

**Vermont Agency of Natural Resources
Department of Environmental Conservation**

Request for Nonpoint Source Pollution Reduction Project Proposals

Date Issued: March 27, 2009

Request

With federal fiscal year 2009 funding likely to be provided by the US Environmental Protection Agency (EPA) under authority of Section 319 of the federal Clean Water Act, the Vermont Department of Environmental Conservation (DEC) is pleased to be able to seek project proposals from governmental agencies or non-profit organizations. Interest is with providing assistance to implementation project proposals that will result in the control, management and reduction of water pollution arising from certain priority nonpoint source discharges. Awards will be issued based on available funding.

Background & Goal of Request

Congress enacted Section 319 of the Clean Water Act in 1987 establishing a national program to control and abate nonpoint sources of water pollution. Under Section 319, each state was to address nonpoint source (NPS) pollution¹ by developing a NPS assessment report and by adopting management programs to control NPS pollution. These were to be followed by implementation of management programs.

Congress appropriated Section 319 grant funds for the first time in federal fiscal year 1990. In federal fiscal year (FFY)1999 and arising from the federal Clean Water Action Plan, Section 319 was authorized to receive a significant increase in funding. The increase in funds, referred to as Section 319 incremental funds, have been made available to Vermont since 2000 through 2008.² Incremental funds will likely soon be available to Vermont again in 2009. Section 319 funds have been applied throughout Vermont to assist in a wide variety of NPS projects and activities.

The goal of this Request for Proposals (RFP) under 2009 Section 319 incremental funding is to support restoration or implementation activities located in watersheds that are impaired by NPS pollution and that are addressed either by an EPA-approved Total Maximum Daily Load (TMDL), an Agency of Natural Resources basin plan, or a local watershed restoration plan. The total amount of grant funds available under this RFP will be determined once EPA makes the 2009 Section 319 award to DEC.

Ranked Priority Nonpoint Source Categories (#1 - 3) for 2009 Funding

#1. Projects that will help restore the following list of waters impaired by nonpoint source pollution. This is a subset of the full list of impaired waters known as the “303(d) List of Waters.” This subset of waters is being given priority as DEC and EPA are seeking to target the limited amount of funds to watersheds where 319 resources are likely to have the best chance of contributing to the attainment of water quality standards or to measurable water quality improvements. All proposed projects should be consistent with applicable local watershed plans or ANR basin plans. The priority NPS waters in this category appear on the following page.

¹ According to EPA, NPS pollution is caused by rainfall or snowmelt which carries man-made or natural pollutants into surface or ground water or wetlands. Atmospheric deposition and hydrologic modification are also sources of nonpoint pollution.

² Award of Section 319 incremental funds since 2000 was also made possible as a result of EPA approval of the Enhanced Vermont Nonpoint Source Management Program (October 1999).

Waterbody Name	Waterbody ID Number	Town(s)	Pollutant(s) Causing Impairment	Nonpoint source(s)
Mettowee River	02-05	Pawlet	Elevated temperature	Loss of riparian vegetation; close proximity of agricultural uses
Little Otter Creek	03-07	Ferrisburg	E.coli & TBD*	Agricultural runoff
Lewis Creek & Pond Brook	03-08	Ferrisburg, Charlotte, Hinesburg, Monkton	E.coli	Agricultural runoff
Lower Middlebury River	03-12	Middlebury	E.coli	Agricultural runoff, livestock, possible failed septic systems
Rock River & Saxe Brook	05-01	Highgate Franklin	TBD	Agricultural runoff
Jewett Brook	05-07	St. Albans	Sediment, nutrients, E.coli	Agricultural runoff
Rugg Brook	05-07	St. Albans	E.coli & TBD*	Agricultural runoff
Stevens Brook	05-07	St. Albans	Sediment, nutrients, E.coli, oil, grease, hydrocarbons	Agricultural runoff, morphological instability
Mill River	05-07	Georgia	Sediment, nutrients, E.coli	Agricultural runoff
Stone Bridge Brook	05-08	Georgia Milton	TBD*	Agricultural runoff, land development
Direct small drainages to inner Malletts Bay	05-09	Colchester	E.coli	Urban runoff, failed/failing septic systems
Potash Brook	05-11	South Burlington	Stormwater, E.coli	Stormwater runoff, land development, erosion; beach closures
Berry, Godin, Samsonville & Trout Brooks	06-04	Berkshire	Sediment, nutrients, E.coli	Agricultural runoff
Deer Brook	07-03	Georgia	Sediment	Stormwater discharge, sand pit, corroding culverts
Mill Brook	07-09	Fairfax	Sediment, nutrients	Algae growth
Allen Brook	08-02	Williston	Stormwater, E.coli	Stormwater runoff, land development, erosion
Muddy Brook	08-02	South Burlington, Williston	Toxics, nutrients, elevated temperature	Lack of buffer, land development
Folsom Brook	08-20	Waitsfield	E.coli	Failed/failing septic systems, agricultural runoff
Crosby Brook	13-13	Brattleboro	Sediment	Channelization & loss of riparian buffers
Newton Brook	13-16	Vernon	Sediment	Agricultural activity
Tributary to Tabor Branch	14-05	Topsham	TBD*	Agricultural & barnyard runoff, milkhouse effluent
Crystal Brook	17-01	Derby	Sediment, nutrients	Agricultural activity

(*) TBD means "to be determined." In some cases, specific pollutants have not been measured. Impairment based only on biological sampling.

#2. Nonpoint source projects that will help implement the Lake Champlain Phosphorus TMDL.

#3. Other nonpoint source projects that are consistent with the RFP's evaluation criteria found below.

Category #1 projects are those with the highest priority. While projects in any of the three categories will be considered for funding, projects in category #1 will be viewed with greater urgency during the proposal review process.

Eligible & Ineligible Projects/Activities

Eligible types of NPS management/implementation activities fall into five general categories and include:

- demonstration** - projects that accelerate the adoption of new or innovative NPS controls or technology;
- watershed resource restoration** - projects that protect and restore wetlands, rivers and streams, lakes and ponds, riparian areas and related aquatic habitats;
- technical/financial assistance** - projects that provide assistance (e.g. education, training, technology transfer) with the implementation of NPS controls;
- monitoring** - projects that assess the affect of NPS implementation projects on surface or ground water.
- watershed-based planning** – in the absence of either an EPA-approved TMDL or a basin plan recently adopted by the Agency of Natural Resources, efforts that produce a plan containing, but not limited to, the 9 required components designed to reduce NPS pollutant loadings that are contributing to water quality threats and/or impairments. The nine required components are described in an attached work plan format.

Ineligible types of activities not allowed under this RFP include:

- financial assistance to individuals;
- NPS research or general assessment or baseline watershed monitoring;
- in-lake treatment (e.g. sediment removal, alum treatment, aquatic plant treatment, aeration); and,
- stormwater controls specifically required by a NPDES stormwater permit.

Requirements

Proposed NPS implementation projects need to be developed and undertaken in a comprehensive manner. To assist NPS project proponents identify, design and apply effective measures on a competitive basis, DEC has prepared a work plan format. It is highly recommended that interested project proponents submit proposals that are consistent with the work plan format.

The Department recommends that applicants document and provide non-federal match for all NPS activities funded under this program.³

Estimated Cost

Respondents should provide project costs in sufficient detail in order that an accurate evaluation of the proposal can be made by a review panel. Respondents are encouraged to submit proposals which do not request greater than \$45,000 in 319 funding. Proposals which exceed that amount may be submitted but should be presented as multi-year projects with an indication of annual grant fund needs.

Evaluation Criteria

Vermont DEC is primarily seeking proposals that restore or improve water quality conditions. Proposals will be reviewed/evaluated against the following criteria:

- * Does the proposal include reasonable, measurable goals for water quality improvement or related environmental benefit and a method for evaluating environmental results of the project?
- * Are the project methods feasible, practical, cost effective?

³ Section 319 funds represent 60% of a project (for example, a 319 grant of \$100 has a 40% non-federal match amount equal to approximately \$67). Eligible forms of non-federal match are cash or in-kind services or a combination of both.

- * Does the proposal include local support, participation and commitment? Does the proposal include any cash and/or in-kind services that can be considered as non-federal match? Does the proposal include interagency participation and commitment?
- * Has the applicant demonstrated appropriate expertise or experience including successful completion of previous projects?
- * Which of the three ranked NPS categories described beginning at the bottom of page 1 does the proposed project fall into?
- * Does the proposal help implement an EPA-approved TMDL? If the proposal does not help implement a TMDL, does the proposal help restore a Section 303d listed water⁴ addressed by an Agency of Natural Resources basin plan or by some other watershed plan?
- * Does the proposal include or commit to calculating or estimating nutrient or sediment loading reduction as a result of the project?
- * If the proposed project involves protection and restoration of streambank or riparian areas, is the project consistent with findings from geomorphic assessments using ANR-adopted assessment protocols?

Successful respondents selected to receive FFY2009 Section 319 NPS grant funds will be subject to the terms of a performance-based grant agreement. Following full execution of an EPA-319 funding award to Vermont, DEC will notify successful applicants of a 319 grant award. Issuance of a signed grant agreement is contingent upon FFY2009 funding availability. The typical format and general conditions of a DEC performance-based grant agreement can be found on the Water Quality Division's web page (go to www.vtwaterquality.org, then click on "grants").

The award of grant funds by DEC will be contingent upon the recipient providing certificates of insurance showing certain minimum coverages are in effect for workers compensation, general liability and property damage, contractual liability and automotive liability. It is expected that grant recipients will maintain current certificates of insurance on file with the State through the term of the grant agreement. The customary grant provisions (Attachment C) of an agreement are provided on the following pages.

Proposal Due Date

One printed original and ten (10) printed copies of the proposal are due at the office of the Water Quality Division in Waterbury - or may be postmarked - by the close of business on Friday, May 15, 2009. One copy of the proposal (written in Word or as a pdf) shall be provided on diskette or CD. **Electronic submittals of the proposal in any other form (i.e. facsimile, e-mail, e-mail attachment) will not be accepted.**

Completed proposals or questions regarding this RFP can be directed to Rick Hopkins with the Water Quality Division of DEC at the following address:

Building 10 North, Second Floor
 103 South Main Street
 Waterbury, VT 05671-0408
 Phone: 802-241-3769
 FAX: 802-241-3287
 Email: rick.hopkins@state.vt.us

⁴ Contact the Vermont Water Quality Division (802-241-3787) for listing explanation and further assistance. The Year 2008 303d List of Waters can also be found by visiting the Division's web site: <http://www.vtwaterquality.org/planning/303dlist.pdf>.

**ATTACHMENT C
CUSTOMARY GRANT PROVISIONS**

1. Entire Agreement: This Grant Agreement represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

2. Applicable Law: This Grant Agreement will be governed by the laws of the State of Vermont. Subrecipient must comply with all the federal requirements pertaining to the expenditure of federal funds.

3. Appropriations: If this Grant Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Grant, the State may suspend or cancel this Grant at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. **Availability of Federal Funds:** This Grant is funded in whole or in part by federal funds. In the event the federal funds supporting this grant become unavailable or are reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

4. No Employee Benefits For Subrecipient: Subrecipient understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation and sick leave, workers' compensation or other benefits or services available to State employees, nor will the State withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Grant Agreement. Subrecipient understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including, but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Subrecipient, and information as to grant income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes, if required.

5. Independence, Liability: Subrecipient will act in an independent capacity and not as officers or employees of the State. The Subrecipient shall indemnify, defend and hold harmless the State and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of the Subrecipient's acts and/or omissions in the performance of this Grant.

6. Insurance: Before commencing work on this Grant, Subrecipient must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Subrecipient to maintain current certificates of insurance on file with the State through the term of the Grant.

Workers' Compensation: With respect to all operations performed, the Subrecipient shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the grant, the Subrecipient shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations; Products and completed Operations; Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence; \$1,000,000 General Aggregate; \$1,000,000 Products / completed products aggregate

\$ 50,000 Fire Legal Liability

Automotive Liability: The Subrecipient shall carry automotive liability insurance covering all owned, non-owned and hired vehicles, used in connection with the Grant. Limits of coverage shall not be less than:

\$1,000,000 Combined single limit

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Subrecipient for the Subrecipient's operations. These are solely minimums that have been set to protect the interests of the State.

7. Reliance By the State on Representations: All payments by the State under this Grant Agreement will be made in reliance upon the accuracy of all prior representations by the Subrecipient, including but not limited to bills, invoices, progress reports and other proofs of work.

8. Requirement to Have a Single Audit: If Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, it is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit. Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the entity. A Subrecipient is exempt if the entity expends less than \$500,000 in total federal assistance in one year.

Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through entity and any other pass-through entity that requests it within 9 months. If a single audit is not required, the subrecipient will submit the Schedule of

Federal Expenditures within 45 days. These forms will be mailed to the subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the VISION Web page.

9. Records Available for Audit: Subrecipient will maintain all books, documents, payroll papers, accounting records, and other evidence pertaining to costs incurred under this Grant Agreement and make them available at reasonable times during the period of the Grant and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Grant Agreement.

10. Fair Employment Practices and Americans with Disabilities Act: Subrecipient agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Subrecipient shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990 that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Subrecipient under this Grant Agreement. Subrecipient further agrees to include this provision in all subgrants.

11. Set Off: The State may set off any sums which the Subrecipient owes the State against any sums due the Subrecipient under this Grant Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

12. Taxes Due To The State:

- a. Subrecipient understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- b. Subrecipient certifies under the pains and penalties of perjury that, as of the date the Grant Agreement is signed, Subrecipient is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- c. Subrecipient understands that any payment under this Grant Agreement may be withheld if the Commissioner of Taxes determines that the Subrecipient is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- d. Subrecipient also understands the State may off-set taxes (and related penalties, interest, and fees) due to the State of Vermont, but only if the Subrecipient has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Subrecipient has no further legal recourse to contest the amounts due.

13. Child Support: (Applicable if the Subrecipient is a natural person, not a corporation or partnership.) Subrecipient states that, as of the date the Grant Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Subrecipient makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Subrecipient is a resident of Vermont, Subrecipient makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

14. Subgranting: Subrecipient shall not assign or subgrant the performance of this Grant or any portion thereof to any other Subgrantee without the prior written approval of the State. They must advise their subrecipients of requirements imposed on them by federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity. They must also set up a plan for monitoring those subrecipients' use of the funds.

15. No Gifts or Gratuities: Subrecipient shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Grant Agreement.

16. Copies: All written reports prepared under this Grant Agreement will be printed using both sides of the paper.

17. Suspension and Debarment: Non-federal entities are prohibited by Federal Executive Orders 12549 and 12689 from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$100,000 and non-procurement transaction (grants to subrecipients). By signing this Grant Agreement, current Subrecipient certifies as applicable, that the contracting organization and its principals are not suspended or debarred by GSA from federal procurement and non-procurement programs.