

**SUMMARY**  
**Trading and Offsets Workgroup (TOWG)**  
**Conference Call**  
**Wednesday, June 19<sup>th</sup>, 2013, 10:00AM – 12:00PM**  
<http://www.chesapeakebay.net/calendar/event/19160>

**Introductions & Updates**

- David Foster (Chester River Association; TOWG Chair) welcomed participants and reviewed the day's [agenda](#).
- Nick DiPasquale (EPA, Chesapeake Bay Program Office) remarked that some of the technical memoranda (TMs) had been delayed for legitimate reasons while various parties and offices reviewed them. Finally breaking the logjam and the TMs will start to be released. EPA looks forward to input from the Trading and Offsets Workgroup (TOWG).
- Darrell Brown (EPA, CBPO) explained the [schedule for the TMs](#).

**Technical Memorandum on Uncertainty**

- Darrell Brown (EPA, CBPO) described the comment and review process for the TMs. He then explained the accounting for uncertainty technical memorandum.
  - Key highlights, questions and discussion are captured here. View the [presentation](#) for more details.
    - Additionally, see the [draft technical memorandum](#) shared for TOWG review
- Susan Payne (MDA): has the feedback from the states been incorporated?
  - Brown: Yes, this version is being shared for feedback from the TOWG.
- Kelly Gable (EPA) explained the technical memoranda are not regulations or agency guidance. The TMs serve as technical assistance to the states from Region 3 as they develop their programs for the Chesapeake Bay watershed. The TMs' scope is limited to the Bay watershed.
- Joe Maroon (Maroon Consulting): we've been hearing that these TMs serve as EPA's basis for evaluating the state trading/offset programs. Is that a fair characterization?
  - Brown: Yes. These serve as amplifications of Appendix S of the TMDL that set the expectations for jurisdictions.
- Popa: feedback can be submitted through the EPA website:  
<http://www.epa.gov/reg3wapd/tmdl/ChesapeakeBay/EnsuringResults.html>
  - Select "Trading and Offsets," then the "Provide Feedback on Technical Memoranda" tab.
- Foster: Speaking from perspective of Chester Riverkeeper rather than TOWG Chair. Not sure the point-to-nonpoint source distinction holds for urban stormwater as well as it does for wastewater.
  - Brown: We are open to if a jurisdiction or a partner can demonstrate that their BMP can produce expected runoff loads we are willing to consider reducing the trading ratio.
- David McGuigan (EPA Region 3): MS4s pose interesting problem and challenge for trading programs. We will try to tie some of these issues into the local water quality TM.
- McGee: is EPA's intent that the 2:1 ratio applies to MS4s? It seems so.

- Brown: we are still in early stages of the MS4 TM. If it's a modeled load rather than a monitored load, probably more inclined to look for 2:1 ratio.
- Michael Helfrich (Lower Susquehanna Riverkeeper): what examples are there where a nonpoint source has been monitored to an extent similar to that of an NPDES point source?
  - Brown: There are not many examples right now, but we would be willing to consider anything where there is an effort to monitor a practice or control.
  - Maroon: there are nutrient banks here in Virginia; the monitoring of these are often much greater.
- Dave Montali (WV DEP): Seems that WV's feedback did not result in changes in the draft document. We had suggested that less than a 2:1 ratio could be applied if certain permit requirements (e.g. routine inspection, etc) are included to verify the credit generating activity. "Monitoring" implies water quality sampling to me personally, though it seems that the TM would accept other methods aside from sampling. We know that the precipitation onto a practice will be different in any given year from the Model.
  - Payne reinforced Montali's points. Maryland has a performance based program, not practice-based. We apply site specific data for soils, slopes, and precipitation. We use 47-year average for weather, not 10-year.
  - McGuigan: the difference is that NPDES sources depend on real credits to meet permit requirements. They need complete confidence that the practice is generating those credits to meet its permit.
  - Montali: we shouldn't mix practice success with this issue. Ties back to the timeframe. Year to year a practice may perform much differently, but the variation averages out over the long term. How do you sample or monitor a forested buffer
- Levelev: question about meteorological factors and how the uncertainty ratio applies to them. If two practices fail because of meteorological impacts, not clear how ratio helps to reduce uncertainty.
  - Brown: An adequate verification process should be used to document failed credit generation.
  - Levelev: But if a practice fails for certain reasons, it might not help to buy more credits of that practice.
  - McGuigan: we understand this problem exists. The question became, what would be the reasonable amount that would deal with uncertainty while making a trading program possible.
- Russ Baxter (VA DEQ): another aspect is when credits are released for sale. For example, credit from cover crops are not released for sale until after the cover crop season is over and the practice was fully implemented throughout. This is one aspect we are incorporating here in Virginia.
- Brown: we are looking at consistency. We think these ratios are best applied when they are generated rather than point of sale.
- Tom Simpson (Water Stewardship): the assumption is that the practice is installed and maintained, but there are still many factors of uncertainty including the knowledge base, not just hydrologic factors. Some BMPs may not totally fail under a 10-year storm, but rather they will lose some effectiveness after the storm.

- Brown: As we looked across the range of uncertainty ratios, we wanted a ratio that accounted for inherent uncertainty for these practices, without harming the market.
- **ACTION:** Feedback on the draft uncertainty ratios technical memorandum should be submitted by July 10<sup>th</sup>. Questions can be directed to Darrell Brown ([brown.darrell@epa.gov](mailto:brown.darrell@epa.gov)).

### Technical Memorandum on Credit Calculation

- Brown described the forthcoming TM on credit calculation. Key highlights, questions and discussion are captured here. View the [presentation](#) for more details on the TM.
  - The draft TM has not been shared with the TOWG as of June 19<sup>th</sup>. Once feedback from the jurisdictions is processed, the draft TM will be shared with TOWG members for their input.
- McGee: if a voluntary practice has been installed but not included in a jurisdiction's progress submissions for the TMDL, would it be eligible for trading? If a farmer is beyond baseline and has BMPs in place that were previously installed years ago, but are non-cost-shared and not counted in the Bay Model. Would they be eligible to generate credits?
  - McGuigan: we address this in the performance based approach when we talk about pre-TMDL load serving as the baseline.
  - Brown: McGee raises a good point, and we can be more explicit about it in the document.
- Ridge Hall (Chesapeake Legal Alliance): a little confused by definition of baseline. Thought the baseline is defined as the target for load reductions to meet 2025 TMDL goals, beyond which a producer could generate credits. Did not see this in the slides.
  - Brown: To us baseline is the amount of nutrient or sediment load reductions needed before eligible to trade credits. The states each have their own method for calculating baseline. We expect that the baseline calculation is consistent with the TMDL, whether it is practice based or performance based. We are working out the details with the states.
- Montali: agree that EPA needs to make a clear statement regarding additionality. To offset future loads, is a new practice needed on the ground? Not just previous BMPs that were voluntary or overlooked in previous progress submissions. Think it is important for EPA to state its expectations on this issue.
- Montali: in our WIP for West Virginia, we focus on managing Total Nitrogen (TN) and Total Phosphorous (TP), assuming that practices and controls for those will achieve Total Suspended Sediment (TSS) goals as well. Perhaps there is a need to consider TSS separately for trading and offsets.
  - Brown: Great comment. Have heard this from other states as well and will take another look at this.
- Levelov: is there a process for reporting credits for trading separate from how practices are reported to the Bay Program for annual progress? Second, if there is a BMP that is not sold yet, could it be used towards the WIP?
  - Brown: All BMPs are reported to the Bay Program. The current trading programs are not very active, so it remains to be seen how the trading aspects of these

BMPs are reported. Perhaps the reporting may need to be tweaked to account for traded practices. Perhaps a practice could be used towards the WIP until it is traded. Still have to do more thinking on this issue.

- Levelev: Is there a system at the Bay Program to report these traded practices differently?
  - Olivia Devereux (Devereux Environmental Consulting): additional fields may be needed in NEIEN to indicate when a practice is associated with a trade, but that has not been done yet.
- George van Houtven (RTI international): How is credit stacking addressed?
  - Brown: Not dealt with explicitly at this point, though we may want to take a look at this.
  - Van Houtven: There are important additionality issues here. Think this is an important issue that should not be ignored.
  - Payne: Agree that it is very important and is especially under consideration by Accounting for Growth workgroup in Maryland.
  - Glynn Rountree (National Association of Homebuilders): a lot of wetland bankers and mitigators are very interested if credits are stackable.
- Brown noted the time and encouraged participants to contact him ([brown.darrell@epa.gov](mailto:brown.darrell@epa.gov)).
- Brown estimated that the local water quality TM will be released to jurisdictions shortly; perhaps could be discussed during July conference call. Representative sampling may be out and available but may or may not be of interest to the workgroup.
- **ACTION:** TOWG members should submit feedback on the draft TM on accounting for uncertainty by July 10<sup>th</sup>.
  - Popa noted there is a feedback option open on the uncertainty TM on the EPA, so anyone can submit their feedback through that portal.

### **Miscellaneous Updates**

- **ACTION:** TOWG members or interested parties are encouraged to submit ideas for future agenda topics to David Foster ([riverkeeper@chesterriverassociation.org](mailto:riverkeeper@chesterriverassociation.org)) and Jeremy Hanson ([jhanson@chesapeakebay.net](mailto:jhanson@chesapeakebay.net)). This is an ongoing request.

### **Adjourned**

#### **Next conference call:**

Wednesday, July 17<sup>th</sup>, 2013

10:00AM to 12:00PM

<http://www.chesapeakebay.net/calendar/event/19161/>

## Participants

<u>Name</u>	<u>Affiliation</u>
David Foster, Chair	Chester River Association
John Rhoderick, Vice-Chair	Maryland Department of Agriculture
Pat Gleason, Coord.	EPA Region III
Jeremy Hanson, Staff	Chesapeake Research Consortium, CBPO
Dan Baldwin	MDP
Robert Boos	PENNVEST
Allen Brockenbough	VA DEQ
Chris Brosch	Va. Tech/ VA DCR
Darrell Brown	EPA, CBPO
Olivia Devereux	Devereux Environmental Consulting
Kelly Gable	EPA, Region 3
Joy Gillespie	
Erin Gray	WRI
Ridge Hall	Chesapeake Legal Alliance, Inc.
Michael Helfrich	Lower Susquehanna Riverkeeper
Buzz Hoerr	ElectroCell Technologies
Nicki Kasi	PA DEP
Marya Levelev	MDE
Joe Maroon	Maroon Consulting
Beth McGee	CBF
Mike Mittelholzer	National Association of Homebuilders
Kip Mumaw	Ecosystem Services, LLC
Betsy Nicholas	Waterkeepers Chesapeake
Veronica Nigh	American Farm Bureau Federation
Susan Payne	MDA
Andra Popa	EPA, CBPO
Bob Rose	EPA
Abel Russ	Environmental Integrity Project
Kevin Schneider	Greenvest
John Schneider	DE DNREC
Brooks Smith	
Ginny Snead	VA DCR
Eric Sprague	Alliance for the Chesapeake Bay
Melinda Tomaino	Associated General Contractors
George van Houtven	RTI International
Robert Wieland	
Katherine Zook	USDA, OEM