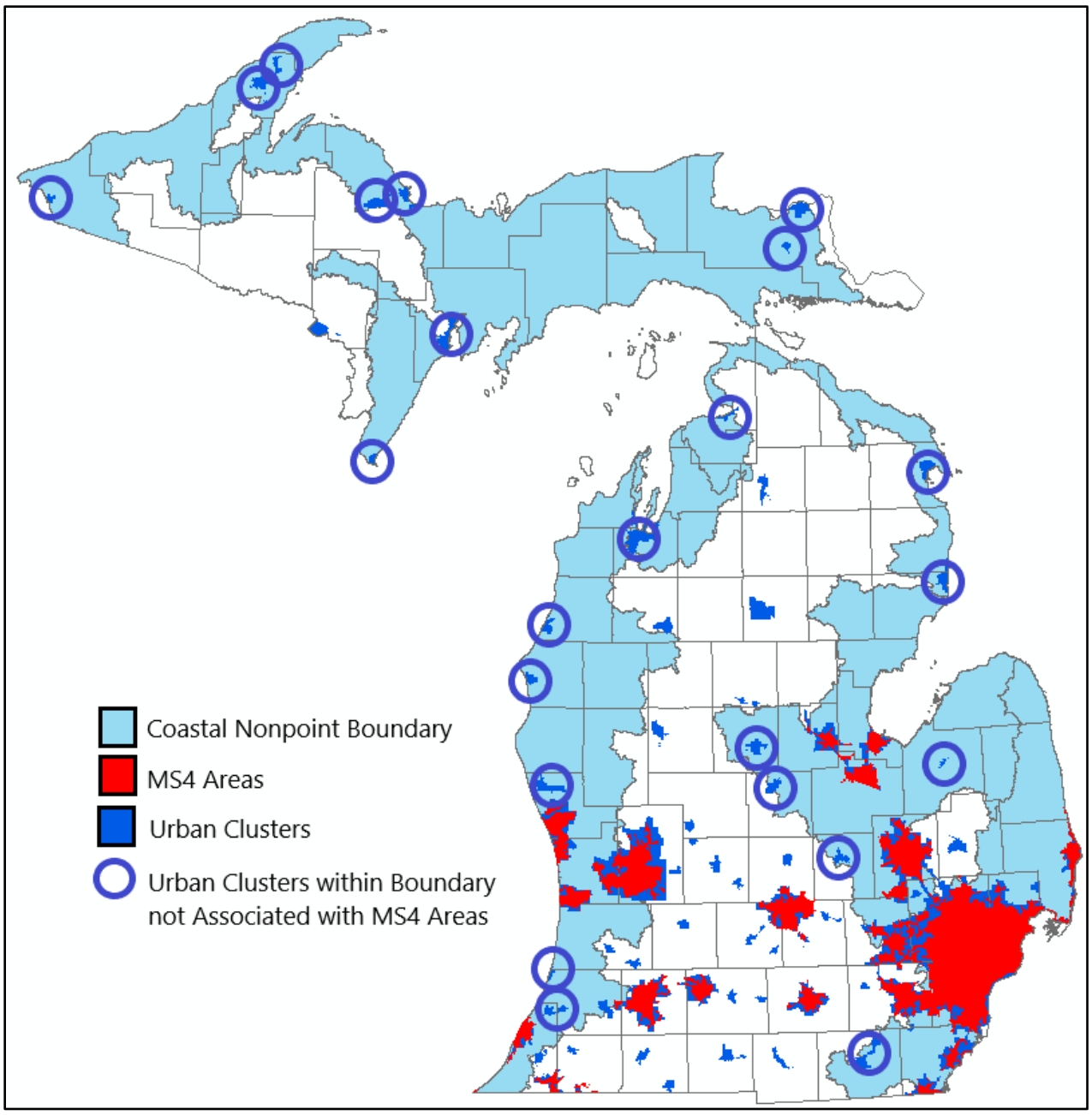


Figure 2 Urban Clusters within Michigan's Coastal Nonpoint Boundary

Table 1. Urban Clusters and sub areas within the Coastal Nonpoint Boundary
CDP-Census Designated Place

- Adrian (Urban Cluster)
  - Sub Areas
    - Adrian City
    - Clinton Village
    - Tecumseh City
- Alma (Urban Cluster)
  - Sub Areas
    - Alma City
    - St. Louis City
- Alpena (Urban Cluster)
  - Sub Area
    - Alpena City
- Au Sable (Urban Cluster)
  - Sub Areas
    - Au Sable CDP
    - Oscoda CDP
- Caro (Urban Cluster)
  - Sub Area
    - Caro Village
- Escanaba (Urban Cluster)
  - Sub Areas
    - Escanaba City
    - Gladstone City
- Houghton (Urban Cluster
  - Sub Areas
    - Dollar Bay CDP
    - Hancock City
    - Houghton City
- Ironwood (Urban Cluster)
  - Sub Area
    - Ironwood City
- Ishpeming (Urban Cluster)
  - Sub Areas
    - Ishpeming City
    - Negaunee City
    - West Ishpeming CDP
- Kinross Township (Urban Cluster)
  - Sub Area
    - Kinross Township
- Laurium (Urban Cluster)
  - Sub Areas
    - Calumet Village
    - Hubbell CDP
    - Lake Linden Village
    - Laurium Village
- Ludington (Urban Cluster)
  - Sub Area
    - Ludington City
- Manistee (Urban Cluster)
  - Sub Areas
    - East Lake Village
    - Filer City CDP
    - Manistee City
    - Oak Hill CDP
    - Parkdale CDP
    - Stronach CDP
- Marquette (Urban Cluster)
  - Sub Areas
    - Harvey CDP
    - Marquette City
    - Trowbridge Park CDP
- Menominee (Urban Cluster)
  - Sub Area
    - Menominee City
- Mount Pleasant (Urban Cluster)
  - Sub Area
    - Mount Pleasant City
- Owosso (Urban Cluster)
  - Sub Areas
    - Corunna City
    - Middletown CDP
    - Owosso City
- Paw Paw Lake (Urban Cluster)
  - Sub Areas
    - Coloma City
    - Hartford City
    - Paw Paw Lake CDP
    - Watervliet City
- Petoskey (Urban Cluster)
  - Sub Areas
    - Bay View CDP
    - Conway CDP
    - Petoskey City
- Sault St. Marie (Urban Cluster)
  - Sub Area
    - Sault St. Marie City
- South Haven (Urban Cluster)
  - Sub Area
    - South Haven City
- Traverse City (Urban Cluster)
  - Sub Areas
    - Chums Corner CDP
    - Grawn CDP
    - Greilickville CDP
    - Traverse City
- Whitehall (Urban Cluster)
  - Sub Areas
    - Montague City
    - Twin Lake CDP
    - Whitehall City

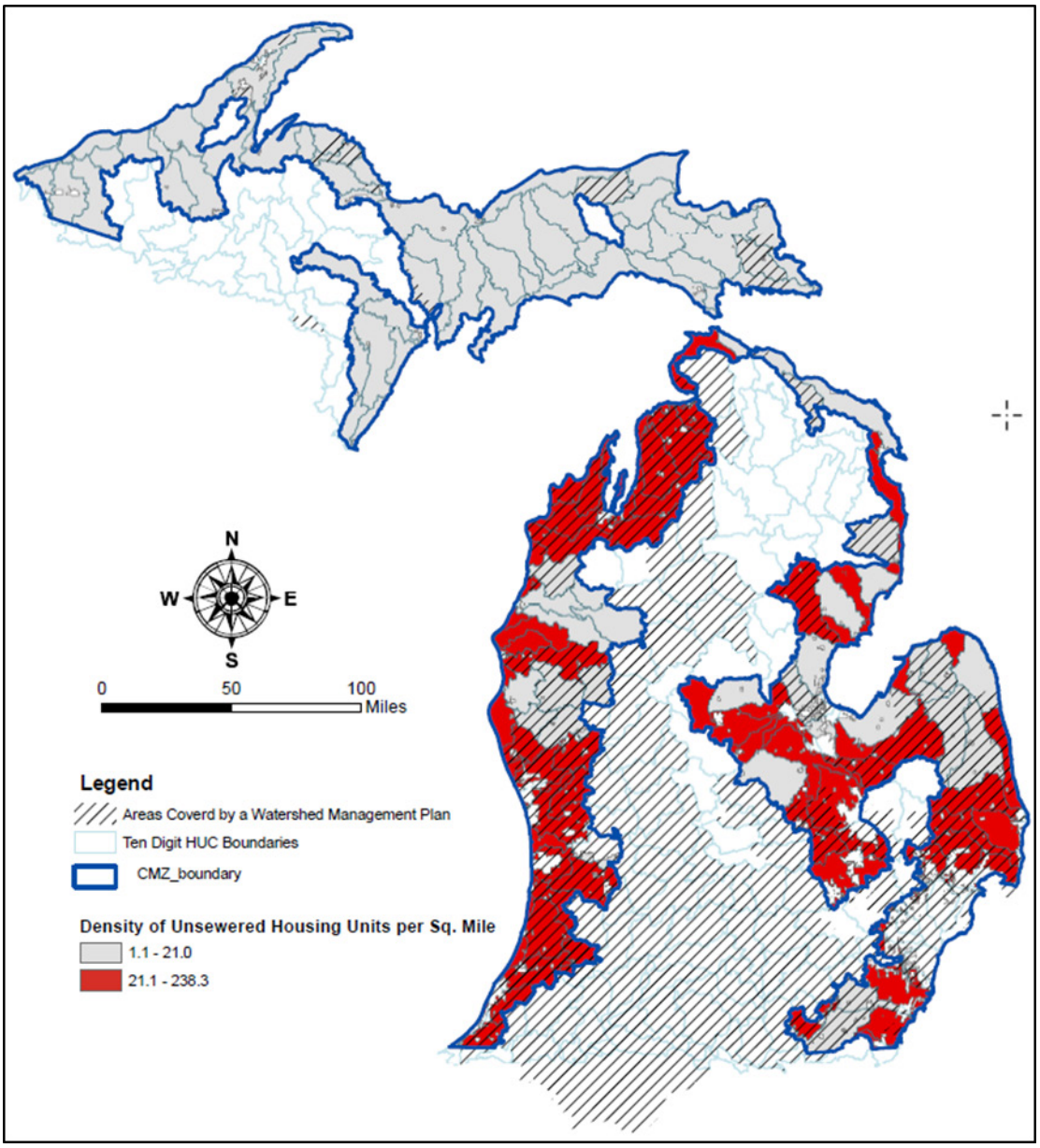


Figure 3 Target Watersheds, HUC-10 Watersheds with an OSDS Density Greater than 21 Systems per Square Mile.

Appendix E
SAMPLE GRANT AGREEMENT BASED ON FY20 FEDERAL CONDITIONS

This Grant Agreement ("Agreement") is made between the Michigan Department of Environment, Great Lakes, and Energy (EGLE), **Water Resources Division** ("State"), and **Name of Grantee** ("Grantee").

The purpose of this Agreement is to provide funding in exchange for work to be performed for the project named below. The State is authorized to provide grant assistance pursuant to Section 319 of the Federal Clean Water Act and Clean Michigan Initiative Implementation Act, PA 288 of 1998. Legislative appropriation of funds for grant assistance is set forth in Public Act 57 of 2019. This Agreement is subject to the terms and conditions specified herein.

Project Name: _____ Project #: _____

Amount of grant: $_____ % of grant state $_____ / % of grant federal _____

Amount of match: $_____ = _____% PROJECT TOTAL: $_____ (grant plus match)

Start Date: _____ End Date: _____

GRANTEE CONTACT:

_____
Name/Title

_____
Organization

_____
Address

_____
Address (Please include nine-digit zip code)

_____
Telephone number

_____
Fax number

_____
E-mail address

_____
SIGMA VSS Vendor Code Address ID

_____
Federal ID number – (Required for Federal Funding)

_____
Grantee DUNS number - (Required for Federal Funding)

STATE'S CONTACT:

_____
Name/Title

_____
Division/Bureau/Office

_____
Address

_____
Address

_____
Telephone number

_____
Fax number

_____
E-mail address

The individuals signing below certify by their signatures that they are authorized to sign this Agreement on behalf of their agencies and that the parties will fulfill the terms of this Agreement, including any attached appendices, as set forth herein.

FOR THE GRANTEE:

_____ _____
Signature Date

_____,
Name/Title

FOR THE STATE:

_____ _____
Signature Date

Teresa Seidel, Director, EGLE Water Resources Division
Name/Title

I. PROJECT SCOPE

This Agreement and its appendices constitute the entire Agreement between the State and the Grantee and may be modified only by written agreement between the State and the Grantee.

(A) The scope of this project is limited to the activities specified in Appendix A and such activities as are authorized by the State under this Agreement. Any change in project scope requires prior written approval in accordance with Section III, Changes, in this Agreement.

(B) By acceptance of this Agreement, the Grantee commits to complete the project identified in Appendix A within the time period allowed for in this Agreement and in accordance with the terms and conditions of this Agreement.

II. AGREEMENT PERIOD

Upon signature by the State, the Agreement shall be effective from the Start Date until the End Date on page 1. The State shall have no responsibility to provide funding to the Grantee for project work performed except between the Start Date and the End Date specified on page 1. Expenditures made by the Grantee prior to the Start Date or after the End Date of this Agreement are not eligible for payment under this Agreement.

III. CHANGES

Any changes to this Agreement, other than budget line item revisions less than 10 percent of the total grant, shall be requested by the Grantee or the State in writing and implemented only upon approval in writing by the State. The State reserves the right to deny requests for changes to the Agreement or to the appendices. No changes can be implemented without approval by the State.

I. GRANTEE DELIVERABLES AND REPORTING REQUIREMENTS

The Grantee shall submit deliverables and follow reporting requirements specified in Appendix A of this Agreement.

(A) The Grantee must complete and submit quarterly financial and progress reports according to a form and format prescribed by the State and must include supporting documentation of eligible project expenses. These reports shall be due according to the following:

Reporting Period	Due Date
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	Before October 10*
October 1 – December 31	January 31

*Due to the State's year-end closing procedures, there will be an accelerated due date for the report covering July 1 – September 30. Advance notification regarding the due date for the quarter ending September 30 will be sent to the Grantee. If the Grantee is unable to submit a report in early October for the quarter ending September 30, an estimate of expenditures through September 30 must be submitted to allow the State to complete its accounting for that fiscal year.

The forms provided by the State shall be submitted to the State's contact at the address on page 1. All required supporting documentation (invoices, payroll journals, etc.) for expenses must be included with the report.

(B) The Grantee shall provide a final project report in a format prescribed by the State. The Grantee shall submit the final status report, including all supporting documentation for expenses, along with the final project report and any other outstanding products within 30 days from the End Date of the

SAMPLE

Agreement.

(C) The Grantee must provide copies of all products and deliverables in accordance with Appendix A.

(D) If 15 percent (15%) or more of the grant amount is expended in a single quarter, payment requests may be submitted once monthly during that quarter.

V. GRANTEE RESPONSIBILITIES

(A) The Grantee agrees to abide by all applicable local, state, and federal laws, rules, ordinances, and regulations in the performance of this grant.

(B) All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this grant is not a guarantee of permit approval by the State.

(C) The Grantee shall be solely responsible to pay all applicable taxes and fees, if any, that arise from the Grantee's receipt or execution of this grant.

(D) The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services submitted to the State under this Agreement. The Grantee shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in drawings, designs, specifications, reports, or other services.

(E) The State's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for the technical adequacy of the work. The State's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(F) The Grantee acknowledges that it is a crime to knowingly and willingly file false information with the State for the purpose of obtaining this Agreement or any payment under the Agreement, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the grant.

VI. USE OF MATERIAL

The State, and federal awarding agency, if applicable, retains a royalty-free, nonexclusive and irrevocable right to reproduce, publish, and use in whole or in part, and authorize others to do so, any copyrightable material or research data submitted under this grant whether or not the material is copyrighted by the Grantee or another person. The Grantee will only submit materials that the State can use in accordance with this paragraph.

VII. ASSIGNABILITY

The Grantee shall not assign this Agreement or assign or delegate any of its duties or obligations under this Agreement to any other party without the prior written consent of the State. The State does not assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

VIII. SUBCONTRACTS

The State reserves the right to deny the use of any consultant, contractor, associate, or other personnel to perform any portion of the project. The Grantee is solely responsible for all contractual activities

SAMPLE

performed under this Agreement. Further, the State will consider the Grantee to be the sole point of contact regarding contractual matters, including payment of any and all charges resulting from the anticipated Grant. All subcontractors used by the Grantee in performing the project shall be subject to the provisions of this Agreement and shall be qualified to perform the duties required.

IX. NON-DISCRIMINATION

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 *et seq.*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Grantee agrees to include in every subcontract entered into for the performance of this Agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Agreement.

X. UNFAIR LABOR PRACTICES

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 *et seq*.

XI. LIABILITY

(A) The Grantee, not the State, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Agreement, if the liability is caused by the Grantee, or any employee or agent of the Grantee acting within the scope of their employment or agency.

(B) Nothing in this Agreement should be construed as a waiver of any governmental immunity by the Grantee, the State, its agencies, or their employees as provided by statute or court decisions.

XII. CONFLICT OF INTEREST

No government employee, or member of the legislative, judicial, or executive branches, or member of the Grantee's Board of Directors, its employees, partner agencies, or their families shall benefit financially from any part of this Agreement.

XIII. ANTI-LOBBYING

If all or a portion of this Agreement is funded with federal funds, then in accordance with OMB Circular A-21, A-87, or A-122, as appropriate, the Grantee shall comply with the Anti-Lobbying Act, which prohibits the use of all project funds regardless of source, to engage in lobbying the state or federal government or in litigation against the State. Further, the Grantee shall require that the language of this assurance be included in the award documents of all subawards at all tiers.
If all or a portion of this Agreement is funded with state funds, then the Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "'Lobbying' means communicating directly with an official of the executive branch of state government or an official in the

SAMPLE

legislative branch of state government for the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of litigation against the State. Further, the Grantee shall require that language of this assurance be included in the award documents of all subawards at all tiers.

XIV. DEBARMENT AND SUSPENSION

By signing this Agreement, the Grantee certifies that it has checked the federal debarment/ suspension list at https://sam.gov/content/home to verify that its agents, and its subcontractors:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or the state.

(2) Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, as defined in 45 CFR 1185; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(3) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (2).

(4) Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

(5) Will comply with all applicable requirements of all other state or federal laws, executive orders, regulations, and policies governing this program.

XV. AUDIT AND ACCESS TO RECORDS

The State reserves the right to conduct a programmatic and financial audit of the project, and the State may withhold payment until the audit is satisfactorily completed. The Grantee will be required to maintain all pertinent records and evidence pertaining to this Agreement, including grant and any required matching funds, in accordance with generally accepted accounting principles and other procedures specified by the State. The State or any of its duly authorized representatives must have access, upon reasonable notice, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee will provide proper facilities for such access and inspection. All records must be maintained for a minimum of five years after the final payment has been issued to the Grantee by the State.

XVI. INSURANCE

(A) The Grantee must maintain insurance or self-insurance that will protect it from claims that may arise from the Grantee's actions under this Agreement.

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(B) The Grantee must comply with applicable workers' compensation laws while engaging in activities authorized under this Agreement.

XVII. OTHER SOURCES OF FUNDING

The Grantee guarantees that any claims for reimbursement made to the State under this Agreement must not be financed by any source other than the State under the terms of this Agreement. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings, or to immediately refund to the State, the total amount representing such duplication of funding.

XVIII. COMPENSATION

(A) A breakdown of costs allowed under this Agreement is identified in Appendix A. The State will pay the Grantee a total amount not to exceed the amount on page 1 of this Agreement, in accordance with Appendix A, and only for expenses incurred and paid. All other costs necessary to complete the project are the sole responsibility of the Grantee.

(B) Expenses incurred by the Grantee prior to the Start Date or after the End Date of this Agreement are not allowed under the Agreement, unless otherwise specified in Appendix A.

(C) The State will approve payment requests after approval of reports and related documentation as required under this Agreement.

(D) The State reserves the right to request additional information necessary to substantiate payment requests.

(E) Payments under this Agreement may be processed by Electronic Funds Transfer (EFT). The Grantee may register to receive payments by EFT at the SIGMA Vendor Self Service web site (https://sigma.michigan.gov/webapp/PRDVSS2X1/AltSelfService).

(F) An amount equal to **10 percent (10%)** of the last year of the grant award will be withheld by the State until the project is completed in accordance with Section XIX, Closeout, and Appendix A.

(G) The Grantee is committed to the match percentage on page 1 of the Agreement, in accordance with Appendix A. The Grantee shall expend all local match committed to the project by the End Date on page 1 of the Agreement.

XIX. CLOSEOUT

(A) A determination of project completion, which may include a site inspection and an audit, shall be made by the State after the Grantee has met any match obligations, satisfactorily completed the activities, and provided products and deliverables described in Appendix A.

(B) Upon issuance of final payment from the State, the Grantee releases the State of all claims against the State arising under this Agreement. Unless otherwise provided in this Agreement or by State law, final payment under this Agreement shall not constitute a waiver of the State's claims against the Grantee.

(C) The Grantee shall immediately refund to the State any payments in excess of the costs allowed by this Agreement.

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XX. CANCELLATION

This Agreement may be canceled by the State, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the Grantee, or upon mutual agreement by the State and Grantee. The State may honor requests for just and equitable compensation to the Grantee for all satisfactory and eligible work completed under this Agreement up until 30 days after written notice, upon which time all outstanding reports and documents are due to the State and the State will no longer be liable to pay the grantee for any further charges to the grant.

XXI. TERMINATION

(A) This Agreement may be terminated by the State as follows.

(1) Upon 30 days written notice to the Grantee:

a. If the Grantee fails to comply with the terms and conditions of the Agreement, or with the requirements of the authorizing legislation cited on page 1, or the rules promulgated thereunder, or other applicable law or rules.
b. If the Grantee knowingly and willingly presents false information to the State for the purpose of obtaining this Agreement or any payment under this Agreement.
c. If the State finds that the Grantee, or any of the Grantee's agents or representatives, offered or gave gratuities, favors, or gifts of monetary value to any official, employee, or agent of the State in an attempt to secure a subcontract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Agreement.
d. If the Grantee or any subcontractor, manufacturer, or supplier of the Grantee appears in the register of persons engaging in unfair labor practices that is compiled by the Michigan Department of Licensing and Regulatory Affairs or its successor.
e. During the 30-day written notice period, the State shall withhold payment for any findings under subparagraphs a through d, above and the Grantee will immediately cease charging to the grant and stop earning match for the project (if applicable).

(2) Immediately and without further liability to the State if the Grantee, or any agent of the Grantee, or any agent of any subcontract is:

a. Convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract;
b. Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees;
c. Convicted under State or federal antitrust statutes; or
d. Convicted of any other criminal offense that, in the sole discretion of the State, reflects on the Grantee's business integrity.
e. Added to the federal or state Suspension and Debarment list.

(B) If a grant is terminated, the State reserves the right to require the Grantee to repay all or a portion of funds received under this Agreement.

XXII. IRAN SANCTIONS ACT

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By signing this Agreement, the Grantee is certifying that it is not an Iran linked business, and that its contractors are not Iran linked businesses, as defined in MCL 129.312.

PROGRAM-SPECIFIC SECTION

XXIII. DISCLOSURE OF INFORMATION

All reports and other printed or electronic material prepared by or for the Grantee under the Agreement will not be distributed without the prior written consent of the State except for items disclosed in response to a Freedom of Information Act request, Court Order or subpoena.

XXIV. ADVANCES

Upon written request by the Grantee, the State will make an advance payment for the purchase of conservation easements. An advance payment does not require a financial status report form but does require a letter requesting the specific dollar amount of the payment as stated in the Agreement.

XXV. QUALITY ASSURANCE/QUALITY CONTROL

A project-specific Quality Assurance Project Plan (QAPP) must be submitted to the State in accordance with guidance provided by the EGLE project administrator. Monitoring conducted prior to final EGLE approval of the QAPP will not be reimbursed.

XXVI. PREVAILING WAGE

This project is subject to the Davis-Bacon Act, 40 U S C 276a, *et seq*, which requires that prevailing wages and fringe benefits be paid to contractors and subcontractors performing on federally funded projects over $2,000 for the construction, alteration, repair (including painting and decorating) of public buildings or works.

XXVII. PREVENTING SPREAD OF INVASIVE SPECIES

The Grantee, their contractors and volunteers will take steps to minimize the risk of spreading terrestrial and aquatic invasive species during this project and will take measures to prevent spread, where feasible. Selection of project-appropriate measures should be dependent on the type of work being conducted and the specific situation. Examples of such measures may include:

- Avoiding infested areas when possible.
- Conducting field work in upstream areas before downstream areas to decrease the likelihood of carrying species further up into the watershed or visiting highest quality/least invaded sites before invaded sites during a trip.
- Performing basic decontamination steps such as:
    - Visually inspecting and removing any plants or mud from footwear (boots, hip-boots, and waders).
    - Visually inspecting and removing and properly disposing of any plants and mud from field equipment (nets, shovels, rakes, etc.) and vehicles (cars, boats, ATVs, etc.).
    - Draining all water from boats (motor, live well, bilge, transom well) and equipment, prior to leaving the site and before entering a new waterbody.

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        - Thoroughly drying boats and equipment (5-7 days, if possible) between sites.
    - Disinfecting boats and equipment between sites (e.g. diluted bleach solution, heated pressure washer). Disinfection should be conducted away from surface waters, where the disinfecting solution will not enter any storm sewers and/or surface waters.
        - Typical diluted bleach solution treatment is ½ cup (4 fluid ounces) bleach to 5 gallons of water, applied by spraying or sponge so surface is thoroughly exposed to bleach solution for 10 minutes.
        - Typical heated pressure wash is 140^0 water temperature, sprayed for 5-10 seconds.
    - Thoroughly washing vehicles and boats between sites (e.g. drive-through car wash).
- Using only native plants and seed for restorations and best management practices.

If invasive aquatic or terrestrial plants are collected from a site, the grantee will take steps to minimize the spread of these species. Dispose of invasive plant material by bagging and transporting to a landfill, composting, or burning, as appropriate and in compliance with local and state laws.

The Water Resources Division is asking all grantees to be on the lookout for invasive species that have limited distribution or are not yet to be known to be established in Michigan. A "Watch List" of Michigan's high priority aquatic invasive species along with how to report sightings can be found at www.michigan.gov/invasives.

FEDERALLY FUNDED PROGRAM-SPECIFIC SECTION

XXVIII. FEDERAL FUNDING REQUIREMENTS

A maximum of $____ or _____ % of total disbursements, is funded with Federal Funding. The Catalog of Federal Domestic Assistance (CFDA) title is Nonpoint Source Implementation and the CFDA number is 66.460. The federal grant number is C995547420. This grant is either partially funded with Federal funds from the U.S. Environmental Protection Agency or used to match a federally funded grant. The Grantee agrees to fulfill conditions that the Federal Government has imposed on the State as a condition of Federal funding as indicated herein and in all appendices. By accepting this Agreement, the Grantee shall comply with all applicable Federal statutes and regulations in effect with respect to the period during which it receives grant funding. These regulations include, but are not limited to, the following:

(A) Single Audit. Grantees spending $750,000 or more in federal funds in their fiscal year shall have a single audit performed in compliance with 2 CFR 200.501(a). This audit must be performed and submitted to the Federal Audit Clearinghouse (https://harvester.census.gov/facweb/) within nine months from the end of the grantee's fiscal year, or 30 days after receiving the report from the auditors. It is the responsibility of the Grantee to report the expenditures related to this grant on the Grantee's annual Schedule of Expenditures of Federal Awards. **Please fill out attached Certification of Federal Audit Requirements form and return with this signed Agreement.**

(B) The Grantee will comply with the **Hatch Political Activity Act**, as amended, 5 USC §§ 1501-1508, and the Intergovernmental Personnel Act of 1970 as amended by Title (6) of the Civil Service Reform Act, 42 USC § 4728, which states that employees working in programs financed with federal grants may not be a candidate for elective public office in a partisan

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election, use official authority or influence to affect the result of an election, or influence a state or local officer to provide financial support for a political purpose.

(C) Payment to consultants. USEPA participation in the salary rate (excluding overhead) paid to individual consultants by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2019, the limit is $638.24 per day and $79.78 per hour. This rate does not include transportation and subsistence costs for travel performed. (The recipient will pay these in accordance with their normal travel reimbursement practices.)

Subrecipients with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR 200, are not affected by this limitation unless the terms of the Agreement provided the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the Agreement at an hourly or daily rate of compensation. See 2 CFR 1500.9

(D) Minority Business Enterprises (MBE)/Women's Business Enterprises (WBE) Requirements and Disadvantaged Business Enterprise Rule (DBE).

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E
MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category.

The subrecipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable.

When completing the annual report, subrecipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, subrecipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 20th of each year. Final reports are due by October 20th or 60 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Subrecipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form. MBE/WBE reports should be sent to:

EGLE-WRD-Sigma@michigan.gov	or	EGLE WRD Administration PO Box 30458 Lansing, MI 48909-7958

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in

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40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C detailed below.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C
Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:
(a) Ensure DBEs are fully made aware of contracting opportunities practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

(E) Civil Rights. The Grantee agrees to comply fully with applicable civil rights statues.

(F) Subawards. The grantee agrees to:

(1) Establish all subaward agreements in writing;
(2) Ensure that any subawards comply with the standards in 2 CFR 200 Subpart D and are not used to acquire commercial goods or services for the recipient;
(3) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
(4) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
(5) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
(6) Obtain EGLE's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
(7) Obtain approval from EGLE for any new subaward work that is not outlined in the approved work plan.
(8) Be responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

(G) Conflict of Interest Notification. Grantees will contact their EGLE Project Administrator within 5 days of becoming aware of a conflict of interest. A conflict of interest is an actual or potential situation that undermines or may undermine, the impartiality of an

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individual or entity because their self-interest conflicts, or may conflict, with their duty and obligations in performing a grant. The term also includes situations that create, or may create, an unfair competitive advantage, or the appearance of such, for an applicant in competing for a grant.

(H) Copyrighted Materials. In accordance with 2 CFR 200.315, the USEPA has the right to reproduce, publish, use, and authorize others to reproduce, publish, and use copyrighted works or other data developed under this assistance agreement for Federal purposes. Examples of Federal purpose include but are not limited to: (1) Use by the USEPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in USEPA documents provided the documents do not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as "co-regulators" or act as official partners with the USEPA to carry out a national environmental program within their jurisdiction; and (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of the USEPA's authorization to the grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize other grantee(s) to use the copyrighted works or other data developed under this grant as a result of a. the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or; b. termination or expiration of this agreement. In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

(J) Electronic and Information Technology Accessibility. Grantees developing electronic and information technology products, which includes but is not limited to information kiosks and Worldwide Websites, must meet accommodation standards in Section 508 of the Rehabilitation Act, 36 CFR Part 1194, unless such causes undue hardship to the entity involved.

(K) Light Refreshments and/or Meals. The Grantee agrees to obtain prior approval from the EGLE project administrator for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The Grantee must send requests for approval to the EGLE Project Administrator and include:

(1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s).
(2) A description of the purpose, agenda, location, length and timing for the event.
(3) An estimated number of participants in the event and a description of their roles.

EPA funding for meals, light refreshments and space rental may not be used for any portion of an event where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if the EPA funds are not used to purchase the alcohol.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)

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(L) Drug-Free Workplace. The recipient organization of this USEPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards and keep this information on file during the performance of the award.

(M) Hotel-Motel Fire Safety. Pursuant to 15 USC 2225a, if applicable and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at https://apps.usfa.fema.gov/hotel/ to see if a property is in compliance.

(N) Recycled Paper. When directed to provide paper documents, the recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this agreement and delivered to the USEPA. This requirement does not apply to reports prepared on forms supplied by the USEPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

(O) Recycled Products. Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals, and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in 40 CFR Part 247.

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.322, State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds $10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period; fail to meet reasonable performance standards; or are only available at an unreasonable price.

(P) Trafficking. Grantees, contractors, and subcontractors may not engage in severe forms of trafficking in persons, procure a commercial sex act, or use forced labor in the performance of the grant or subcontracts.

(Q) Permits. The grantee must obtain all necessary permits prior to implementation of any grant funded activity that may fall under applicable federal, state or local laws. The grantee must keep documentation regarding necessary permits in their project files.

(R) Geospatial Data Standards. All geospatial data created must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.

(S) Acknowledgement on Products, Signage and Announcements via the Public or Media Events. Acknowledgement must be included on all products and follow the Nonpoint Source (NPS) Program Acknowledgement Guidance. Signage is required on all construction sites easily viewable by the general public and costing $50,000 or more in grant and match funds. Construction site and informational signage installed as an outreach component must follow the NPS Program Acknowledgement Guidance. Announcements through the Web or print materials for workshops, conferences, demonstration days, or other events as part of a

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project must follow the NPS Program Acknowledgement Guidance. In addition, the EGLE Project Administrator must be notified at least 15 working days prior to any public or media events publicizing significant events related to the project to provide the opportunity for attendance and participation by state and federal representatives. See also non-English language in the Guidance.

(T) Executive Pay. Grantees whose gross income in the previous tax year was $300,000 or more will verify in writing to the EGLE Project Administrator that they are exempt from reporting total compensation of Executives required under the federal Transparency Act, as defined in 2 CFR 170.320. This verification is due by the end of the month following the month the EGLE made the grant award. In so doing, the grantee is stating that:

1. They did not in the preceding tax year receive:
   - 80 percent or more of their annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act; and
   - $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act; and
2. The public has access to information about the compensation of executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a),78o(d)) or Section 6104 of the Internal Revenue Code of 1986.

(U) Management Fees. Consistent with EPA's prohibition on management fees, the Grantee will not include management fees in project budgets. Such fees or similar charges refer to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs not allowable under the agreement.

(V) Patents and Inventions. Rights to inventions made under this agreement are subject to federal patent and licensing regulations which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212.

Pursuant to Bayh-Dole Act (set forth in 35 USC 200-212), EPA and the EGLE retain the right to worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at http://iEdison.go. Annual utilization reports must be submitted through the system. The grantee is required to notify the DEQ Project Administrator when an invention report, patent report, or utilization report is filed at http://iEdison.gov.

(W) Human Subjects. No research involving human subjects will be conducted under this agreement without prior written approval of the EPA to proceed with that research. If engaged in human subjects' research as part of this agreement, the Grantee agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

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The Grantee further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17 Change A1 (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA Human Subjects Research Review Official (HSRRO) after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR.

PROJECT-SPECIFIC REQUIREMENTS – APPENDIX A

Appendix A will be the most project-specific part of the Agreement. It will generally include all of the following and will be attached by the program manager:

- *The broad project scope stating the purpose of the grant or loan.*
- *The project description, which is a more detailed description of the type of work to be done with the grant or loan money.*
- *Work plan with specific tasks and products expected*
- *Timetable/schedule*
- *Budget*
- *Any other program-specific requirements*

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Appendix F
Guidance for Hydrologic and Geomorphic Analyses

Planning

A hydrologic analysis developed to support a watershed management plan should cover the entire watershed to help stakeholders understand the hydrologic characteristics of the watershed. This analysis should help stakeholders understand the impact of changes on stream flows, provide a basis for storm water management, and help determine the critical areas. The scope of the analysis should vary with the watershed and stakeholder needs. It could include:

- Delineation of watershed boundaries.
- Review of soil, land use, and population information.
- Calculation of stream flows and pollutant loads.
- Comparison of calculated runoff volumes or yields per sub basin.
- Flashiness Analysis.
- Analysis of percent imperviousness.
- Analysis of stream order.
- Recommendations to protect or improve treatment of stormwater runoff.
- Recommendations to manage storm flows to protect stream channels from increased erosion.

Watershed management plans that recommend streambank stabilization, channel realignment, changes to channel geometry, or changes impacting flow or sediment transport must include a stream geomorphology assessment equivalent to the USDA-NRCS 580 Standard. Also see "Stream Stability Assessment Guidelines for NPS Grant Applicants" or the "Nonpoint Source Hydrological Analysis" page for additional guidance.

Implementation

Streambank erosion is part of a natural stream process and may not be caused by human activities. Streambank erosion may or may not cause a stream impairment. When erosion is unnatural and excessive, it is often the result of an increase in the rate or volume of runoff from the contributing watershed or due to channelization of the stream. Grant funding will not be awarded to proposals attempting to treat natural erosion sites or proposals attempting to fix unnatural or excessive erosion without addressing the underlying cause (e.g., if flashy flows have been identified as the cause of stream bank erosion a stream bank point repair would not likely be funded unless the stream flashiness issues were also being addressed).

Implementation grant proposals with major stream treatments such as stream channel restoration, stream rehabilitation, or stream bank stabilization must include a **statement on hydrology/geomorphology.** The statement must provide a site-specific analysis of the cause and magnitude of the problem to be addressed with grant funds.

The hydrology/geomorphology statement should describe, in one to two pages, the hydrologic and geomorphic condition of the stream, including if and how the hydrologic conditions have changed over time and the corresponding changes to the morphological stream conditions. The statement should summarize reports and data and outline the steps taken to determine the hydrologic/geomorphic status. Applicants should be prepared to supply the full reports or data used to make the hydrologic/geomorphic assessment. Applicants should be aware that proposals to stabilize erosion caused by

natural river processes are not likely to be funded with nonpoint source grants. The justification to stabilize erosion at these sites may be more appropriate for other grant programs.

The hydrologic/geomorphic assessment should utilize recognized tools such as stream flashiness indices; channel evolution models; regional reference curves; stream bed particle size assessments; streambank stability analysis; stream power calculations; regime equation calculations; or similar measurements or models. The Department of Environment, Great Lakes, and Energy's Nonpoint Source Program has provided a number of guidance documents and tools on the Nonpoint Source Hydrologic Analysis Web page. In particular, see "Stream Stability Assessment Guidelines for NPS Grant Applicants. Hydrologic and geomorphic stability assessments are especially important in watersheds that have been significantly disturbed or modified. Hydrologic and geomorphic assessment shall include an inventory of current site conditions (i.e., stable, aggrading, or degrading), identification of the type, extent, magnitude, and cause(s) of the stability problem(s) to be addressed, and a prediction of future stream response to the proposed treatment. The prediction of future stream response to the proposed treatment shall be based on natural channel design concepts. Projects that are not based on natural channel design are not likely to be competitive (e.g., a proposal to riprap a section of stream channel is not likely to be as competitive for funding as a proposal that is consistent with natural channel design concepts.)

Alternative treatment options should be considered that are based on suitability of the site, an analysis of bank and/or bed stability, and be consistent with an appropriate bank and/or bed stabilization techniques. For stream bank stabilization projects, the applicant shall first consider vegetative treatments. Problems that cannot be controlled by vegetative treatments alone should consider a combination of structural treatments and vegetative treatments. No stream stabilization should be implemented until it has been determined that the hydrologic condition of the contributing watershed is stable or actively being stabilized.

Geomorphic assessments for proposed changes in channel alignment, or channel geometry, shall include the stream reaches upstream and downstream of the project area. Channel width-to-depth ratios, stream bed slope, meander pattern, and other bed features of the proposed channel designs shall be modeled according to a stable reference reach. Reference reaches are nearby, hydrologically and geomorphically stable stream segments. A reference reach could be upstream or downstream of the project area, or in a nearby watershed. Assessment of the current and future discharge and sediment regimes shall be based on conditions in the watershed above the proposed channel alignment, as close as possible to the project reach.

Appendix G
United States Environmental Protection Agency's Supplemental Guidance
Watersheds in and Near Metropolitan Areas -
Preventing, Reducing, and/or Eliminating Impacts Associated with Urban Runoff

Background

Urban Runoff is storm water runoff from urban and suburban areas. As areas are developed, land uses change and more impervious surfaces are created. These changes to the land affect the volume of runoff and the pollutant levels in runoff. The increased volume of storm water runoff and the increased pollutant loads profoundly affect the hydrology of water bodies and water quality. The watershed approach is the most effective way to address these problems. There are two main Clean Water Act Programs (Nonpoint Source [NPS] and National Pollutant Discharge Elimination System [NPDES]) that must work together in order for local communities and watershed groups to develop and implement watershed management plans that will protect and/or restore water quality. The NPS Program has funding and technical resources and the NPDES program establishes requirements that, integrated together, can be very effective catalysts for action.

Section 319 funds can be used, within certain limitations as discussed further below, to assist in the management of urban runoff. The purpose of this supplemental guidance is to promote the effective integration of Section 319 NPS and Section 402 NPDES Programs in urban and suburban areas on a watershed basis. Additionally, this guidance will help States determine if particular proposed urban runoff projects/activities are eligible for Clean Water Act Section 319 funding and identify opportunities for coordination between the NPS and NPDES Programs. Note this guidance is for the purpose of assessing the eligibility of projects/activities for funding, and this guidance is not set forth for the purpose of evaluating compliance with storm water discharge permits or other enforceable requirements. Over time it is expected that permits, Total Maximum Daily Loads (TMDL), Municipal Separate Storm Sewer Systems (MS4) Storm Water Management Plans, and Storm Water Pollution Prevention Plans (SWPPP) will describe more specifically/explicitly what practices are required, which should facilitate determinations regarding what projects/activities are 319-eligible. Additionally, it is expected that as progress is made in integrating the NPS and NPDES programs, future permits will be developed which will do even more to support the watershed approach.

Watershed Management Projects/Activities

Watershed Planning

Subject to certain restrictions, Section 319 funds can be used for watershed planning projects. For areas where development is occurring or is expected to occur, States should support watershed organizations in carrying out watershed planning and implementation projects which explicitly take into account the effects of land use and development practices on water resources. For example, as part of a watershed planning and protection initiative in a developing area, a watershed group should include estimates of runoff quantities, pollutant loads, and the watershed effects of

alternative various growth and development scenarios. The watershed plan should also include, as appropriate, recommendations for zoning, buffers, and urban runoff management measures. Note that Section 319 funds cannot be used for projects or activities that are required under a Section 402 or 404 permit, as discussed further below. Thus, while Section 319 funds can be used for watershed planning work, these funds cannot be used to develop (or implement) MS4 storm water management plans.

Watershed Permits Which Incorporate Watershed Plans
There may be cases where NPDES permits incorporate by reference parts or all of a watershed plan. This can be extremely valuable in terms of helping to ensure consistency and to foster the full implementation of the watershed plan. However, this can present additional complications in terms of Section 319 funding eligibility determinations. For example, a watershed plan might recommend restoration/stabilization of certain portions of a stream channel. Is this restoration work now ineligible for funding because the watershed plan is cross-referenced to the permit?

The approach that is recommended is as follows:

- Identify what components of the watershed plan implement aspects of the six minimum control measures or are otherwise enforceable requirements under a NPDES permit (see further discussion below on making such determinations).
- Identify what components of the watershed plan are intended to be implemented to the extent feasible or as circumstances allow, but which are not considered to be *enforceable* requirements under the permit. For example, a stream bank stabilization project included in the watershed plan may not be considered to be an enforceable requirement under the watershed permit.
- Record the above in the permit, the watershed plan, or the watershed plan approval letter.

Projects/activities that are outlined in the watershed plan but are not considered to be enforceable requirements under the permit are potentially eligible for Section 319 funding.

Urban Runoff Implementation Projects/Activities
States can utilize Section 319 funds (subject to certain eligibility requirements) for implementation of management practices to restore/protect water resources. Following are guidelines for such projects/activities:

*The Management Practice Must Address **Nonpoint Source** Runoff*

Section 319 funds can be used for source control best management practices (BMP) or runoff control best management practices, but not for point source controls. As a rule of thumb, BMPs which reduce the amount of runoff generated or which intercept and infiltrate, hold, or treat storm water before it enters the municipal storm sewer system or surface water system are potentially eligible for Section 319 funding. Note a key factor is *has the storm water entered the municipal system* or *surface water system*. If, for

example, a BMP/treatment device is located at the edge of a parking lot such that it intercepts and treats runoff from the parking lot before that water goes to the municipal system, that BMP/treatment device would potentially be eligible, even if the runoff flowed through a grate or catch basin. The BMP would be intercepting runoff from the parking lot before that water goes into the municipal sewer system. On the other hand, an end-of-pipe device to treat storm water from the municipal storm sewer system before it is discharged to a water body would generally be considered a point source control and would not eligible for Section 319 funding.

*The Management Practice Should Address a **Nonpoint Source** Impairment*

Incremental Section 319 funds must be used for projects/activities which will measurably address documented water quality impairment(s). For the purposes of this supplemental guidance, *documented water quality impairment(s)* means water quality standards violations documented by a 303(d) listing, by local monitoring data, or through a build-out analysis. The build-out analysis should be able to justify the need to do headwater protection within MS4 jurisdictions. *Measurably address documented nonpoint source water quality impairments* includes modeled results to show load/volume reductions and is not limited to measured in-stream improvements. The project does not necessarily need to fully resolve impairment(s), but it should be part of the solution to the impairment, and the contribution to addressing the documented impairment(s) needs to be quantified. Prevention activities can be focused on areas less than 1 acre if the areas are located in an impaired watershed.

The Management Practice Must Not Be Required Pursuant to a Federal or State Discharge Permit

Section 319 funds cannot be used by any entity for projects or activities that are required under a Federal or State NPDES permit. Under the NPDES program, storm water permit coverage is required for storm water discharges from large, medium, and regulated small MS4s. There are six “minimum control measures” identified for MS4 systems:

- Public Education and Outreach
- Public Participation/Involvement
- Illicit Discharge Detection and Elimination
- Construction Site Runoff Control
- Post-Construction Runoff Control
- Pollution Prevention/Good Housekeeping

Projects or activities carried out to comply with these minimum control measures are not eligible for Section 319 funding. However, there may be some types of activities that could be eligible, and in meeting the six minimum measures there are opportunities to promote the watershed approach. Following are brief discussions regarding the six minimum control measures:

Public Education and Outreach – Basic education and outreach activities directed to homes and businesses in the MS4 area are generally not eligible for Section 319 funding. However, specialized education/outreach initiatives may be eligible. For example, signage to showcase and explain an urban runoff project demonstrating a new or innovative technology may be eligible for 319 support. Also, activities such as a workshop on Low Impact Development covering an entire watershed or region (vs. a regulated MS4 area) may be eligible.

Municipalities have opportunities to advance the watershed approach as part of their education and outreach work. For example, when distributing educational materials and performing outreach to inform citizens about the impacts polluted storm water runoff discharges can have on water quality, a municipality can use this as opportunity to promote the watershed approach and the local watershed groups/organizations working in the area. A municipality can also support local volunteer monitoring efforts as part of its public education and outreach.

Public Participation/Involvement - This minimum control measure is focused on providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives on a storm water management panel. While such activities are likely not 319-eligible, for municipalities this is another opportunity to promote involvement with local watershed management planning and implementation efforts.

Illicit Discharge Detection and Elimination - Pursuant to this minimum control measure MS4 permittees need to develop and implement a program to detect and eliminate illicit discharges to the storm sewer system. This includes activities like developing and enforcing a local ordinance, and a surveillance/detection program. Such activities are not 319-eligible. To complement the MS4 illicit discharge detection and elimination program, municipalities can coordinate with local watershed groups so adequate downstream water quality monitoring occurs. Being able to document the success and/or impact of activities is extremely important to both the local watershed group as well as the permittee.

Construction Site Runoff Control - This minimum control measure calls for municipalities to develop, implement, and enforce an erosion and sediment control program for construction activities that disturb one or more acres of land. Activities such as conducting inspections and compliance/enforcement proceedings would not be 319-eligible. An example of an activity that could be 319-eligible and which would promote the watershed approach would be a MS4 community working with local watershed group to promote consistency of practices and approaches by builders for activities outside the community's jurisdiction.

Post-Construction Runoff Control - MS4 permittees are responsible for developing, implementing, and enforcing a program to address discharges of storm water runoff from new development areas after construction is completed and the site is in use. This may include measures such as establishing requirements in an ordinance for detention

or infiltration of certain flow amounts. Controls could also include preventive actions such as protecting sensitive areas (e.g., wetlands, forested areas). An example of an activity that could be 319-eligible and which would put into practice the watershed approach would be working with local groups to demonstrate and communicate on the feasibility and benefits of sustainable land use and development practices in the watershed, such as Smart Growth and Low Impact Development. A watershed plan could include specific recommendations regarding post-construction runoff controls as part of build-out analysis.

Pollution Prevention/Good Housekeeping - Under the MS4 permit communities need to develop and implement activities designed to prevent or reduce pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques (e.g., regular street sweeping, reduction in the use of pesticides or street salt, frequent catch-basin cleaning). An example of an activity that could be 319-eligible and which would promote the watershed approach would be a community working with local watershed groups to convert turf areas in parks, particularly parks adjacent to water resources, to native prairie plants (the prairie plants will absorb more storm water and trap more pollutants, as compared to turf grass, and will help reduce the presence of gulls or geese which contribute to bacteria loadings to water resources).

There are likely to be situations where a project or activity is somehow related to a minimum control measure, but it is not clear if that activity is *required* or not. For example, if a community wishes to develop a program to have pet stores and shelters distribute information and materials to improve pick-up of pet wastes, would that be an eligible cost? It is recommended that States examine such projects/activities which are proposed for funding as follows:

1. Is there language in the applicable NPDES permit that specifically requires the project/ activity?
2. Does the MS4 storm water management plan (or a SWPPP) specifically identify the project/ activity as a measure that will be carried out to comply with the permit?
3. Is the project/activity clearly required to meet one of the six minimum measures?
4. Is the project/activity required to achieve load reductions specified in a TMDL?

If the answer to all these questions is no, and if the project/activity addresses the pollutants of concern identified in the Watershed Management Plan, the project/activity is potentially eligible for Section 319 funding.

Types of control measures and BMPs that have been or are being implemented within Phase I or Phase II jurisdictions with Section 319 funds (because they have been documented to be outside what is required under the applicable MS4 permit) include:

- Riparian management, streambank rehabilitation, and in-stream measures to eliminate/reduce channel instability.
- Wetland creation, restoration and/or enhancement for water quality purposes.

- Source area management/pollution prevention, such as critical area seeding of non-construction areas.
- New technologies and approaches, such as green roofs.
- Information and education related to new approaches and technology.
- Conveyance system inlet BMPs, such as sand filters.
- Alternative road and parking pavements.
- Converting/adjusting water quantity structures/devices to incorporate water quality benefits.
- BMPs such as rain gardens and rain barrels in residential and governmental projects.

Permits and local storm water plans/programs vary considerably; the applicable permit(s) should be reviewed before any of these activities are undertaken with Section 319 funds.

State programs (NPS/NPDES) can develop documents to more specifically define what is required under applicable permits, and what would generally be considered to be outside the scope of what is required, and can submit such documents to U.S. EPA for concurrence, if it is believed such documentation would be helpful.

To ensure projects/activities proposed for funding are not required pursuant to a permit, applicants for Section 319 grants for storm water-related projects/activities in MS4 areas, applicants must include as part of their application materials a statement documenting that the work proposed for funding is not required under a storm water discharge permit (or other environmental permits).

Monitoring/Evaluation

Monitoring needed to help develop watershed plans is generally eligible for funding, including source identification monitoring (e.g., bacterial source tracking project to determine whether *E. coli* in an urban watershed is from human or origins). Any monitoring required pursuant to a regulation or permit would not be eligible for funding. Monitoring done by a community should be coordinated with watershed management plan development and implementation, and where possible should be done in such a manner that the data can be used for multiple purposes and to establish baselines against which progress can be evaluated.

At the community or subwatershed level, monitoring includes identifying and tracking what management measures and practices have been implemented. Management measures should be tracked in a database that identifies the type of measure, location, date of installation, and ownership. This database then serves as the foundation for local monitoring and maintenance of management measures that must occur to ensure the practices remain in place and function as designed.

At the project scale, urban runoff implementation projects should include provisions for measuring or evaluating the effects of the practices or control measures put in place. This may include monitoring of the performance of a specific management measure and quantifying the loading reductions achieved. This data should be coordinated and

correlated with the tracking and monitoring of management measures done at the community or subwatershed level. In-stream monitoring can be conducted by the State or by a watershed organization to assess the effects of watershed plan implementation in terms of attainment of designated uses.

State Initiatives/Activities to Address Urban Runoff Issues

In addition to the above, States may use Section 319 funds for State-wide NPS program activities which foster or promote improved management of urban runoff. Among the types of activities States may directly or indirectly (i.e., via sub-grants or contacts) carry out with Section 319 funds are the following:

(1) Education and outreach to local officials, engineers, planners, developers, real estate professionals, financial institutions, and/or the public on innovative or "green" approaches to reducing urban runoff, e.g., Smart Growth, Low Impact Development, Conservation Development/Design.

(2) Work to develop improved/model local codes and ordinances which result in improved management of urban runoff. This includes work on codes and ordinances related to sustainable land use and development practices. Many local codes and ordinances have provisions which discourage (or even prohibit) certain sustainable design features and/or BMPs. Example of code requirements which may need to be updated include criteria for street widths, setbacks, and densities, requirements which may inhibit use of native landscaping and rain gardens.

    Note, the State cannot use Section 319 funds to directly or indirectly carry out an activity that is required of a permittee. For example, the State cannot develop an Illicit Discharge Control Ordinance for a MS4 community.

(3) Plan and support research, demonstration projects, and quantification efforts related to the performance and/or effects on water resources of new or innovative urban runoff management practices. Signage or publications designed to highlight the design and performance of demonstration projects would in most cases be considered beyond the scope of the education and outreach called for under the six minimum control measures and would thus be potentially eligible for Section 319 funding.

(4) Assist in making planning tools and data available to local units of government, developers, and other stakeholders. This may include making available water quality data and/or GIS layers (e.g., land use coverages), or it may include furthering the use of models and other analytical tools.

Appendix G.1

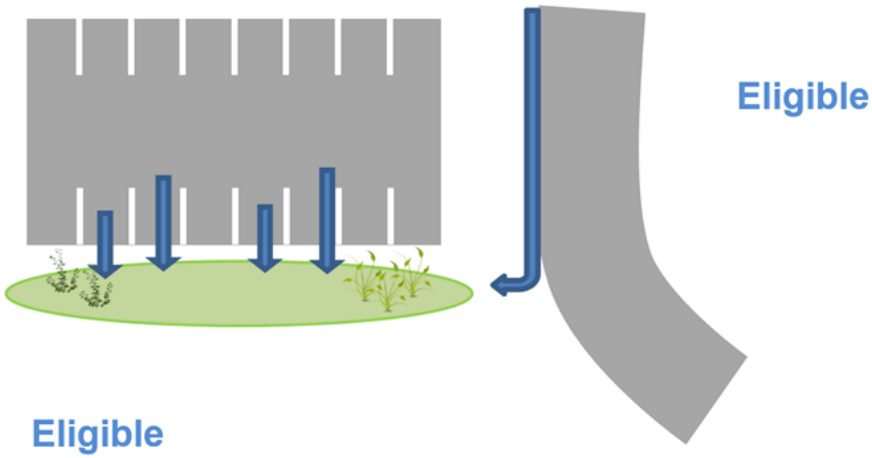
Addressing Storm Water under Michigan's Nonpoint Source Program – What's Eligible

Neither the Federal Clean Water Act – Section 319 nor the State Clean Michigan Initiative Nonpoint Source (NPS) grant funds can be used to meet the conditions of a permit. In urban areas there has been confusion about when treatment provided by Best Management Practices (BMP) exceeds the requirement of a Municipal Separate Storm Sewer (MS4) permit, what is point source and what is nonpoint source runoff. The following scenarios were developed by Michigan Department of Environment, Great Lakes, and Energy NPS Program staff with input from U.S. Environmental Protection Agency Region 5 NPS staff to illustrate common situations where NPS grant funds are often requested to be used. Each scenario includes specific conditions and is followed by a response discussing the eligibility for NPS funding. Activities that are not eligible for funding are also not eligible as matching activities. The scenarios provided here do not cover every possible scenario and other situations not covered should be discussed with NPS staff for clarification. In addition to the issues discussed here, other NPS requirements (priority recommendations in critical areas of approved watershed management plans, for instance) may impact the eligibility of specific BMPs and sites.

An MS4 is a conveyance of storm water, owned and operated by a municipality and is not a Water of the State. By contrast, an open county drain conveys storm water but, with limited exceptions, also has many other natural inputs and attributes that make it a Water of the State. A direct discharge to a Water of the State which is not part of an MS4 is not subject to a municipality's MS4 permit. However, most municipalities do not differentiate between properties that discharge into the MS4 and properties that do not. NPS grant funds are applied to control nonpoint source runoff prior to entering a storm sewer system or Water of the State.

Scenario 1 - In an area with a regulated MS4, storm water runs off a parking lot or road directly into a BMP (e.g., a rain garden) and subsequently discharges into a stream. The site is regulated by the local storm water ordinance; however, the BMP provides more treatment than required by the MS4 permit (In Michigan, MS4 permit requirements are generally based on NPS design criteria). Is the BMP eligible for NPS grant funding?

Response – Since this site is covered by a local storm water ordinance, only the cost of the additional treatment provided over what is required is eligible for NPS grant funds. Because retrofitting an existing site is generally not a requirement of most MS4 permits, retrofitting a site with storm water controls is often eligible for NPS grant funds.

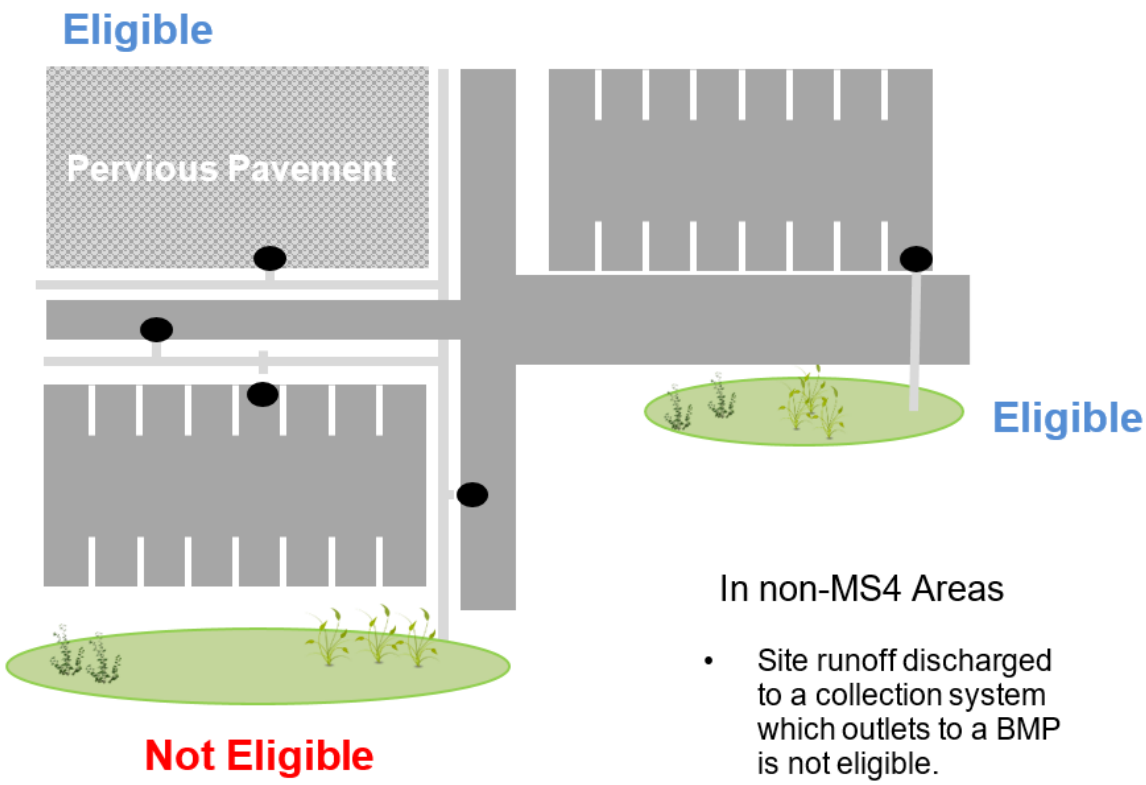


In MS4 Areas

Storm water runs off a parking lot or road into a BMP (e.g., a rain garden) and subsequently discharges into a stream or infiltrates. The BMP provides more treatment than required by the MS4 permit.

Scenario 2 – Road and parking lot runoff on a large site such as a school campus or from multiple small sites is collected in catch basins and a storm sewer line which outlets to a BMP. The BMP then discharges directly to a stream. Are the BMPs eligible for NPS grant funds in a non-MS4 area? Are they eligible in an MS4 area?

Response – Application of BMPs after runoff enters a conveyance system (i.e., a pipe that collects storm water to transport it to treatment or a discharge point) is not eligible regardless of whether the area is an MS4 or non-MS4. An exception would be a pipe directly into a BMP or to transport storm water a short distance, such as under a road, which is eligible in a non-MS4 area. In an MS4 area none of the BMPs are eligible unless they provide more treatment than required as described in Scenario 1.

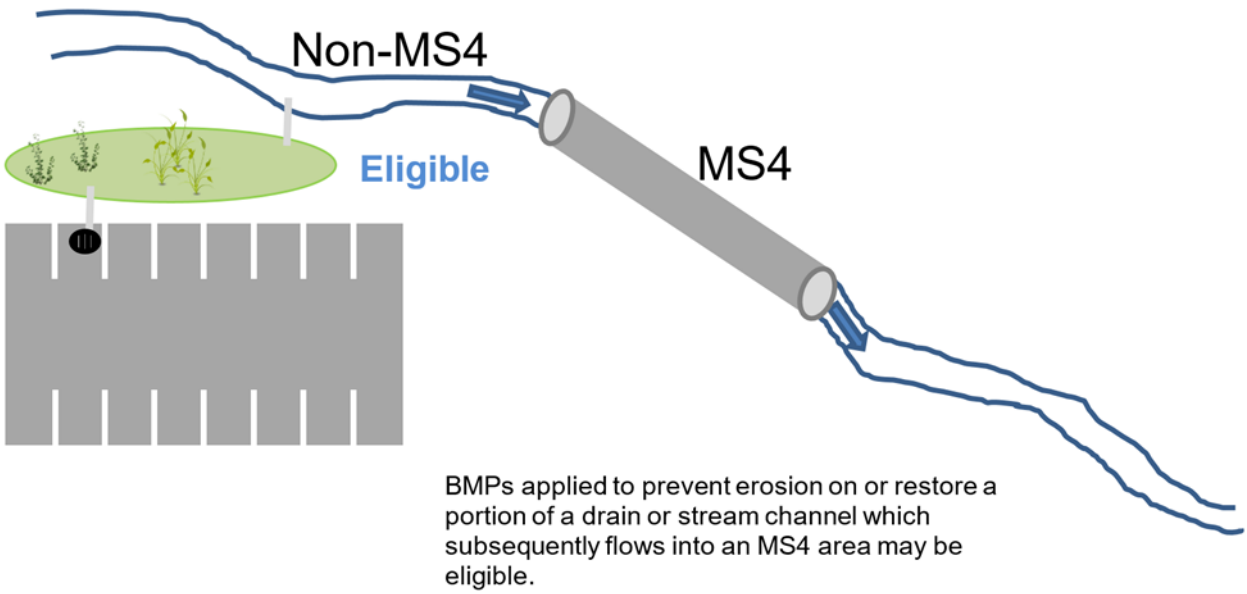


In non-MS4 Areas

- Site runoff discharged to a collection system which outlets to a BMP is not eligible.
- BMPs applied before entering the system are eligible.
- Discharges from a single site into a pipe for purposes of transporting a short distance to a BMP are eligible.

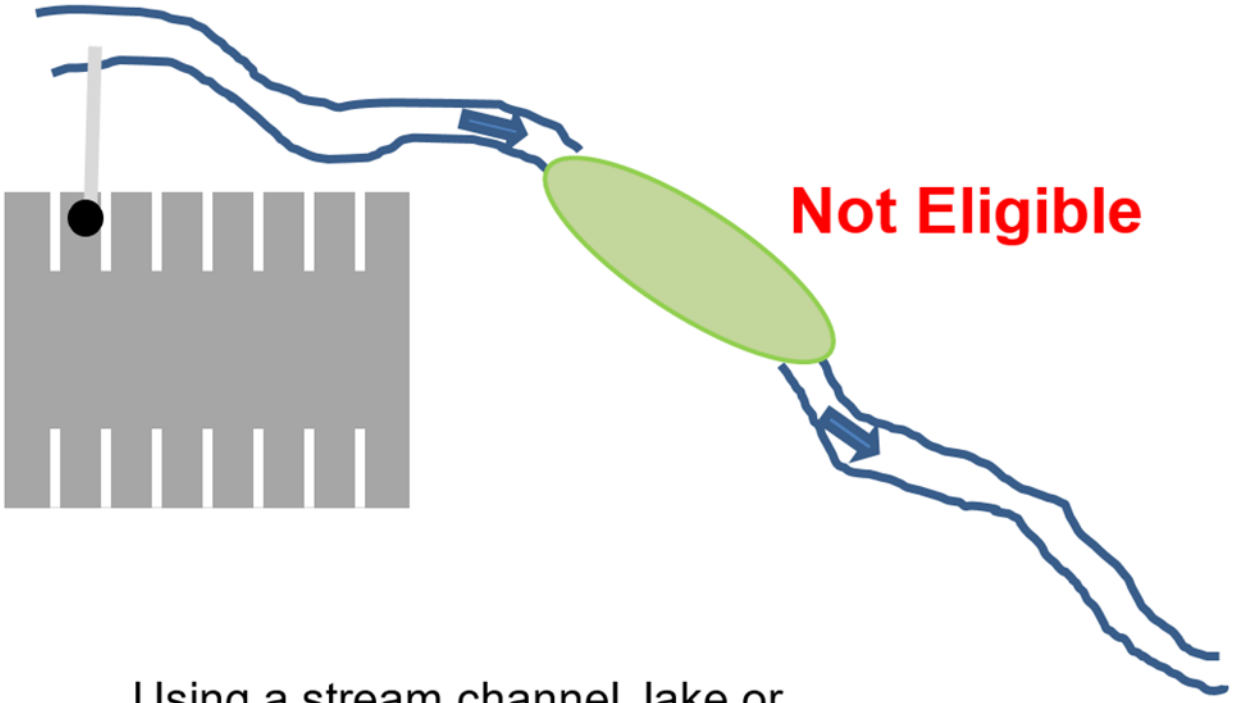
Scenario 3 – In a non-MS4 area, storm water runs off directly into a BMP that discharges into an open drain or stream which, further downstream, becomes enclosed as part of an MS4. A BMP is proposed to stop erosion in the open drain, which is contributing sediment and creating water quality impairments to the stream downstream of the MS4. Is this BMP eligible for funding?

Response – BMPs applied to the portion of the drain that is not an MS4 may be eligible. Private drains are not considered to be part of the MS4. Streambank restoration in a drain which is not Waters of the State is not eligible.



Scenario 4 – In either an MS4 or non-MS4 area, the stream channel is excavated for a short distance or a dam is constructed across the stream channel for the purpose of capturing pollutants within the stream channel. Are these BMPs eligible for NPS grant funding?

Response – Using a stream channel, lake, or wetland to capture pollutants is not eligible. Doing so will likely cause the waterbody to fall short of the water quality standards associated with it. In addition, while this technique may treat NPS pollutants that have entered the waterbody, the sources of these pollutants are not addressed. By contrast, restoration of a waterbody to directly control the source of a pollutant may be eligible for NPS grant funding.



Using a stream channel, lake or wetland to trap pollutants is not eligible. The first priority of Nonpoint Source control is treatment at the source.

Appendix H

On-site Wastewater Treatment Systems

Background

There are approximately 1.4 million on-site wastewater treatment systems currently in use in Michigan. This type of sewage management is frequently used in rural and suburban residential areas that lack access to public collection systems. These systems can adequately provide water quality and environmental protection when properly designed, sited, constructed, maintained, and operated. It is generally accepted that these types of systems will continue to serve as the appropriate sewage treatment method in many areas both now and in the future. The proper functioning of these systems is necessary to protect public health and water quality and the issue of how to effectively address the repair of failing or malfunctioning systems is of primary importance. Nationally, failure rates range from 0.4 percent to 70 percent, but are typically 10 percent to 20 percent. However, the statewide failure rate is thought to be 10 percent or less.

As a condition of Michigan's Coastal Nonpoint Pollution Control Program, EGLE has agreed to prioritize specific on-site wastewater treatment system related activities within Michigan's Coastal Nonpoint Boundary as well as requiring some additional elements in EGLE funded new or updated watershed management plans within the boundary. Applicants should refer to Appendix D to determine if this new guidance applies to their proposal.

Funding for Public Involvement and Education

Typically, system owners, who are often untrained and uninformed, are responsible for operating and maintaining their individual systems. Performance results under this approach can vary significantly, with operation and maintenance functions driven mostly by complaints or system failures. Many conventional system failures have been linked to operation and maintenance failures. Common causes of failure include sludge-filled tanks, and hydraulic overloading caused by increased occupancy or greater water use. Landscape modifications and alteration of the infiltration field surface can also cause problems.

Public involvement and education are critical to successful on-site wastewater management. Engaging the public in wastewater treatment issues helps build support for funding, regulatory initiatives and other elements of a comprehensive program. Educational activities directed at increasing general awareness and knowledge of on-site management efforts can improve the probability that simple, routine operation and maintenance tasks (e.g., inspecting for pooled effluent, pumping the tank) are carried out by system owners.

Information regarding regular inspections, pumping, ground water threats from chemicals, hydraulic overloading from roof runoff or other clear water sources, pollutant loads from garbage disposal units, drain field protection, and warning signs of failing systems can be easily communicated. Flyers, brochures, posters, new media articles and other materials have proven effective in raising awareness and increasing public knowledge of onsite wastewater management issues.

The Nonpoint Source (NPS) Program will continue to support homeowner education and awareness of technical and financial options related to on-site wastewater treatment systems.

Funding for the Repair or Replacement of Failing or Malfunctioning Systems
The NPS Program supports a comprehensive approach to addressing failing on-site septic systems. To support local comprehensive programs, the NPS Program will consider proposals to repair failing on-site wastewater systems that meet all the following criteria:

- The system is within a critical area identified in a watershed plan that has been approved by EGLE as meeting Clean Michigan Initiative and 319 criteria. The plan must also identify water bodies where water quality standards are not being met due to failing on-site wastewater treatment systems.
- The on-site wastewater treatment system has been documented as causing impairment of water quality. **Please Note: The federal Clean Water Act defines point sources as discrete conveyances such as pipes or man-made ditches. Point sources are not eligible for NPS Program funding. Therefore, proposals to address direct discharges from on-site wastewater treatment system through cheater pipes or man-made ditches are not eligible for funding.*
- The on-site wastewater treatment system is not within an area determined by NPS staff as having a community-wide problem with failing on-site wastewater treatment systems that would best be resolved through a more comprehensive solution such as centralized or cluster wastewater treatment systems.
- The county or local unit of government, where the on-site wastewater treatment system is being repaired or replaced, has an ordinance requiring inspection and correction at the point-of-sale or more frequently (*see list below*). Or, the county or local unit of government is implementing a comprehensive approach to find and fix failing on-site septic systems; the comprehensive approach includes enforcement of existing authorities to replace known failing septic systems; and the county or local unit of government has a record of taking enforcement actions to address known failing systems.
- Prior to funding, the applicant agrees that all failing septic systems identified through the watershed planning and management process will be formally referred to the local health department for parallel follow-up.
- The homeowner commits to sign a 20-year maintenance agreement to ensure the septic system will be operated and maintained appropriately.

Priority will be given to areas where correction of failing on-site wastewater treatment systems will result in measurable water quality improvement.

The Nonpoint Source Program is aware of the following Point of Sale/Property Transfer Programs that include inspections of onsite wastewater treatment systems:

County Level

- Benzie County
- Ingham County and 2006 Amendment
- Isabella County
- Kalkaska County
- Macomb County
- Manistee County
- Ottawa County

- Shiawassee County
- Washtenaw County
- Wayne County

Local Level

- Brooks Township in Newaygo County
- Glen Arbor Township and the Village of Empire in Leelanau County
- Milton Township in Antrim County
- Secord Township in Gladwin County (Section 3.33)
- Long Lake Township in Grand Traverse County
- West Bloomfield Township in Oakland County

Appendix I
Social Indicators and Social Monitoring

Effective management of Nonpoint Source (NPS) water pollution requires addressing both environmental conditions and the choices people make that impact the environment. Monitoring social indicators, like monitoring environmental indicators, yields valuable information about the direction you should take or how well your management strategies are working. If you are monitoring social indicators, developing a watershed management plan, or implementing outreach or education actions from a watershed management plan then this appendix may apply to you.

The United States Environmental Protection Agency (USEPA) Region 5 Social Indicators Work Group developed a step-by-step system (the Social Indicator Planning and Evaluation System (SIPES)) for using social indicators to help plan, implement and evaluate NPS outreach and education projects. SIPES and the associated Social Indicator Data Management and Analysis (SIDMA) tool (described below) are required to be used by all Michigan NPS grantees that are conducting social monitoring funded with federal funds. The benefits of standard social monitoring protocols include better education and outreach components of watershed management plans, standardized protocols for social surveys across watersheds in Michigan, standardized assessments of the effectiveness of NPS outreach efforts, and comparability at the watershed, regional, and state scale.

The SIDMA tool is a web-based project management aid that supports SIPES watershed projects. The SIDMA can be used by project coordinators to collect, organize, and use social indicators related to water quality improvements.

SIDMA includes the following features:

- ***Survey builder:*** Provides survey questions to be selected and adapted for use by a watershed project.
- ***Data input screens and database:*** Use to input and store responses from questionnaires and other social indicator data.
- ***Online survey tool:*** Allows potential respondents to complete your social indicators survey online.
- ***Data analysis tools:*** Generates basic statistics from survey data for individual questions as well as social indicators.
- ***Report creating tools:*** Helps with communicating social indicator data including custom made graphs and charts.

NPS grant funded projects should use the SIPES guidance and SIDMA tool as follows:

- Watershed management planning projects:
    - Are encouraged to use the SIPES guidance and SIDMA tool to develop baseline information for the general public regarding existing knowledge, beliefs, and behavior about environmental and NPS issues.
    - The results of a properly designed SIPES/SIDMA assessment can easily be used to develop recommendations for education and outreach activities for the general public as well as target audiences to address element E of the USEPA's nine required elements of a watershed management plan.

- Implementation projects:
    - With significant outreach and education tasks with the goal of changing knowledge, or awareness should generally include “pre” and “post” SIDMA social monitoring to assess the effectiveness of those activities.

When SIDMA is a lower priority:

- Watershed Planning Projects:
    - When preparing a watershed plan that is:
        - “Nested” in a larger watershed with appropriate social monitoring data.
        - Neighboring or near to a watershed with acceptable SIDMA data and similar demographics and issues.
- Implementation Projects:
    - Narrowly focused outreach for a targeted audience and focused on a single pollutant/source/cause with a limited suite of best management practices (BMP). Generally, evaluation will be based on increased implementation rate for the BMPs or a short survey.
    - Passive outreach efforts such as signage.

For questions, contact Robert Sweet, Nonpoint Source Unit, Surface Water Assessment Section, WRD, at 517-512-9765 or SweetR@Michigan.gov.