

§319 and MS4 partnerships

Since the §319 and MS4 programs have the same overall goal (**to improve water quality**) there are several opportunities for partnership. Citizen groups are encouraged to work with local municipalities and MS4 entities to find retrofit opportunities. In some circumstances, the conveyance system can be retrofitted and §319's ability to potentially install BMPs before and after the conveyance system provides water quality benefit to the system and the watershed.

The control measures required are listed in the MS4 Rule and the permit that has been developed by the local MS4. The Rule specifies six "Minimum Control Measures" (MCM). Each MCM outlines components of the MS4 entity's stormwater control program. The MCM are:

1. Public education and outreach;
2. Public participation/involvement;
3. Illicit discharge, detection and elimination;
4. Construction site runoff control;
5. Post-construction site runoff control; and
6. Pollution prevention/good housekeeping.

For each individual MS4 permit, the MCM contain a list of activities and/or BMPs that the MS4 entity is required to implement to control their stormwater. §319 funds cannot be used to construct BMPs or carry out activities required as part of one of the MCM unless those BMPs or activities are above and beyond the requirements of the MS4 permit.

When a grantee proposes an educational activity or a BMP on new construction or a redevelopment project, the 319 Program representative should make an above and beyond determination to decide eligibility. In these circumstances, there are three ways to ensure that a proposed BMP or activity is above and beyond the permit:

1. Extend the educational activity beyond the MS4 boundary so it focuses on the entire watershed.
2. If you want to install a BMP listed in the permit, install one that reduces NPS pollution at a greater rate than the permit calls for.
3. Install a BMP that is not listed in the permit.

If the educational activity is listed, you cannot use §319 grant funds to implement it unless you go above and beyond the permit requirements. The above and beyond can usually be established by focusing on the entire watershed and not just the MS4 area. Determinations should be made on a case-by-case basis, but there are two broad examples worth mentioning:

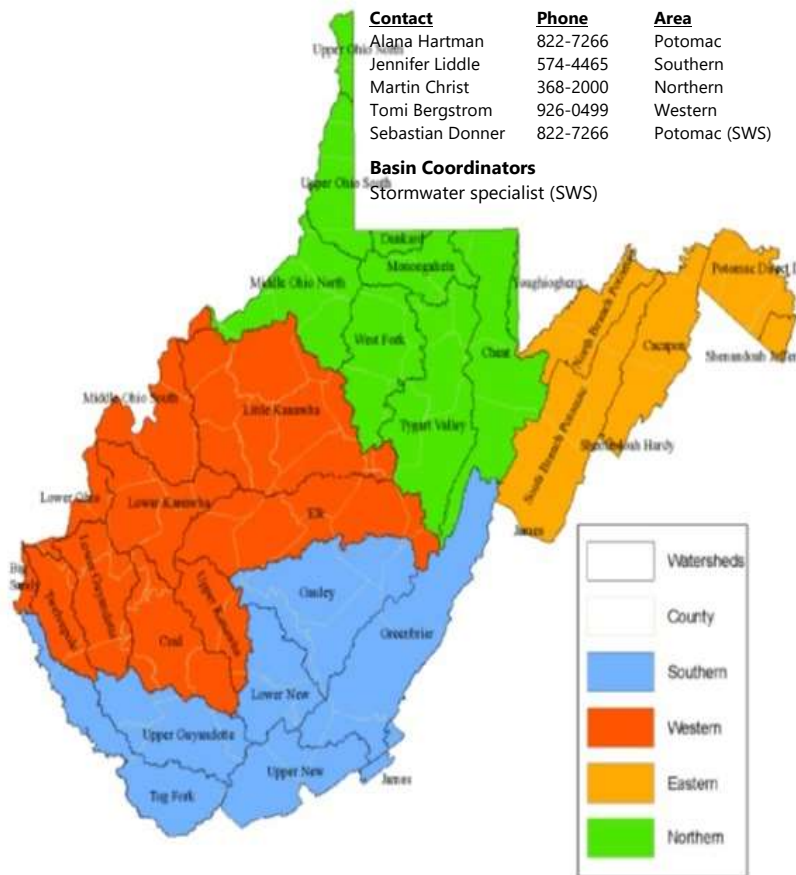
- MCM 1 might call for an education event focusing on storm water prevention, and your 319 group wants to do something similar. By focusing your event on the entire watershed, and not just the MS4 area, as well as touching on other watershed issues beyond stormwater prevention, you have gone above and beyond the MCM and the activity become §319 eligible.
- MCM 2 might call for storm drain stenciling, which is a good community outreach event your 319 group also wants to focus on. The stenciling is above and beyond the MCM, and 319 eligible, if you implement it beyond the MS4 area and across the entire watershed at the same scale or greater than the MS4 entity implemented it. For example, if the MS4 must stencil 100% of their storm drains, a §319 group would have to stencil 100% of the watershed's storm drains to be above and beyond.

In both examples, above and beyond cannot be met if the MS4 area covers the entire watershed.

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Note: Under no circumstances can §319 pay for BMPs to be placed directly at the end of a conveyance system, as this would constitute a “point source control”. However, 319 funds can be spent on the conveyance system if the project will improve water quality; but only the part of the project that improves water quality is eligible. Below are some common examples of potentially eligible 319 projects within a conveyance system:

1. Retrofitting a stormwater pond into a constructed wetland. All stormwater ponds are part of the conveyance system;
2. Reengineering a ditch into a 2-stage ditch. Drainage ditches are part of the conveyance system if they were never a water of the state and were designed and built to move stormwater; and,
3. Adding infiltration capacity to a swale. Swales are part of the conveyance system if they were never a water of the state and were designed and built to move stormwater.



Reporting - The MS4 cannot report BMPs and load reductions from 319 activities in their annual report. They can however; report loads reduced by their MCM and they should certainly highlight partnership activities.

Finally, **and this is very important**, always work with DEP’s MS4 Section when being approached by, and especially before considering aiding an MS4 community. WVDEP should be able to provide you with information about the MCM, their reporting requirements, and provide guidance on how to move forward. All §319 discussions with MS4 communities should always involve WVDEP’s MS4 Program.

Note: This guidance provides examples of how §319 can partner with MS4s. Funding is limited to a watershed with a watershed-based plan (WBP), if stormwater is described as a priority in the WBP. Additional funding may be available through Additional Grant

Opportunity (AGO) funds, which are generally determined after final allocations are received from the USEPA in each fiscal year. The AGO amount varies from year to year and we accept and review proposals for these funds three times each year.

Resources

AGOs: <http://www.dep.wv.gov/WWE/Programs/nonptsource/Pages/AGO.aspx>

Watershed based plans: <http://www.dep.wv.gov/WWE/Programs/nonptsource/WBP/Pages/WWBPs.aspx>

MS4 guidance: <http://www.dep.wv.gov/WWE/Programs/stormwater/MS4/guidance/Pages/default.aspx>

WVDEP’s MS4 general permit: <http://www.dep.wv.gov/WWE/Programs/stormwater/MS4/Pages/default.aspx>

Stormwater Assistance: <http://www.dep.wv.gov/WWE/Programs/nonptsource/Pages/SAS.aspx>