

# Clean Water Act Section 319 Agricultural Cost-Share Guidance for Indiana

## OVERVIEW

The Federal Clean Water Act Section 319(h) provides funding for various types of projects that work to reduce nonpoint source water pollution. Section 319 grant projects in Indiana that are implementing best management practices (BMPs) are required by Indiana's Nonpoint Source Program to develop a cost-share program. Details of the cost-share program must be submitted to the Indiana Department of Environmental Management (IDEM) Project Manager prior to implementing the program, including information requested in the *Section 319 Cost-Share Program Development Guidelines* (Attachment B). The approved cost-share program allows Section 319 funds to be used to pay a portion of the cost of implementing BMPs that reduce sediment, nutrients and other pollutants from nonpoint sources in the watershed.



This guidance document provides general program information, funding restrictions, definitions of basic terminology, and frequently asked questions related to the distribution of cost-share funds for BMPs implemented on agricultural land. Agricultural land is defined for these purposes as land that is currently in production such as cropland, pastureland, rangeland, native pastureland, other land used to support livestock production, and tree farms. This is a living document, and as such, the policies and guidance within are subject to change. Please make sure that this is the most current version of the document (see date below). Any questions may be directed to an IDEM Section 319 Project Manager at (317) 232-8670.

## PROGRAM INFORMATION AND REQUIREMENTS

Section 319 funds may be used to implement BMPs for the purpose of implementing a watershed management plan (WMP) that meets IDEM's [Watershed Management Plan Checklist](#) or to demonstrate new technology. BMPs should be selected based on the goals of the watershed management plan, and must be implemented in critical areas as described in the Plan. Section 319 funds may be used to pay up to a maximum of 75% of the total BMP cost. At least 25% of the cost must be provided by the landowner or other non-federal source as match. BMPs must comply with standards and specifications developed by the Natural Resources Conservation Service (NRCS), such as the NRCS Field Office Technical Guide (FOTG), the Indiana Department of Natural Resources (IDNR), or other recognized standards (see definition of BMP for more information).



A Conservation Plan must be in place and followed in all fields that receive cost-share funds. The Conservation Plan must be signed by a Certified Conservation Planner, and a copy of the Plan must be kept in the project sponsor's office. A list of [Certified Conservation Planners](#) may be found on the NRCS web site. BMPs must be installed in accordance with the WMP, Conservation Plan, any applicable Nutrient Management Plan (NMP), Pesticide Management Plan (PMP), Manure Management Plan (MMP) and/or Comprehensive Nutrient Management Plan (CNMP), and be necessary to improve or maintain water quality by reducing off-site sedimentation, and/or nutrient, pesticide or pathogen loads to receiving waters. All BMPs installed with these grant funds must be maintained as follows: vegetative and land management practices 5 years, structural practices 10 years.

EPA has determined that all Animal Feeding Operations (AFOs) that receive Section 319 funding must have a CNMP in place. Section 319 funds may be used to pay up to 90% of the total cost of developing a CNMP (based on the [TSP Not to Exceed Rate](#)). Any AFO that is subject to National Pollutant Discharge Elimination

System (NPDES) permit requirements or is designated to be a Concentrated Animal Feeding Operation (CAFO) under 40 CFR Section 122.23 is ineligible for Section 319 funding.

When BMPs are implemented that will directly reduce sediment and/or nutrient runoff, grant recipients must utilize the spreadsheet application entitled [Region 5 Model](#) or the [Spreadsheet Tool for Estimating Pollutant Load \(STEPL\)](#) or other approved method to provide, when applicable, estimated sediment and nutrient load reductions for each BMP implemented during the project. BMPs for which load reductions are to be estimated include, but are not limited to, grassed waterways, water and sediment control basins (WASCOBs), streambank stabilization, residue management, conservation cover, filter strips, prescribed grazing and critical area planting.

In order to receive reimbursement for cost-share practices that have been implemented, an invoice for payment must be submitted to IDEM by the project sponsor along with the complete [319-A \(Agriculture Cost-Share Form\)](#) and the following enclosures:

1. Plan Map, showing location of all practices
2. Copies of bills or receipts for each practice showing the total cost
3. Copies of the Region V Load Estimation Model worksheet(s) or the STEPL Model workbook for the practices installed, when applicable
4. NRCS CNMP checklist if cost-share funds are used to develop a CNMP.

## **RESTRICTIONS**

Section 319 grant funds **may not** be used for the items listed below, nor may they be counted as match for the project:

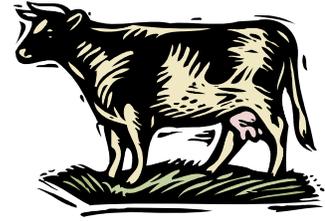
- Purchase of large agricultural equipment or other large pieces of equipment - (equipment modifications and leasing are allowable)
- Purchase of land or land easements – (costs associated with land/conservation easements may be used as match in cases where the sponsor can remain responsible for the continuance of the easement until its conclusion, and where the purpose is to restore vegetation, hydrologic function, or some other characteristic which will have a positive effect on water quality)
- Any project which is directed at water quantity rather than water quality, such as drainage/ flood control projects or channelization
- Dredging
- Any practices, equipment, or supplies used to fulfill the requirements of a Federal permit, such as a NPDES permit, or to comply with a State rule or permit, such as [IDEM's Confined Feeding Operation Rule](#) (327 IAC 16), or to meet enforcement requirements.
- Practices at a CAFO
- Wetland mitigation sites
- Incentive payments of any kind
- Yield losses
- Practices not sanctioned by IDEM or a partner agency of IDEM
- Practices not installed in accordance with standards and specifications developed by NRCS, IDNR or other recognized standards.
- Sales tax
- Food for events
- Permit fees

## DEFINITIONS

### Animal Feeding Operation (AFO)

An agricultural operation where animals are kept and raised in confined situations. It is a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.



### Best Management Practice (BMP)

A structural or management practice that is used to reduce the quantity of pollutants generated and/or delivered from a source to a receiving water body. A structural BMP is something that is built or involves changes in landforms or equipment. A managerial BMP involves a specific way of using or handling infrastructure or resources. Management practices control the delivery of NPS pollutants to receiving water resources by 1. minimizing pollutants available (source reduction); 2. retarding the transport and/or delivery of pollutants, either by reducing water transported and thus the amount of the pollutant transported, or through deposition of the pollutant; or 3. remediating or intercepting the pollutant before or after it is delivered to the water resource through chemical or biological transformation. To be considered a best management practice, a practice must have been selected through a conscious planning process designed to inventory resources and needs, determine available alternatives, weigh their benefits, make decisions, and follow up the selection and implementation of practices with monitoring and evaluation to determine if they are having the desired effect. All BMPs require regular inspection and maintenance. Primary sources for standards and specifications for BMPs appropriate to Indiana are listed below:

- Natural Resources Conservation Service, [Field Office Technical Guide](#)
- The Indiana Department of Natural Resources, Division of Forestry, [Indiana's Forestry Best Management Practices](#) Click on Forestry BMPs.
- The Indiana Department of Agriculture, Division of Soil Conservation, Erosion and Sediment Control Practices for Developing Areas
- Indiana Department of Natural Resources, [Lakeshore Protection in Indiana](#)
- Indiana Department of Natural Resources, [The Indiana Drainage Handbook](#)

### Bioengineering

A method of construction combining live plants with dead plants or inorganic materials, to produce living, functioning systems to prevent erosion, control sediment and other pollutants, and provide habitat. Bioengineering techniques can often be successful for erosion control and bank stabilization, flood mitigation, and even water treatment. It is commonly used to restore vegetation on river banks to enhance natural decontamination of runoff before it enters the river.

### Comprehensive Nutrient Management Plan (CNMP)

A plan that identifies actions or priorities that will be followed to meet clearly defined nutrient management goals that protect water quality at an agricultural operation. CNMPs should address, as necessary, feed management, manure handling and storage, land application of manure, land management, record keeping, and other utilization options. While nutrients are often the major pollutants of concern, the plan should address risks from other pollutants, such as pathogens, to minimize water quality and public health impacts from AFOs. The NRCS FOTG is the primary technical reference for the development of CNMPs.

## **Concentrated Animal Feeding Operation (CAFO)**

An operation must meet the definition of an AFO before it can be defined or designated as a CAFO. Previous EPA regulations based the definition of CAFOs on the number of "animal units" confined. EPA no longer uses the term "animal unit," but instead refers to the actual number of animals at the operation to define a CAFO. View a brief summary here of how the regulations define [Large, Medium, and Small CAFOs](#). The NPDES program regulates the discharge of pollutants from point sources to waters of the United States. CAFOs are point sources, as defined by the CWA [Section 502(14)], and are ineligible for Section 319 funding.

## **Confined Feeding Operation (CFO)**

As defined by the State of Indiana, A CFO is any AFO engaged in the confined feeding of at least 300 cattle, or 600 swine or sheep, or 30,000 fowl, such as chickens, turkeys or other poultry. The IDEM regulates these confined feeding operations, as well as smaller operations which have violated water pollution rules or laws, under IC 13-18-10.

## **Conservation Plan**

A written record of a landowner's management decisions and the conservation practices and systems that will be used and maintained on the farm. Carrying out the Plan will achieve the goals of protecting the environment on and off the farm. The Plan includes soil maps and descriptions, resource inventory data, treatment decisions, location and schedule for conservation practices and a plan of operation and maintenance of the conservation systems or practices.

## **Land Management Practices**

These are practices that require primarily management techniques and methods to implement the practice (such as nutrient management, pest management, residue management, prescribed grazing).

## **Manure Management Plan (MMP)**

An MMP is a tool for producers to use when they plan their nutrient placement to optimize crop production. A MMP helps producers identify the amount of manure being produced, the nutrient concentration in the manure, the number of acres that are required for land application and the amount that will be applied to each available acre. It should include procedures for soil and manure testing and soil survey maps of manure application areas.

## **Nonpoint Source Water Pollution (NPS)**

Nonpoint source water pollution is so named because the pollutants do not originate at single point sources, such as industrial or municipal waste discharge pipes. Instead, NPS pollutants such as fertilizer, road salt, sediment, pesticides, nutrients and bacteria are carried over fields, lawns, and streets by rainwater or snowmelt. These pollutants then enter lakes and streams or seep into groundwater. While some NPS pollution is naturally occurring, most of it is a result of human activities.

## **Stakeholder**

A stakeholder is a person (or group) who is responsible for making or implementing a management action, who will be affected by the action, or who can aid or prevent its implementation.

## **Structural Practices**

Practices that involve constructing designed (engineered) features using heavy machinery (such as waterways, erosion control structures, and WASCObS).

## **Technical Service Provider (TSP)**

Technical service providers are individuals, entities, or public agencies certified by NRCS and placed on the approved list to provide technical services to program participants or the Department. You may [Locate Technical Service Providers](#) for each state on the NRCS website.

## Vegetative Practices

Practices that only involve seeding or planting to establish or re-establish plant cover (such as pasture and hay seeding, cover crop, filter strip, and tree planting).

## Watershed Management Plan (WMP)

A strategy and work plan for achieving water resource goals that provides assessment and management information for a geographically defined watershed. It includes the analyses, actions, participants, and resources related to development and implementation of the plan.



## FREQUENTLY ASKED QUESTIONS

This section attempts to address frequently asked questions regarding agricultural cost-share and eligibility. If additional information or clarification is needed, please contact an IDEM Section 319 Project Manager at 317/232-8670.

What is eligible for 319 funding at an AFO? – *All eligible BMPs (see Program Information and Restrictions) may be funded as long as there is a CNMP in place. CNMP development may also be funded up to a maximum of 90% of the total cost of development (based on the TSP Not to Exceed Rate).*

What is eligible for 319 funding at a CFO? – *Since CFOs are regulated by IDEM, BMPs that go above and beyond the Confined Feeding Operation Rule requirements are eligible. (In addition, a CNMP is required since they are also considered AFOs). For example, technology (including equipment modifications) that reduces or eliminates surface application of manure or that increases application efficiency such as no-till manure injection, variable rate controllers, and Geographic Positioning Systems go above and beyond the rule and are eligible for cost-share through Section 319. Section 319 funds may only be used to pay for the additional costs of these practices. Also included are NMPs that address the whole farm, mortality composting, manure composting, and covered buildings for the purpose of staging manure for distribution (as opposed to manure storage at a production facility).*

*Not eligible for funding: development of MMPs, land application of manure, run-on and run-off control, and other requirements of the CFO Rule.*

What is eligible for 319 funding at a CAFO? – *CAFOs are not eligible for 319 funding. Are nutrient management plans and/or pest management plans required to receive 319 cost-share funds? No, but they are recommended. A Conservation Plan is required for all cost share recipients. A CNMP is required for AFOs.*

When should the 319-A form be used? – *When requesting reimbursement for eligible best management practices (BMPs) installed on agricultural land - defined for these purposes as land that is currently in production (i.e., working land) such as cropland, pastureland, rangeland, native pastureland, other land used to support livestock production, and tree farms. Please note that the 319-A form requires that a Conservation Plan be developed and followed on all fields that receive cost-share funds. The following must be submitted with the 319-A form: a plan map showing the location of all practices, copies of bills or receipts showing the total cost, pollutant load reduction estimations for each applicable BMP (see Program Requirements), and the NRCS CNMP checklist if cost-share funds are used to develop a CNMP.*

Can 319 funds be used to develop a Conservation Plan? – *Yes, Conservation Plan development may be funded up to a maximum of 90% of the total cost of development (based on the [TSP Not to Exceed Rate](#)).*

Can 319 funds be used to develop a CNMP? *Yes, CNMP development may be funded up to a maximum of 90% of the total cost of development (based on the TSP Not to Exceed Rate). The NRCS Comprehensive Nutrient Management Plan Review Checklist must accompany the 319-A Cost-Share Form for reimbursement of funds for the development of a CNMP. If the applicant does not own the land where practices will be installed, is the landowner's signature required on the 319-A form? – Yes, unless the applicant has power of attorney for the landowner.*

Can a producer receive cost-share for hauling manure within or out of the project area to apply on a field that's part of their operation? – *Yes, if it is not required by the State CFO Rule – i.e., CFOs are required to develop a MMP and follow that plan – which includes applying manure at agronomic rates for N. If they are going above and beyond what they said they would do or are required to do in their MMP, and these measures are more protective of water quality, the additional costs for doing so are eligible. For example, if they are hauling manure to a field further than they are required to by their plan - based on the agronomic rate for P (since it's not required for CFOs), the additional costs associated with doing so are eligible.*

Is a landowner eligible for cost-share on land application of manure? *Yes, if at least 50% of the field is in the project watershed; the manure is applied in accordance with a MMP or CNMP for the field and the overall WMP; and the manure is not simply surface applied. 319 funds can be used for technology or activities that reduce or eliminate surface application of manure (and runoff) or increase application efficiency such as equipment modifications for manure injection, variable rate controllers, etc. Section 319 funds may only be used to pay for the additional costs of these practices. If a producer hires someone to land apply their manure, the additional costs associated with manure injection as opposed to surface application would be eligible.*

If a producer lives outside the project area/watershed but uses equipment to spread manure in the watershed (as well as outside the watershed), is the owner eligible for cost-share on attachments to the equipment that allows for better manure application? – *Yes, as long as the landowner is a stakeholder in the project watershed.*

If a producer owns/rents some land in the watershed, but the majority of the land he owns/rents is outside the watershed, can he still receive cost-share funds for equipment modifications? - *Yes, as long as the equipment is used on his land inside the watershed.*

If an AFO has a crop operation separate from the animal operation and wants to install BMPs on crop land, do they still need a CNMP? - *No, if manure and organic by-products will not be generated, handled, stored or applied on the crop land for the required maintenance of the BMP (vegetative and land management practices 5 years, structural practices 10 years). (A CNMP should address all land units that the AFO owner and/or operator owns or has decision-making authority over and on which manure and organic by-products will be generated, handled, stored, or applied).*

Is there a maximum that can be spent on purchasing equipment? - *There is no set limit, but any equipment over \$5,000 in value at the end of the project is considered the property of the State when the contract term ends. The Contractor may continue to utilize the equipment on loan with the following stipulations:*

- *The equipment must continue to be utilized solely for the purposes it was intended,*
- *The Contractor is responsible for maintaining the equipment,*
- *The Contractor assumes all costs or liability related to disposition of the equipment/property, and*
- *The Contractor must notify the state when the equipment will no longer be utilized for the intended purpose. If the value is less than \$5,000 at that time there may be no further obligation to the State. If the value of the equipment is \$5,000 or greater at that time, disposition of the equipment must be in accordance with 40 CRF 31.32.*

Can EQIP funds be combined with 319 funds to pay for a BMP? *These funds may be combined as long as the total funds provided to the landowner do not exceed 75% of the total cost of the practice. EQIP funds may not be counted as match since match cannot come from federal funds. The combining of 319 and EQIP funds will need to be documented on the 319A Cost-Share Form.*

When can landowners be reimbursed for equipment modifications? – *Reimbursement may be requested after the BMP has been implemented – i.e., the equipment has been used for the purpose it was purchased.*

What costs are included in the “total practice cost”? *The cost of the BMP includes actual costs associated with materials and labor (excluding tax). If a landowner is contributing labor, it should be calculated based on the reasonable and customary price in that area for the work being done.*

Can 319 pay for lab fees for manure, soil or plant tissue testing? *Yes, if it is part of developing a CNMP or NMP that addresses the whole farm.*

What do we do if we need to change our cost-share program, once it has been approved? *Submit the revised cost-share program guidelines to the IDEM Project Manager for approval.*

## REFERENCED WEB LINKS

[319-A \(Agriculture Cost-Share Form\)](#)

<http://www.in.gov/icpr/webfile/formsdiv/50065.pdf>

[Certified Conservation Planners](#)

<http://techreg.usda.gov/CustLocateTSP.aspx>

[Comprehensive Nutrient Management Plan Review Checklist](#)

<http://www.nrcs.usda.gov/search.asp?site=IN&ct=IN&qu=CNMP+Checklist&Go.x=25&Go.y=10>

[Field Office Technical Guide](#)

[http://efotg.nrcs.usda.gov/efotg\\_locator.aspx?map=IN](http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IN)

[IDEM's Confined Feeding Operation Rule](#)

<http://www.in.gov/idem/agriculture/livestock/cfo/index.html>

[The Indiana Drainage Handbook](#)

[http://www.in.gov/dnr/water/surface\\_water/DrainageHandbook/index.html](http://www.in.gov/dnr/water/surface_water/DrainageHandbook/index.html)

[Indiana's Forestry Best Management Practices](#)

<http://www.in.gov/dnr/forestry/index.html?http://www.in.gov/dnr/forestry/grants/assistshare.htm&2>

[Lakeshore Protection in Indiana](#)

<http://www.in.gov/dnr/fishwild/lare/pdf/seawall.pdf>

[Large, Medium, and Small CAFOs](#)

[http://www.epa.gov/npdes/pubs/sector\\_table.pdf](http://www.epa.gov/npdes/pubs/sector_table.pdf)

[Locate Technical Service Providers](#)

<http://techreg.usda.gov/CustLocateTSP.aspx>

[Region 5 Model](#)

<http://it.tetrattech-ffx.com/stepl/default.htm>

[Spreadsheet Tool for Estimating Pollutant Load \(STEPL\)](#)

<http://it.tetrattech-ffx.com/stepl/default.htm>

[TSP Not to Exceed Rate](#)

<http://techreg.sc.egov.usda.gov/NTE/TSPNTE2/index.asp>

[Watershed Management Plan Checklist](#)

<http://www.in.gov/idem/programs/water/wsp/fy2003checklist.doc>

\*This document (Clean Water Act Section 319 Agricultural Cost-Share Guidance for Indiana) may be found on the IDEM web site at [http://www.in.gov/idem/resources/grants\\_loans/319h/grantmgmt.html](http://www.in.gov/idem/resources/grants_loans/319h/grantmgmt.html).

## Section 319 Cost-Share Program Development Guidelines

All Section 319 grant projects with a cost-share component are required to develop a cost-share program. Details of the cost-share program must be submitted to the IDEM Project Manager and approved prior to implementing the program. Best management practices (BMPs) must be implemented in accordance with the watershed management plan, contract or grant agreement with IDEM, approved cost-share program, and other applicable Section 319 requirements. Please provide the information requested below to the IDEM Project Manager for review and approval.

What is the project's contract or grant agreement number (ARN)?

What is the name of the watershed management plan that is being implemented with these funds?

BMPs must be implemented in critical areas. Describe the critical areas, and provide the page numbers in the watershed management plan where this information may be found.

What watershed(s) will your cost-share program target? (list by name and HUC)

Who is the target audience of your cost-share program?

What BMPs will be eligible under your cost-share program and what pollutants will be addressed? List all potential BMPs with the targeted pollutants. If specific BMPs are provided in the WMP, list the BMPs and the page numbers where this information is found.

What percentage of cost-share will you provide? (i.e. 75%-25%, 50%-50%)

How will you advertise your cost-share program?

Who will review the cost-share applications?

What criteria will be used when reviewing cost-share applications?

Who will be responsible for the administration aspect (paper work) of your cost-share program?

Is there a maximum dollar amount a cost-share recipient may receive under your cost-share program? If so, how much?

Have you set a maximum dollar amount on any individual BMP? If so, how much?

Will you cost-share on field equipment modifications? If so, please specify

Who will review and approve BMP installation according to the recognized standards (NRCS, IDNR, etc.)? Has this individual or organization agreed to such responsibilities?

Will any permits be necessary to install BMPs under your cost-share program? Who will be responsible for obtaining the necessary permits?

Who will be responsible for maintaining the BMPs and for how long?

### **SECTION 319 CANNOT FUND:**

- Purchase of large agricultural equipment or other large pieces of equipment - (equipment modifications and leasing are allowable)
- Purchase of land or land easements, including conservation easements - (costs associated with land/conservation easements may be used as match in cases where the sponsor can remain responsible for the continuance of the easement until its conclusion, and where the purpose is to restore vegetation, hydrologic function, or some other characteristic which will have a positive effect on water quality)
- Projects directed at water *quantity* rather than water *quality*, such as drainage/flood control or channelization
- Dredging
- Any practices, equipment, or supplies used to fulfill the requirements of a Federal permit, such as a NPDES permit, or to comply with a State rule or permit, such as [IDEM's Confined Feeding Operation Rule](#) (327 IAC 16), or to meet enforcement requirements
- Practices at a Concentrated Animal Feeding Operation (CAFO)
- Wetland mitigation sites
- Incentive payments of any kind
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- Practices not installed in accordance with standards and specifications developed by NRCS, IDNR or other recognized standards
- Sales tax