

# CLEAN WATER ACT SECTION 319(H) AGRICULTURAL GUIDANCE FOR INDIANA



## 1. OVERVIEW

The Federal Clean Water Act Section 319(h) provides funding for various types of practices that work to reduce [nonpoint source water pollution](#). Section 319(h) 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\(h\) Cost-Share Program Development Guidelines](#). The approved cost-share program allows Section 319(h) 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, suggested BMPs, funding restrictions, definitions of basic terminology, and frequently asked questions related to the distribution of cost-share and demonstration 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\(h\) Project Manager](#).

## 2. PROGRAM INFORMATION AND REQUIREMENTS

Section 319(h) 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 WMP, and must be implemented in [critical areas](#) as described in the Plan. For cost-share practices, Section 319(h) 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. For demonstration practices Section 319(h) funds may be used to pay up to 100% of the total cost of the BMP. 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). Please note that not all BMPs outlined in the FOTG are eligible through 319, and all proposed BMPs should be discussed with your IDEM project manager to verify funding eligibility.

A [Conservation Plan](#) must be in place and followed in all fields that receive cost-share funds. The Conservation Plan, which is eligible for 90% cost share, must be signed by a Certified Conservation Planner, and a copy of the Plan must be kept in the project sponsor's office. Projects should not assume that NRCS can provide technical assistance on BMP standards and specifications or Conservation Plan development. A list of [Certified Conservation Planners](#) may be found on the NRCS web site. Design costs may be included in the total cost of the BMP, and will be reimbursed after the BMP is implemented. 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) receiving Section 319(h) funding must have a CNMP in place. Section 319(h) funds may be used to pay up to 90% of the total cost of developing a CNMP (based on the Technical Service Provider ([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(h) 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.

In order to receive reimbursement for BMPs that have been implemented, an invoice for payment must be submitted to IDEM by the project sponsor along with the completed [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 5 Model worksheet(s) or the STEPL Model workbook for the practices installed, when applicable; and,
4. NRCS checklist if cost-share funds are used to develop a CNMP, MMP, PMP, or NMP.

### **3. CHOOSING AGRICULTURAL BMPS**

When using cost-share to implement a BMP, project sponsors must ensure that the practice is in a critical area as defined by an approved WMP, addresses a water quality problem outlined in the WMP, and follows the project's approved cost-share program. These three conditions ultimately determine if a practice is reimbursable. However, there are two other related criteria that a Section 319(h) group should consider when implementing a BMP and that Project Managers may need to explore if aspects of the three conditions above are not clear:

#### *BMP Appropriateness*

The BMP should address the goal(s) of the WMP and be appropriate for the NPS pollution in the critical area where the practice site lies. Further, IDEM will not fund BMPs that are 'bandages', or spot fixes of much larger issues. For example, stabilizing streambanks without first addressing the source of the extra flow and sediment causing the bank instability is not a high value practice or an IDEM funding priority.

#### *Pollutant Load/Runoff Reductions*

IDEM expects Section 319(h) groups to consider the ratio of BMP cost to pollutant/flow reduction and to make judicious use of their limited grant funding. IDEM's first priority is to improve water quality through the reduction of pollutant loads. Practices that can't demonstrate a load and/or runoff reduction will not be funded (exceptions can be made if a method for estimating a BMP's reductions does not exist).

Because storm water runoff delivers additional pollutants to streams and contributes to bank destabilization, stopping runoff from reaching streams is important. This does not mean that Section 319(h) funds can address flooding concerns or remove flow from a stream channel. Rather, a practice decreasing polluted runoff before it reaches a Water of the State may be considered eligible. Examples would include:

1. Modifying agricultural drainage tiles so water is held in the field longer;
2. Preserving wetlands and other riparian areas that store storm water; and,
3. Modifying roadside swales so infiltration is increased.

## **4. SUGGESTED AGRICULTURAL BMPS**

Every watershed and WMP's goals are different and IDEM does not require that projects focus on any BMPs except those outlined in their approved cost-share program. However, there are BMPs and other practices which IDEM believes provide significant pollutant load and/or flow reductions for their cost and encourages Section 319(h) Projects to implement whenever possible.

### *Alternative Tillage Practices*

Conservation tillage saves soil and can result in less fertilizer use. In most cases, it also is a relatively inexpensive BMP when compared to the acreage it benefits and pollutant load reductions it creates.

### *Conservation Easements/Property Purchase*

[Conservation easements](#) provide lasting protection to land and can be a valuable watershed management tool. While Section 319(h) cannot reimburse property owners for property value lost due to an easement, certain administrative costs associated with creating the easement are eligible. Likewise, certain administrative costs associated with purchasing land so it can be permanently protected are eligible. See [IDEM's Urban BMP Guidance](#) for details and more information.

### *Cover Crops*

By planting cover crops, producers protect their topsoil during the winter months, see an increase in soil nutrient levels—and a decrease in fertilizer needs—and protect their fields from weeds and insects. The economic incentive of cover crops can be calculated by weighing their cost against the nutrients and herbicides a landowner would typically apply.

### *System of BMPs*

U.S. EPA strongly recommends using a systems approach to a site whenever possible. When creating a system of BMPs, the goal is to position two or more BMPs on the landscape so they complement each other and create the maximum water quality benefit. For instance, reduced tillage combined with a water level control structure for drainage tiles not only reduces soil runoff but also decreases the flow of storm water and nutrients to streams.

### *Two-Stage Ditches*

When a ditch is modified to a two-stage design, benches are added to both sides of the stream. These benches create room for water to collect during high flows and the stream to more naturally meander. As water flows onto the benches and slows down, pollutants drop out, scouring decreases, and the soils and vegetation on the benches cleanse the water. Benefits to the landowner include a more stable stream with less undercutting of trees (due to reduced scouring during high flow) and

increased wildlife habitat (due to reduced sedimentation). Two-Stage Ditches may also significantly decrease the need to dredge the ditches. Information on Two-Stage Ditches can be found at: [NRCS' Stream Restoration Design Manual](#), Chapter 10 and G. E. Powell, *et. al.* "Two stage channel systems: Part 1, a practical approach to sizing agricultural ditches" [Journal of Soil and Water Conservation. Volume 62, Number 4](#), pgs. 277 - 296.

## **5. SUGGESTED AGRICULTURAL EDUCATIONAL PROJECTS**

Educational projects should be an important part of any watershed project. Considering the small pool of funds available for BMPs, education can be a means to extend a project's reach to a larger segment of a watershed's community and hopefully encourage people to take action or change their behavior. Educational projects must address a problem or goal outlined in the WMP. Educational projects are not funded through cost-share and can take many forms including demonstration practices, educational events, training, and local environmental policy education. Educational events, training, and local environmental policy education do not have to be held within a critical area but must focus on an issue pertinent to a critical area. Watershed groups are encouraged to review U.S. EPA's [Getting in Step](#) manual, which focuses on conducting watershed education campaigns.

### *Demonstration Projects*

[Demonstration projects](#) are BMPs that introduce new NPS reduction/removal techniques in the watershed and encourage buy-in from landowners. Section 319(h) will fund up to 100% of the projects with the following stipulations:

1. The practice must not have already been cost-shared on in the watershed with Section 319(h) funds.
2. They must be located in a critical area identified in the WMP.
3. They must be located on public land or any area where the public can access on a regular basis. Examples of locations suitable for demonstrations include parks, shopping plazas, and common areas in subdivisions. Locations must be approved by IDEM prior to the submittal of any invoices.
4. They must be used/showcased as part of an education and outreach event.
5. They must be installed and maintained according to the instructions on the 319-A or 319-U form.
6. The implementation of demonstration practices must be authorized in the project's Grant Agreement.

*Please note:* Section 319(h) groups are welcome to hold demonstrations of BMPs that were cost-shared on. In such a case, only numbers 2 and 5 above are applicable.

### *Educational Events*

Major changes in behavior require that people shift their mindsets, which takes education. Education gives an individual the needed knowledge regarding an issue to make sound decisions that will ultimately benefit the environment. Education also helps identify the specific skills that an individual needs to implement or act on the subject, but does not develop those skills.

Some examples of [educational events](#) are public meetings, displays at county fairs, [field days](#), and [workshops](#) on nonpoint source pollution and water quality. To be considered an ‘educational event’ an event must meet all of the following conditions:

1. Conveys general information about watersheds, improving water quality, nonpoint source pollution, or BMPs, etc.
2. The desired outcome is a change in participant’s behavior.
3. Behavior change does not reflect the gaining of any particular skills on the part of the participants. Examples include:
  - Disposing of motor oil at a recycling facility rather than dumping it;
  - Following manufacturer’s directions when applying fertilizers and chemicals at home;
  - Switching to a more environmentally friendly product;
  - Properly using, operating, and maintaining something such as a septic system or chemical applicator; and
  - Learning about BMPs but not specific information about how to install them.

If a person is performing work required by the educational event (i.e., laborer, classroom aide, presenter, etc.), services CAN be counted as match (or reimbursed with grant funds). If the person’s involvement is solely in a learning capacity, they are not providing a service, but are a beneficiary of the project and time or other expenses can NOT be counted as match.

### *Training*

[Training](#) is an activity that imparts knowledge to a participant and allows them to develop the skills necessary to complete or over-see work that will reduce nonpoint source pollution and that is reasonably expected to be carried out during watershed planning or implementation (as documented in either the grant agreement or watershed management plan). Training includes activities where participants can earn [Continuing Education Units](#) (CEUs) and learn to install BMPs in the watershed.

To be considered training, the event must meet one of the following criteria:

1. Allow the participant to meet continuing education/development credits from an approved certification program. U.S. EPA Region 5 encourages sponsors of training events/activities to work with as many certification programs as suitable for the subject matter.

The [North American Lake Management Society's Lake Management and Lake Professional Certifications](#) and the Certified Professional in Erosion and Sediment Control, [Certified Professional in Storm Water Quality](#), and Certified Erosion, Sediment and Storm Inspector are two examples of certification programs. Work with your IDEM Project Manager if you think your training event can count towards CEUs.

2. If the event is not applicable for continuing education/development credits, it must meet all of the following conditions:

- a. Be led by a professional discussing their field of expertise.
- b. Be structured such that participants receive needed skills and knowledge that are detailed and specific enough to work on an objective required of the watershed planning process or from the draft or approved WMP. Examples include:
  - Rotational grazing training where participants learn how to develop a rotational grazing plan for their specific operation;
  - Water quality sampling training where participants learn how to sample by physically taking and reading or analyzing samples; and,
  - Training on [hydromodification](#) where participants learn how traditional ditch maintenance can decrease channel stability and stream health and how to incorporate new techniques that decrease long term maintenance costs and benefit water quality and stream health.
- c. The participants must be qualified or in a position to use the received skills and knowledge in the project area. Examples include:
  - Homeowners learning how to install a specific BMP on their property; and,
  - Land-use planners and other relevant officials learning how to decrease hydromodification within their jurisdiction.
- d. Be pre-approved by IDEM in order to be documented as training.

If approved, expenses related to the training may be counted as match for participants who are watershed stakeholders. Expenses related to participants in training activities may only be reimbursed with grant funds when the participant is performing work required by the project (i.e., presenter).

## Local Environmental Policy Education

Section 319(h) groups are encouraged to create working relationships with local officials and to educate those officials about new ideas and concepts that reduce nonpoint source pollution as long as those actions help achieve a goal in the WMP.

Examples of this strategy include:

- Porter County's Unified Development Ordinance, which, among other things, categorized local waterways according to needed levels of protection. The local Section 319(h) group helped identify waterways and their needed level of protection based in part on the priorities in their WMP.
- Following The Nature Conservancy's model of promoting Two-Stage Ditches and other alternative maintenance techniques by educating landowners and surveyors about the consequences of certain hydromodification practices.

In addition to these examples, Section 319(h) groups can work with local officials on ordinances as long as 319(h) funds are not spent on [ordinance development or revision](#). Ordinances are an especially important tool in urbanizing watersheds and can be used to protect prime farmland and the streams running through it. Section 319(h) funds can be spent on:

- Education events and training to inform the public and local officials about needed ordinances or ordinance changes;
- Researching ordinance topics and creating ordinance recommendations as long as the delivered product of the Section 319(h) group's work is not ordinance language; and,
- Education events and training to inform the public and local officials on research and recommendations done on behalf of a local entity.

## 6. RESTRICTIONS

Section 319(h) 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) see [FAQ 17](#) for more information;
- Purchase of land or land easements (administrative costs are allowable);
- Dredging;
- Any practices, equipment, or supplies used to fulfill the requirements of a Federal permit, such as an MS4 or other 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;

- Yield losses;
- Any project which is directed at water *quantity* rather than water *quality*, such as drainage/flood control or channelization;
- Practices not sanctioned by IDEM or a partner agency of IDEM;
- Practices not installed in accordance with standards and specifications developed by IDEM, NRCS, IDNR or other acceptable standards;
- Sales tax;
- Log jam removal;
- Low flow plumbing;
- Invasive species removal (unless removal is needed to implement a BMP);
- Sediment traps, basins, or ponds within a Water of the State;
- Construction of dry detention ponds (adding infiltration capacity to an existing dry pond is acceptable);
- Permeable weirs;
- [Regional water quality features](#);
- Ordinance revision or development;
- Well capping (oil/gas and water);
- Installation/repair/maintenance of septic systems, including demonstration septic systems;
- Food/beverages/entertainment for events;
- Office furniture; and,
- Permit fees.

## 7. DEFINITIONS

**Agricultural Land** – Land that is currently in production such as cropland, pastureland, rangeland, native pastureland, other land used to support livestock production, and tree farms.

**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) or 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. To be considered a best management practice, a practice must have been selected through a planning process designed to inventory resources and needs, determine available alternatives, and weigh the alternative's benefits against the practice's.

All BMPs except Low Impact Development (see [IDEM's Urban BMP Guidance](#)) and Conservation Easements require regular inspection and maintenance as part of the IDEM cost-share or demonstration project agreement.

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](#) ;
- 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](#) ; and,
- 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 a stream. Bioengineering is Section 319(h)'s preferred method of stabilizing streambanks.

**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 U.S. EPA regulations based the definition of CAFOs on the number of "animal units" confined. U.S. 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(h) funding.

**Confined Feeding Operation (CFO)**, as defined by the State of Indiana, 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 Easement** – A legal agreement between a landowner and a land trust that places specific land-use restrictions on a property according to the landowner’s express wishes. The easement stays with the title to the property, allowing the property to remain in private ownership and to be used for purposes consistent with the conservation values of the property. The terms of the easement remain intact if the property is sold or bequeathed, thus requiring all future owners to abide by the terms of the agreement. The land trust’s responsibility is to monitor and ensure that the terms of the agreement are observed. Land Trusts cannot put conservation easements on land they own.

**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.

**Continuing Education Units** – Recognized units earned for participation in qualified continuing education programs that may be used for professional advancement or as evidence of increased abilities, not for college credit.

**Critical Area** – According to the 2009 IDEM WMP Checklist, Critical Areas are defined areas where WMP implementation can remediate NPS sources in order to improve water quality and/or can mitigate the impact of future sources in order to protect water quality. Guidance on selecting Critical Areas is located in the 2009 IDEM WMP Checklist.

**Demonstration Project** – BMPs used to introduce new techniques in the watershed and to encourage landowners to install the practice. The BMP must: 1) be located on public land or any area where the public has access on a regular basis. Examples of locations suitable for demonstrations include parks, shopping plazas, and common areas in subdivisions. Locations must be approved by IDEM before grant funds are allocated to the BMP project. 2) be located in a critical area as defined in the WMP, 3) not have been cost-shared on before in the watershed with Section 319(h) funds, and 4) be used/showcased as part of an education and outreach event. Demonstration projects must be authorized in the project’s Grant Agreement, and implemented and maintained according to the instructions on the 319-A or 319-U form.

**Education Event** – An event that conveys general information about watersheds, improving water quality, nonpoint source pollution, or BMPs, etc. The desired effect of an education event is a change in the participant's behavior. Behavior change does not reflect the gaining of any particular skills on the part of the participants.

**Field Day** – An education event that provides on-site information about a BMP or practice.

**Hydromodification** – Man-made changes to a stream, usually through channelization or damming, which change a waterbody's physical structure as well as its natural function. These changes can cause problems such as changes in flow, increased sedimentation, higher water temperature, lower dissolved oxygen, degradation of aquatic habitat structure, loss of fish and other aquatic populations, and decreased water quality.

**Land Management Practices** – 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)** - 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.

**Ordinance development and/or revision** – Using accumulated research and recommendations to draft new ordinance language. Whether done by a Section 319(h) group, a stakeholder, or a subcontractor, ordinance development and/or revision are not 319(h) eligible.

**Regional Water Quality Feature** – A BMP that is constructed and operated to treat a problem or address an issue from a surrounding area. They are typically designed to remove water from a stream, treat it, and then return it to the stream. Section 319(h) funds must be focused on keeping pollutants from reaching a stream, not removing those pollutants once they have entered the stream. Regional water quality features are not Section 319(h) eligible.

**Rule 5 (327 IAC 15-5)** – A performance-based regulation designed to reduce pollutants that are associated with construction and/or land disturbing activities that disturb one acre or more. It overlaps with the MS4 rule in that, the MS4 rule requires MS4 entities to develop ordinances for the Construction and Post-Construction Minimum Control Measures, and those ordinances must meet the minimum requirements of Rule 5. Rule 5 applies statewide, but the ordinances developed by the MS4s are specific to each MS4 jurisdictional area. Section 319(h) funds cannot be spent on Rule 5 requirements unless the proposed project is above and beyond the rule’s requirements. The codified version of Rule 5 may be found in the [Indiana Administrative Code](#).

**Stakeholder** – A watershed resident (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).

**System of BMPs** – A system of BMPs, also known as a treatment train, is any combination of BMPs that are used together to comprehensively control a pollutant from the same source.

**Technical Service Provider (TSP)** - 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.

**Training** – An activity that imparts knowledge to a participant and allows him/her to develop the skills necessary to complete or oversee work that is reasonably expected to be carried out during watershed planning or implementation.

**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).

**Waters of the State** – Accumulations of water, surface and underground, natural and artificial, public and private; or a part of the accumulations of water; that are wholly or partially within, flow through, or border upon Indiana. The term does not include:

1. an exempt isolated wetland;
2. a private pond; or,
3. an off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge.

The term includes all waters of the United States, as defined in Section 502(7) of the federal Clean Water Act (33 U.S.C. 1362(7)), that are located in Indiana.

**Watershed Management Plan (WMP)** – A strategy and implementation plan for achieving water resource goals which provide assessment and management information for a geographically defined watershed. It includes the analyses, actions, participant input, and resources related to development and implementation of the plan.

**Workshop** – An education event that involves a seminar, lecture, or group discussion.

## **8. FREQUENTLY ASKED QUESTIONS (FAQ)**

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\(h\) Project Manager](#).

1. Once a landowner has signed up for cost-share, how soon will they receive reimbursement for their expenses? *Section 319(h) cost-share funds will not be released until the practice is fully implemented. For instance, a landowner who modifies his planter for no-till cannot receive reimbursement until the modified planter has been used to implement no-till. Once the BMP or practice is complete the project sponsor may invoice IDEM, at which point reimbursement will take about 4 weeks.*
2. What is eligible for 319(h) 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).*
3. What is eligible for 319(h) 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(h). Section 319(h) 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*

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

6. Can 319(h) cost-share funds be used to implement an MMP, PMP, NMP, or CNMP or are the funds only available to create those plans? *Section 319(h) funds may be used to implement MMPs, PMPs, NMPs, and CNMPs.*
7. 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 applicable NRCS checklist if cost-share funds are used to develop a MMP, NMP, PMP, or CNMP.*
8. Can 319(h) 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](#)).*
9. Can 319(h) 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.*
10. 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.*
11. Can a producer receive cost-share for hauling manure? – *No, manure hauling (which falls under FOTG 634 Waste Transfer) is not an eligible BMP in the cost-share program.*
12. Is a landowner eligible for cost-share on land application of manure? *Yes, if the operation is not a CFO, and 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(h) 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(h) 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.*
13. 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.*

14. If a landowner receives cost-share for a practice, are they required to maintain that practice for a certain number of years? *Yes. All structural practices must be maintained for ten (10) years. Vegetative and land management practices—even those which must be repeated every year such as conservation tillage and the planting of cover crops—must be implemented for five (5) years. These requirements are listed in the 319-A Form.*
15. 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.*
16. 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).*
17. 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 is \$5,000 or greater at that time, disposition of the equipment must be in accordance with 40 CRF 31.32.*
18. Can EQIP funds be combined with 319(h) 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(h) and EQIP funds will need to be documented on the 319A Cost-Share Form.*
19. 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.*
20. Can 319(h) 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.*
21. Can participants’ time at educational events be counted as match? *No, unless the participant is a watershed stakeholder and is attending a training which meets the training criteria above.*

22. How do I calculate load reductions from a system of BMPs? *The STEPL Model can calculate load reductions from multiple BMPs. If STEPL does not have information for your BMPs, calculate the load reduction associated with the dominant (the one practice in the system that will have the greatest impact on loading reduction) practice and add 10%.*
23. Can I use Section 319(h) funds to pay for ordinance development? *No. Section 319(h) will not fund the creation, development, or revision of an ordinance. Section 319(h) will fund efforts researching ordinances, creating recommendations, and sharing those recommendations with relevant stakeholders if the ordinance would potentially benefit a critical area.*
24. Can I use Section 319(h) money to divert part of a stream's flow into a BMP? *No. In this example, the BMP would be classified as a 'regional water quality feature' which is an unfundable practice. Section 319(h) funds must be focused on keeping pollutants from reaching a stream, not removing those pollutants once they have entered the stream.*
25. Can I use Section 319(h) money on streambank stabilization? *Traditional 'hardscape' streambank stabilization will only be funded on rare occasions which are decided by the NPS/TMDL Section Chief on a case-by-case basis. Streambank stabilization is easier to fund with Section 319(h) if bioengineering is used, the excess flow causing the instability is being addressed, and the project's schedule is sufficient for all necessary permits to be gathered.*
26. Can I use Section 319(h) money on the removal of invasive species? *Yes, in certain circumstances. In brief, this would fall under site preparation, not invasive species removal. If, in the process of prepping a site for BMP installation, invasive plants were removed, this would be permissible. However, the primary purpose of the BMP cannot be the removal of invasive species, as this is not eligible for funding by Section 319(h) grants.*
27. Can match be counted for work done independently of the Section 319(h) funded organization? *Yes, match can be counted for projects done within the watershed but independent of the Section 319(h) funded organization. For example, if the watershed group learns that a neighborhood association is installing BMPs, the time, energy, and cost associated with that practice is match eligible as long as the BMP addresses the goals of the WMP, does not fulfill a permit or rule requirement, will improve water quality and reduce sedimentation or nutrient, pesticide or pathogen loads to receiving waters, and the following information is submitted to IDEM:*
- *Pollutant load reductions associated with the BMP;*
  - *A 319(h) In-kind/cash match form showing the total cost of the BMP, amount claimed as match, and receipts or other documentation equaling that total amount;*
  - *Written documentation of what standards and specifications were used to install the BMP (actual standards and specifications do not need to be turned in); and,*
  - *The location of the BMP.*
28. 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

Section 319(h): 319A (Agriculture) Cost Share – State Form 50065

[http://www.in.gov/idem/5157.htm#owq\\_watershed](http://www.in.gov/idem/5157.htm#owq_watershed)

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/legislative/iac/T03270/A00160.PDF>

The Indiana Drainage Handbook

<http://www.in.gov/dnr/water/4892.htm>

Indiana's Forestry Best Management Practices

<http://www.in.gov/dnr/forestry/files/BMP.pdf>

Journal of Soil and Water Conservation

[http://www.swcs.org/en/journal\\_of\\_soil\\_and\\_water\\_conservation/abstracts\\_and\\_archives/](http://www.swcs.org/en/journal_of_soil_and_water_conservation/abstracts_and_archives/)

Lakeshore Protection in Indiana

<http://www.in.gov/dnr/water/files/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)

NRCS' Stream Restoration Design Manual

<http://directives.sc.egov.usda.gov/viewerFS.aspx?id=3491>

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>

U.S. EPA Getting in Step Manual

<http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>

Watershed Management Plan Checklist

<http://www.in.gov/idem/nps/3385.htm>