I. CFDA NUMBER 66.458--CAPITALIZATION GRANTS FOR STATE REVOLVING LOAN FUNDS

Federal Agency: Office of Water, Environmental Protection Agency

A. Introduction

Initially, the AgBMP Loan program was structured such that funds that were disbursed through the program were subject to A – 133 Audit requirements. However, in 1999, the structure and funding sources was changed such that for the purposes of an A – 133 Audit, the funds disbursed by the program are considered by the US EPA as non-federal funds.

Therefore, since that time, compliance to the provisions of the A – 133 Audit has not been required. However, the procedures that were initially developed to comply with the A – 133 Audit were a reasonable approach to review the fiscal and internal controls of the program. The Department recommends incorporation of this review as a part of your regular audit, regardless of federal threshold.

B. Program Objectives of the Clean Water Act

To create State Revolving Funds through a program of Capitalization grants to States which will provide a long term source of State financing for construction of wastewater treatment facilities and implementation of other water quality management activities.

Capitalization grants are available to each State for the purpose of establishing a clean water State Revolving Fund for providing assistance (1) for construction of publicly owned wastewater treatment works, (2) for implementing nonpoint source management activities included in State Plans developed pursuant to Section 319 and (3) for developing and implementing an estuary conservation and management plan under Section 320. The capitalization grant is deposited in the State Revolving Fund, which is used to provide loans and other types of financial assistance, but not grants, to local communities and intermunicipal and interstate agencies. Assistance may be provided to persons for implementing nonpoint source and estuary management activities if provided for in State Plans developed under Sections 319 and 320. Up to four percent of the grant amounts may be used for the cost of administering the State Revolving Fund.

C. AGRICULTURAL BEST MANAGEMENT PRACTICES LOAN PROGRAM

A. Compliance to Circular A-133 Requirements

Funds disbursed since July, 1999 are considered state funds and not subject to Circular A -133 audit requirements.

B. Activities Allowed or Unallowed

All activities must address non-point source (NPS) priority water quality issues in the area. These activities may encompass

a) Agricultural waste management practices,
b) Structural erosion control practices,
c) Purchase of conservation tillage equipment, or
d) Repair of existing failing residential Individual Sewage Treatment Systems (ISTS) on farms or on property owned by rural landowners.
e) Other miscellaneous best management practices that address NPS water quality issues and have been identified as a priority for by the local government unit, such as well sealing, chemical spill containment aprons, chemical spray equipment, promiscuous dump site clean up, etc.

Suggested Procedures:

f) Obtain from the local lender or the government unit a list of all loans made during the period. For a sample of loans, ascertain that each loan was for an allowable activity.
g) Determine if the governmental unit reviewed the projects for eligibility.

C. Allowable Costs/Cost Principles

Allowable costs include all costs that directly implement practices that reduce the impact of agriculture on water quality or mitigate other water quality impacts through eligible Best Management Practices implemented by rural land owners and farm supply businesses, up to a maximum of $50,000 per individual or per practice implemented.

a) Costs must be documented by sales agreement, invoice, billing, receipt, or affidavit.

b) Costs may include the cost of the practice itself and usual and customary fees charged by the local lender for establishing loans, such as origination fees, abstracting fees, credit reports, stock fees, and mortgage insurance.

Suggested Procedures:

c) Select a sample of project files and review to determine if the governmental unit or the local lender reviewed the projects for allowable costs. Examine list from local lender to see whether any individual has loans in excess of $50,000 or whether a single practice has loans in excess of $50,000.

d) Verify that the governmental unit has taken steps to ensure that the project met applicable rules, ordinances, and laws. Steps it may have taken include: Inspection of project, review of bills provided by contractors, or examinations of purchase receipts.

D. Cash Management

For the purposes of testing compliance with cash management, it is important to understand the differences between interest earnings that are program income and interest earnings that the local lender retains for its fee.

The Department provides funds to local lenders for loans to eligible individuals or businesses who have eligible projects. Any repayments from loans are held by the lender until loaned out to a new borrower or returned to the Department. Interest earned on the principal while it is not loaned out is program income and increases the principal owed by the local lender to the Department and is available to it for loaning out for eligible projects. However, it is permissible for the government unit and the lender to hold unused funds in a non-interest bearing account so that this potential income is always zero.

Interest and fees paid by the borrower on the loans—typically, three percent plus other usual and customary fees—are retained by the local lender as its fee for services rendered.

Suggested Procedures:

a) Obtain from the Department a list of payments sent to the local lender for the audit period. Reconcile payments sent by the Department to the amount received and loaned out by the local lender.

b) Determine if the government unit or lender has unused funds (money not currently assigned to a loan) held in an account that will generate program income and increase the principal of the account. If so:

   1. Verify that the local lender has a method to separate interest charged on active loans to borrowers, which it retains as a fee for services, from interest earned on the unused principal, which is program income and must be ultimately paid to the Department by the local lender.
   2. Verify that the local lender has a method to identify program income generated while any principal is not loaned out to borrowers.

E. Davis-Bacon Act

Davis-Bacon Act does is not applicable to this program. The government unit does not hire or employ construction contractors under this program.

F. Eligibility

All borrowers must be farmers, rural landowners, or farm supply businesses that provide equipment, supplies, or services.

Suggested Procedures:

a) Select a sample of project files and review to determine if the governmental unit reviewed the proposed applicants for eligibility. The governmental unit should have verified the eligibility of applicants by obtaining applications that contained the information needed to determine eligibility.

G. Equipment and Real Property Management

Not applicable to this program because no equipment or real property is purchased by the government unit with funds by this program.

H. Matching, Level of Effort, Earmarking

Not applicable to this program because there are no matching, level of effort or earmarking requirements under the terms of this program.

I. Period of Availability of Federal Funds

The structure of the program has changed to make this review not practical. With recent changes to the contracts, this effectively means, that the dates for fund availability is from the government unit's original contract date (usually some time in 1995 or 1996) and some future date at which time the funds will be fully repaid either 10 or 20 years from the date of the loan, depending on the specific conditions of the loan.

J. Procurement and Suspension and Debarment

Not applicable to this program because the government unit does not procure or acquire any supplies or materials under the terms of the program. In addition the government units do not contract or make subawards to other parties.

K. Program Income

Program income includes the repayments of principal on loans made with the funds and any interest earnings on principal held by the local lender while it is not loaned out. These funds have to be either loaned out again or returned to the state.

Suggested Procedures:

a) Verify that the local lender has procedures to separate the local lender's earnings of interest and fees from principal repayments when payments are received on loans.

b) Verify that the local lender has an account to hold the principal for the program. This may be a non-interest earning account. Verify that the local lender periodically reports the unused principal balance and program income, if any.

L. Real Property Acquisition and Relocation Assistance

Not applicable because not real property is acquired through this program.

M. Reporting

The Department has established reporting requirements for the local governments involved. This reporting includes loans made, loan payments received, and loan amounts overdue.

A recommended form summarizing the reporting requirements is shown in appendix A.

Suggested Procedures:

Obtain from the local government or the local lender:

a) A summary of the amount owed the Department at the end of the audit period.

b) A summary of the amount of cash on hand for the program at the end of the audit period.

c) A list of loans made during the period, including mortgagee name, date, and amount of loan.

d) A list of loans that are past due, including mortgagee name, and amount past due.

e) Ensure that the governmental unit has reported the loan activity to the Department.

N. Subrecipient Monitoring

Not applicable because the Applicant does not pass-through funds through this program.

O. Special Tests and Provisions

Not applicable because there are no special tests identified in law, regulation or program contracts.

Appendix A. Recommended Activity Summary for Annual Audit

DATA NEEDED FROM GOVERNMENT UNITS OR LENDERS FOR AGRICULTURAL BEST MANAGEMENT LOAN PROGRAM ANNUAL REPORT

FROM JANUARY 1 THROUGH DECEMBER 31 of each year

The following information is needed to comply with the reporting requirements of the AgBMP agreement. The values should be for the CALENDAR year only and should include only loans issued under a single contract number. (If you have more than one contract, you must complete multiple forms.)

SECTION 1 – CONTACT PEOPLE

Name of Organization:	
Name of Employee Responsible For Program:	
Telephone Number of Responsible Employee:	
Fax Number of Responsible Employee:	
Email of Responsible Employee:	

SECTION 2 – TRANSACTION DURING PAST YEAR Contract Number :M__________________

Total Amount Owed MDA		
Previous Year's Balance Owed MDA		
Amount received from MDA	+	
Amount repaid to MDA	-	
Current Balance Owed MDA (12/31/__________)	=	

Revolving Fund Balance (Cash on Hand)		
Previous Year's Revolving Fund Balance		
Amount received from MDA	+	
Amount Repaid to MDA	-	
Repayments from Borrowers	+	
***Loans Issued to Borrowers**	-	
Current Revolving Fund Balance (12/31/__________)	=	

Loan Defaults	
****Number of loans written off**	
Amount of loans written off	

SECTION 3 – LOAN DETAILS

*Provide a listing of loans made during the year that equals the amount shown in the above chart. List should include:

1. Mortgagee name
2. Date of Loan
3. Amount of Loan

**Provide a list of names of the mortgagee for loans that were written off during the past year