

**NUTRIENT TRADING TO MAINTAIN
THE NUTRIENT CAP IN THE
CHESAPEAKE BAY WATERSHED**

Workshop Proceedings

**Metropolitan Washington Council
of Governments Offices
Washington, DC**

December 14, 1998



CHESAPEAKE BAY PROGRAM

EXECUTIVE SUMMARY

*A Workshop sponsored by:
The Chesapeake Bay Program & its
Scientific & Technical Advisory Committee (STAC)*

**Metropolitan Washington Council of Governments Offices
Washington, DC
December 14, 1998**

Background

In response to both the need to determine ways to meet the nutrient load cap, and the growing awareness of effluent trading programs emerging around the country, the Chesapeake Bay Program and its Scientific and Technical Advisory Committee (STAC) initiated efforts in late 1997 to explore nutrient trading for the Chesapeake Bay watershed. Even in some of the Chesapeake Bay states, effluent trading activities were being initiated to achieve and maintain the cap, and it was determined that means to coordinate these efforts among all the Bay states would be helpful. Thus, the Chesapeake Bay Program Office (CBPO) and STAC jointly convened a meeting on June 15, 1998 of stakeholders from the entire Bay watershed to exchange views and information about emerging trading issues. At this meeting, it was evident that there was high interest in, and support for, the development of nutrient trading policies and guidelines for the Bay region. It was also agreed that conducting a workshop should be the first step in that process. An Organizing Committee composed of participants from this June meeting, was formed, consisting of representatives from a broad array of stakeholder groups, to plan a workshop which would initiate a process to cooperatively explore nutrient trading concepts.

The Workshop

This workshop was held on December 14, 1998. Its purpose, as delineated on the agenda (see Appendix I) was to initiate a process to develop nutrient trading policies and guidelines to achieve and maintain the Nutrient Cap in the Chesapeake Bay Watershed. The workshop consisted of three parts:

- 1) A panel discussion by national experts on trading, and a presentation by the EPA Assistant Administrator for the Office of Water,
- 2) Morning breakout sessions to discuss and explore substantive issues of major importance to any trading program, and
- 3) Afternoon breakout sessions to comment on a proposed draft strawman of the process suggested by the Organizing Committee to use in the development of a trading program (entitled the "Negotiation Process Strawman" see Appendix II).

A flow chart (see Appendix I) was also used at the workshop to provide a vision for how the process would proceed after the workshop. This flow chart included a one year process which would employ the use of a newly formed team termed the "Negotiation Team", with support from technical workgroups, to work intensively for 6 months to develop trading policies and guidelines. This policy would be made available to the public in the form of a public workshop,

then would go up the CBP review ladder starting with the NSC, going through the IC, PSC, and then endorsed in the form of a directive by the EC in Fall of 1999. Then the policy would be available for voluntary implementation by the individual jurisdictions.

The workshop was well attended including some 80 participants from local governments and state governments, farmers, poultry and cattleman associations, environmentalists, WashCOG, municipalities, academia and federal governments.

The general outcomes of the workshop are summarized as follows:

- ❑ The process needs to be more closely linked to the Bay Program committee structure.
- ❑ The public should be involved up front as well as with a workshop at the end.
- ❑ The process should be permitted to take longer than the projected 1 year if an extension of time is necessary to ensure broad participation and buy-in.
- ❑ The Negotiation Process Strawman was met with pro's and con's, with several expressing the view that it may be preferable for the states to move ahead individually with the negotiation team available for technical support on an as needed basis; others, however, expressed the need for the process to continue at the Bay Program level regardless of state individual efforts.
- ❑ More education and buy-in from nonpoint sources will be necessary, even though there may be no consensus among the NPS community that trading is necessary, others felt strongly that NPS participation was an essential element to a successful trading scheme.
- ❑ The Negotiation Team needs broader involvement, including the CBC representation and more members from local government (e.g., elected officials).
- ❑ There remains disagreement over whether trading should apply to only maintaining the cap (the original concept) or meeting the cap.
- ❑ There remains confusion about the relationship of TMDL's and nutrient criteria development to a trading effort.
- ❑ There is MUCH enthusiasm and support for moving this dialogue and effort forward
- ❑ There has been a suggestion that the OC become the Trading Workgroup that the IC determined (in Nov) should be one of the 3 new workgroups formed to address the cap.
- ❑ We need to make it clear that a decision to trade has not been made, only a decision to move forward to investigate the opportunities for the Bay.

Next Steps & Decisions Following the Workshop

The Organizing Committee (OC) met on January 7, 1999 to discuss the outcomes of the workshop and next steps. Several clarifications, action items, and decisions from this meeting are listed below:

- The proceedings of the workshop will be compiled.
- The purpose of the Trading Policy and Guidelines Document to be developed through this effort was clarified. The document would not address detailed practices or programs, but would provide a framework for future implementation and consideration by state or other entities. It would not be mandatory in nature, but serve as a guide when developing trading programs and agreements. The title of this document may be changed from policies and guidelines to guidelines.
- It is recognized that both MD and VA may continue to move forward with trading program development within their own jurisdictions, but in a coordinated fashion with the more comprehensive and (hopefully) complimentary, baywide effort. This will promote consistency among the jurisdictions in trading program developments.
- The OC has agreed to become a Bay Program Trading workgroup, at the invitation of the Implementation Committee and the newly formed Cap Policy workgroup of the NSC. The OC agreed that this was a logical extension of their efforts, and selected the name The Trading and Offsets Workgroup as the title for this workgroup.
- The now termed Trading and Offsets Workgroup also wants to make clear that their work initially focuses on nutrients only (as opposed to other chemical parameters) at this time.
- The Trading and Offsets Workgroup will be working on forming the Negotiation Team (NT) which will be responsible for developing the Trading Guidelines Document. The Trading and Offsets Workgroup will serve as support to the NT, and also serve as liaison with the Bay Program subcommittee structure.
- Members of the NT will be assimilated. The Trading and Offsets Workgroup will be sending letters to the representative groups (including local, state, and federal governments, local organizations, farming and municipal organizations, and environmental groups) soliciting member nominations. It is anticipated that NT members will be assimilated in early spring.
- Public participation will be included from the beginning of the process. In addition to their participation at the December workshop, the Trading and Offsets Workgroup will assimilate a public mailing list. Mailings, as well as Bay Journal announcements, and possibly Bay Program web site information, will invite the public to each NT meeting. We also plan to hold a public workshop to present the draft Nutrient Trading Guidelines for review and comment.
- Efforts commenced to find funding for and hire a facilitator to facilitate the NT meetings.

WORKSHOP SUMMARY

Workshop Handouts

Appendix I

- The Workshop Agenda
- The Negotiation Process Flow Chart – (in hard copy only, available at the Chesapeake Bay Program Office)
- List of Participants

Appendix II

- The Negotiation Process Strawman
- Nutrient Trading Key Questions
- Support Survey Sheets
- Trading Projects Around the Country – (in hard copy only, available at the Chesapeake Bay Program Office)
- Background on the Organizing Committee

Appendix III

- Breakout Session Summaries

Background/Education

I. Introduction - *Allison Wiedeman, Workshop Chairman, Chesapeake Bay Program*

Allison Wiedeman provided opening remarks discussing the purpose and desired accomplishments for the workshop.

II. The Chesapeake Bay Nutrient Cap - *Bill Matuszeski, Director, Chesapeake Bay Program*

Mr. Matuszeski provided background on the Chesapeake Bay Program's 40% Nutrient Reduction Goal and maintaining the Nutrient Load Cap. Long term maintenance of the cap will require that the Chesapeake Bay Program put a nutrient trading program into place. What will things look like by the year 2000? If things go well, a nutrient trading program for Virginia will take effect in 2002 and upgraded sewage plants will come online. Some of the questions to consider: Will there be a surplus? Will we be able to count on that surplus? How do we assign surplus to new and redesigned plants? If we don't have a surplus, what do we do about it? Another issue to consider is the 80% reduction of nitrogen from the air (this accounts for 20% of the nitrogen loads). How will this fit into a nutrient trading program? The big question is: What is the role of non-point sources? How do we get them engaged?

III. Trading Concepts: Benefits & Challenges - *Bill Matuszeski (Moderator)*

A panel discussion explored nutrient trading concepts and its benefits and challenges.

Panel Members:

Elise Bacon - *Hagler Bailly Services, Inc.*

Ann Powers - *Pace University, School of Law*

David Batchelor - *Michigan Department of Environmental Quality*

Mark Tedesco - *EPA's Long Island Sound Office*

Mr. Matuszeski began the panel discussion, by addressing some of the key questions that were later discussed in the breakout sessions (see Appendix II – Nutrient Trading Key Questions).

Question:

- How do you set the cap and where do you set the baseline? Who pays when? Establish a cap with a growth component factored into the overall reduction. Once the cap is in place, if sources are able to come in for free, there might be a problem. A fee, might help alleviate any pressure.

Summary of Panel's Response:

Using Long Island Sound as an example, Mark Tedesco mentioned that new sources would need to purchase credits to see increases over a fixed cap. There are clear guidelines for point sources, but it becomes more uncertain for non-point sources. He mentioned that it is also often difficult to identify the regulatory agencies and enforcement of trades.

Ann Powers gave her perspective on these issues: Trading is a tool that needs to be fitted to the use and customized for each situation. In each case it needs to meet intended uses. It is very important to have a clear goal for the program, such as a nutrient cap. Good economic analysis is also necessary to show that trading schemes would work (e.g., marginal costs examined). Another critical component is to have a mechanism for having people get in touch with each other. Long Island needed to develop different trading areas depending on the circumstances. This is important to examine up front.

In general, panelists agreed that there are a number of ways to put a program together. Each is unique and can become very complex, depending on the situation.

Question:

- Should nonpoint source trading be included and, if so, how would nonpoint source trading accountability be established? What are the relevant factors to consider?
- Can trades between point and nonpoint sources be accomplished in a trading program for the Bay? Which source would be assigned discharge allowances? If allowances are provided for nonpoint sources, who would be responsible for controlling agricultural and urban nonpoint source loads?

Summary of Panel's Response:

It is often too difficult to include nonpoint sources. In many cases, trades are not possible between point and non-point sources. In the initial phases, the panel agreed, that it is much easier and of more benefit to design a trading program for point sources.

For example, you would not want to have a trade occur for one part of a municipality, if there may be future increases in development in another area of the town. It is important to look at total load of the activity and to address the trading program from a big picture perspective, not simply examine it on a trade by trade basis. Optimize the environmental investment in the watershed in terms of where the investment is taking place (i.e., it might be more beneficial to focus on open spaces, municipalities, stormwater, etc. as opposed to agricultural areas).

Question:

- What's wrong with a slight increase in some areas? Aren't we expecting increases in loads in some cases?

Summary of Panel's Response:

Again, the panel agreed that you need to examine the big picture. In some areas there might be increases (these areas should purchase credits), but reductions in other areas will hopefully help to counter these increases and produce a net reduction.

Question:

- Issues like timing, delivery ratios, different schedules met in different ways? How do we get trading to increase enthusiasm for trading?

Summary of Panel's Response:

A number of communities are doing work right now. These can be used as examples of successful trades and to stimulate enthusiasm for trading. Some trading members should be able to earn "credits" for being ahead of schedule.

Closing question:

- Lesson's learned: One thing they remembered most (what worked, what didn't)?

Summary of Panel's Response:

Building consensus and partnerships is just as important as building the program. Education and outreach is a crucial part of building a trading program

Morning Breakout Sessions**IV. Nutrient Trading Concepts Breakout Sessions**

The purpose of the breakout sessions was to explore nutrient trading concepts and determine work necessary to develop nutrient trading policies and guidelines. Each group addressed a list of questions (see Appendix II). All sessions were facilitated by Organizing Committee Members.

Major Conclusions of Groups Discussions:

- ❑ Enforcement is critical for trading to be a success;
- ❑ The area for which a trading program is set up needs to be large enough to have a market for trading;
- ❑ The program would work best if it is mostly non-regulatory; some regulation might be necessary, however;
- ❑ Establishment of a cap or baseline condition is the first priority;
- ❑ Key: Trading is most beneficial when you have a lot to gain, incentives are important;
- ❑ Initial pilot tests on a smaller scale would be beneficial;
- ❑ Non-traditional partners should be included and educated;
- ❑ Verification of sources and loadings is key to success of the program.

Luncheon Speaker J. Charles Fox, Assistant Administrator for the Office of Water
Environmental Protection Agency

Chuck Fox presented his and EPA's views on trading. Some major points he discussed were:

- ❑ No elements of the Clean Water Act discourage trading.
- ❑ Trading programs must be enforceable and need to have environmental benefit.
- ❑ TMDL's will encourage trading.
- ❑ The more flexible a program is, the faster it can be implemented.

V. The DRAFT Negotiation Process Strawman (See Appendix II)- *Dave Evans, McGuire, Woods, Battle & Boothe*

Dave Evans provided an overview of a stakeholder negotiation process "strawman", drafted by the Organizing Committee, for devising nutrient trading policies and guidelines for the Chesapeake Bay region. Parts of this process were explored further in the breakout sessions detailed below.

Afternoon Breakout Session

VI. Negotiation Process Breakout Session:

The purpose of the breakout session was to critically evaluate details of the strawman negotiation process. Individual Breakout Session Summaries are provided in Appendix III. Sessions were facilitated by Organizing Committee members.

Major Conclusions of Groups Discussions:

- ❑ Have an exploratory workgroup formed prior to forming the Negotiation Team which is empowered by the PSC;
- ❑ Incorporate a go/no-go decision point into the flow chart;
- ❑ Schedule a report on the findings of the NT at the 2000 Executive Council Meeting;
- ❑ The Chesapeake Bay Commission and USDA should be on the Negotiation Team;
- ❑ *Ad hoc* workgroups should be formed to address specific issues;
- ❑ Public participation is key. This should be incorporated early, perhaps even establish a workgroup formed to develop the public participation roles;

- ❑ Although ambitious, follow the outlined 1999 schedule;
- ❑ Funding will be required to assist in the technical support;
- ❑ A professional facilitator should be hired for the negotiation team meetings;
- ❑ One group generally support trading but was concerned about the process. It should be through each state - VA and MD should continue to proceed as they have planned, while this process is ongoing.

Workshop Conclusions and Next Steps

(by Waldon Kerns – STAC Vice-Chair, in his closing comments)

General Comments – During planning for the workshop, members of the Organizing Committee had strong feelings for a need to develop trading policy and guidelines for the Bay Watershed as an alternative to the traditional way of using regulatory mechanisms and/or voluntary activities as ways to managing water quality in the watershed. The Organizing Committee recognized from the beginning that all stakeholders must be involved from the early stages of discussion of any trading activities. The OC tried to involve (or at least inform) all concerned groups within and outside the existing Bay program activities.

Relationship to Bay Program - One major question has been and is today – what do we take, how much do we take and when do we take information on the process to the EC, PSC, IC, etc? We learned today that we need to devote more time and effort to accomplish this component of the process, particularly to more fully involve ongoing efforts within the overall Bay program institutional structure.

Need for Lead Time – Several members of the morning panel as well as several members of the breakout groups emphasized the need to consider that it often takes a long lead time from development of policy and guidelines and the actual implementation of trading programs – quite often many years. Therefore, it is imperative that policy and guidelines be developed and put in place with acceptance by all parties so that trading programs can be implemented as appropriate.

Benefits of Trading – Several members of the morning panel as well as several members of the breakout groups emphasized that trading can provide opportunities for more flexibility and more individual choice in how to meet environmental goals and thus provide a desired level of water quality in the least-costly manner. Moreover, the benefits of a trading program may prove to be much greater in future years as we tighten constraints to handle increase in population and urban development activities. But, the policy and guidelines must be in place as soon as practical to allow for development of the trading programs.

Major Issues – Many important issues relative to a trading program were identified for future negotiation. The issues have scientific, political and economic aspects. Most of the issues are important issues that must be addressed whether or not we have a trading program. Consequently, discussion in the context of trading provides a framework to accomplish some level of comprehensive discussion on these very important issues. Many of the issues are very complex and will require some tough choices to be made relative to these issues if we are to maintain the nutrient CAP in the Bay. (See summary of panel remarks and summary of breakout group discussion for list of issues.)

Negotiation Process – While the negotiation process strawman elicited much comment, most participants agreed that the effort must move forward in an expeditious way with some recommended changes in the process. A few workshop participants expressed some concern or lack of understanding relative to some level of authority/recognition of the Organizing Committee’s efforts and the resultant level of acceptance of the final product. In response I would state that STAC is charged with providing scientific and technical advice to the overall Bay Program effort. The CBPO is charged with providing direction, focus and support to the Bay Program effort. Activities of the Organizing Committee have been widely known by most active Bay Program entities and have been included in discussion of the IC exploratory workgroup activities. However, the Organizing Committee now recognizes a need to better inform the administrative structure of the IC, PSC and EC of our activities and to better coordinate our activities with entities such as “Chesapeake 2000,” the IC “Workgroup on the CAP and Policies,” and the Chesapeake Bay Commission. One recommendation is for the Organizing Committee to form the nucleus of the IC “Workgroup on the CAP and Policies.”

Some workgroup participants recommended additions to the membership of the negotiation team. In particular, more representation was recommended for the public sector and for local government. The negotiation team did have representation for local government but we will take a closer look at local government representation. For more public participation, the Organizing Committee will consider adding members to the negotiation team and/or provide some mechanism to take our activities and results out to public groups.

The time schedule for the negotiation process was seen by some to be too ambitious. Yet, the Organizing Committee felt a need for a tight schedule in order to maintain a needed nucleus of skilled, knowledgeable but very busy people. The Organizing Committee will reconsider the time schedule to include coordination of its activities with Chesapeake 2000 and other relevant activities.

Support Survey Form – The Organizing Committee expressed its thanks to the many participants who completed the survey form indicating a willingness to be on the negotiation team or to provide technical support. All will be kept informed of progress in forming the Negotiation Team.

(end of Waldon Kerns closing comments)

Projected Outcomes/Results – The goal of the negotiation process is to produce a draft document on Trading Policy and Guidelines. The document will not address detailed practices or programs but will provide a framework of options for future implementation of trading programs by state or other entities. The draft document will be widely distributed for review and discussion and will be the topic of a future workshop to get full public/impact group/regulatory input.

The OC met on January 7, 1999 to discuss the outcomes of the workshop and to organize next steps in the overall process to develop the guidelines. Several clarifications, action items, and decisions from this meeting are listed below:

- The purpose of the Trading Policy and Guidelines Document to be developed through this effort was clarified. The document would not address detailed practices or programs, but would provide a framework for future implementation and consideration by state or other entities. It would not be mandatory in nature, but serve as a guide when developing trading

programs and agreements. The title of this document may be changed from “policies and guidelines” to “guidelines”.

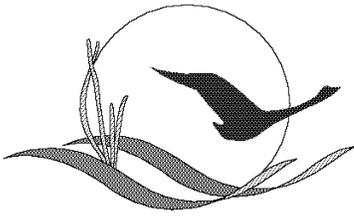
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- The Trading and Offsets Workgroup will form the “Negotiation Team” (NT) which will be responsible for developing the Trading Guidelines Document. The Trading and Offsets Workgroup will serve as support to the NT, and also serve as liaison with the Bay Program subcommittee structure.
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- Public participation will be included from the beginning of the process. In addition to their participation at the December workshop, a public mailing list will be assimilated by the Trading and Offsets Workgroup. Mailings, as well as Bay Journal announcements, and possibly Bay Program web site information, will invite the public to each NT meeting. We also plan to hold a public workshop to present the draft Nutrient Trading Guidelines for review and comment.
- Efforts commenced to find funding for and hire a facilitator to facilitate the NT meetings.

APPENDIX I

AGENDA

FLOW CHART

PARTICIPANT LIST



NUTRIENT TRADING TO MAINTAIN THE NUTRIENT CAP IN THE CHESAPEAKE BAY WATERSHED



*A Workshop sponsored by:
The Chesapeake Bay Program & its
Scientific & Technical Advisory Committee (STAC)*

Washington Council of Governments Office
1st Floor Training Room
December 14, 1998

Purpose: *To initiate a process to develop nutrient trading policies and guidelines to achieve and maintain the Nutrient Cap in the Chesapeake Bay Watershed*

AGENDA

PART A: BACKGROUND/EDUCATION SESSION FOR ALL PARTICIPANTS

- 8:00 am Registration
- 8:30 am **I. Introduction**Allison Wiedeman, Workshop Chairman
Chesapeake Bay Program
- Opening remarks discussing the purpose and desired accomplishments for this workshop
- 8:45 **II. The Chesapeake Bay Nutrient Cap**..... Bill Matuszeski, Director
Chesapeake Bay Program
- Background on the Chesapeake Bay Program 40% Nutrient Reduction Goal and Maintaining the Nutrient Load Cap
- 9:00 **III. Trading Concepts: Benefits & Challenges** Bill Matuszeski (Moderator)
- A panel discussion will explore nutrient trading concepts and its benefits and challenges
- Panel Members:
Elise Bacon - *Hagler Bailly Services, Inc.*
Ann Powers - *Pace University, School of Law*
David Batchelor - *Michigan Department of Environmental Quality*
Mark Tedesco - *EPA's Long Island Sound Office*

PART B: BREAKOUT SESSIONS

10:30 **IV. Nutrient Trading Concepts Breakout Sessions** *(these will be facilitated discussions):*

Focused on Key Topic Questions

The purpose of the breakout sessions is to explore nutrient trading concepts and determine work necessary to develop nutrient trading policies and guidelines.

12:00 pm Summary of Breakout Sessions Spokespersons

Each spokesperson will provide brief 5-minute summaries of the discussions during the breakout sessions.

12:30 **Luncheon Speaker** J. Charles Fox

*Assistant Administrator for the Office of Water
Environmental Protection Agency*

(Box lunch available: \$10.00, please make checks payable to CRC, Inc.)

1:15 **V. The DRAFT Negotiation Process Strawman** Dave Evans

McGuire, Woods, Battle & Boothe

An overview of a stakeholder negotiation process “strawman”, drafted by the Organizing Committee, for devising nutrient trading policies and guidelines for the Chesapeake Bay region will be provided. Parts of this process will be explored further in the breakout sessions below.

1:45 **VI. Negotiation Process Breakout Sessions** *(these will be facilitated discussions):*

Focused on Part II of the DRAFT Stakeholder Negotiation Process Strawman

The purpose of the breakout sessions is to critically evaluate details of the strawman negotiation process.

3:30 Breakout Session Summaries Spokespersons

Each spokesperson will provide brief 5-minute summaries of the discussions during the breakout sessions.

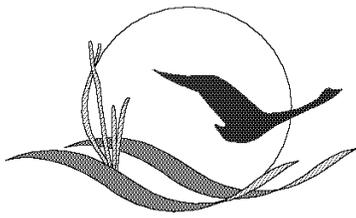
PART C: NEXT STEPS

4:00 **VII. Nutrient Trading Policy & Guidelines Development - Next Steps** Waldon Kerns

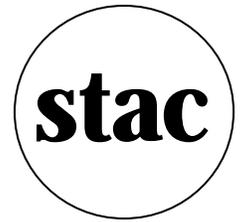
*Virginia Polytechnic Institute & State University
Vice Chairman of STAC*

- * Who does what when
- * Work Efforts
- * Vision of End Products

4:30 Adjourn

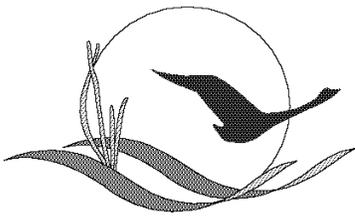


NUTRIENT TRADING TO MAINTAIN THE NUTRIENT CAP IN THE CHESAPEAKE BAY WATERSHED

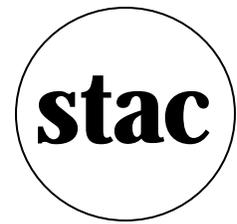


LIST OF PARTICIPANTS

Elise Bacon - Hagler Bailly Services, Inc.
Dave Batchelor - Michigan Department of Environmental Quality
George Beals - VA Association of Soil & Water Conservation Districts
Lamar Beasley - American Wetlands & Natural Resources Exchange Corp
Mark Bennett - Department of Soil & Water Resources
Johan Berger - PA Department of Agriculture
Michael Bonk - Anne Arundel County
John W. Brosious - Pennsylvania Municipal Authorities Association
Karl Brown - State Conservation Commission
Jolene Chinchilli - Chesapeake Bay Foundation, Inc.
Rich Collins - University of Virginia
Richard Cooksey - US Forest Service
Francisco Cruz - US Environmental Protection Agency, Region III
Emmett Durrum - Water and Sewer Authority
Rich Eskin - Maryland Department of the Environment
Dave Evans - McGuire, Woods, Battle & Boothe
Paul Faeth - World Resources Institute
Kenneth Fanfoni - Augusta County Service Authority
Stewart Gansell - PA Department of Environmental Protection
Patricia Gleason - US Environmental Protection Agency, Region III
Jerry Griswold - US Department of Agriculture, NRCS
M. Grant Gross - Chesapeake Research Consortium
Mark Haley - Hopewell Regional Wastewater Facility
Scott Hancock - Maryland Municipal League
Rebecca Hanmer - US Environmental Protection Agency, 4505F
Carlton Haywood - Interstate Commission on the Potomac River Basin
Roy Hoagland - Chesapeake Bay Foundation
Patricia Jackson - James River Association
Jimmy Jenkins - VA Association of Municipal Waste Water Authorities
David Johnson - VA Department of Environmental Quality
Cy Jones - Washington Suburban Sanitary Commission
John Kennedy - VA Department of Environmental Quality
Waldon Kerns - Virginia Polytechnic Institute & State University
Stella Koch - Audubon Naturalist Society
Bob Koroncai - US Environmental Protection Agency, Region III
Dave Lake - Montgomery County Dept of Environmental Planning
Les Lanyon - Pennsylvania State University, Department of Agronomy
Wayne Lambertson
Larry Land - VA Association of Counties
Louise Lawrence - Maryland Department of Agriculture
Douglas Lipton - University of Maryland



NUTRIENT TRADING TO MAINTAIN THE NUTRIENT CAP IN THE CHESAPEAKE BAY WATERSHED



Calvin Lubben - Maryland Forests Association
Ross Mandel - Interstate Commission on the Potomac River Basin
William Matuszeski - US EPA Chesapeake Bay Program
Glen Maurer - PA Department of Environmental Protection
Ted McConnell - University of Maryland
Saied Mostaghimi - Virginia Polytechnic Institute
John Murtha - PA Department of Environmental Protection
Rick Nelson - Somerset County Farm Bureau
Doug Parker - University of Maryland
Ken Pencyl - Maryland Department of Environment
Jonathan Phinney - Center for Marine Conservation
Mahesh Podar - US Environmental Protection Agency
Alan Pollock - VA Department of Environmental Quality
Royden Powell, III - Maryland Department of Agriculture
Ann Powers - Pace University School of Law
Jeffrey Rein - Maryland Department of Environment
John Rhoderick - Department of Agriculture
Donald Robinson - Lancaster County Conservation District
Ned Sayre - MD Cattlemen's Association
Len Shabman - Virginia Polytechnic Institute & State University
Keyur Sharma - Maryland Department of Environment
Moshin Siddique - Water and Sewer Authority
Tom Simpson - Maryland Department of Agriculture
Kay Slaughter - Southern Environmental Law Center
Tanya Spano - Metropolitan Washington Council of Governments
Bob Steidel - Hopewell Regional Wastewater Treatment Facility
Kurt Stephenson - Virginia Polytechnic Institute & State University
Mike Sullivan - Limno-Tech Inc.
Ann Pesiri Swanson - Chesapeake Bay Commission
Mark Tedesco - EPA Long Island Sound Office
Keith Underwood - Severn River Association
Shannon Varner - Virginia Division of Legislative Services
James Walsh - PA Department of Environmental Protection, Water Management Division
Ralph Watters - Derry Township Municipal Authority
Richard Weismiller - University of Maryland
Lauren Wenzel - Maryland Department of Natural Resources
Clarke White - Delmarva Poultry Industry
Jud White - Virginia Power
Allison Wiedeman - US EPA Chesapeake Bay Program Office
Emily Wilson - Maryland Farm Bureau
Barbara Wrenn - Virginia Municipal League

APPENDIX II

THE NEGOTIATION PROCESS STRAWMAN

NUTRIENT TRADING KEY QUESTIONS

SUPPORT SURVEY SHEETS

TRADING PROJECTS AROUND THE COUNTRY

BACKGROUND ON THE ORGANIZING COMMITTEE

DRAFT Stakeholder Negotiation Process Strawman

I. Key Elements of A Stakeholder Negotiation Process to Develop Policy AND GUIDELINES FOR THE TRADING OF NUTRIENT CREDITS TO MAINTAIN THE CHESAPEAKE BAY PROGRAM'S NUTRIENT REDUCTION GOALS.

A. Sponsor. The Chesapeake Bay Program would serve as the Sponsor of the negotiation process to give it region-wide legitimacy and credibility.

B. Goal. The goal of the negotiation process would be to achieve consensus among the stakeholders on policy and guidelines for the trading of nutrient credits to maintain the Chesapeake Bay Program's nutrient reduction goals.

C. Negotiation Team. The Negotiation Team would consist of individuals representing the interest groups listed below. The Negotiation Team would be responsible for developing the nutrient trading policy and guidelines. To keep the size of the Negotiation Team to a manageable number and avoid leaving out of the negotiation those stakeholders who want to participate, representation on the Negotiation Team would be by interest group rather than by organization or entity. The following interest groups would be represented on the Negotiation Team:

1. U.S. EPA, Chesapeake Bay Program
2. U.S. EPA, Region III
3. District of Columbia
4. State of Maryland
5. State of Pennsylvania
6. Commonwealth of Virginia
7. Regional environmental interest
8. Local watershed interest
9. Public interest
10. Municipal point source interest
11. Industrial point source interest
12. Urban non-point source interest
13. Rural non-point source interest

Each interest group would be represented on the Negotiation Team by one representative and one alternate. The entities and organizations whose interests are represented by each group would identify recommended individuals to serve as their representative and alternate on the Negotiation Team. The recommendations would be submitted to the Organizing Committee during January and February 1999. The Organizing Committee would name the

representatives by April 1, 1999. Individuals would be selected to serve based on criteria designed to ensure the success of the negotiation process, including, but not limited to, support among entities and organizations whose interests are represented by the group they would represent, expressed commitment to the negotiation process, standing among peers, etc.. The groups could have as many representatives attend the negotiating sessions as they wish with the opportunity to “caucus” with their Negotiation Team members throughout the process.

D. Meetings. The first meeting of the Negotiation Team would occur on or about April 15, 1999.* All meetings of the Negotiation Team would be open to the public. Meeting agendas would be drafted by the Facilitator in consultation with the Chesapeake Bay Program office. Draft summaries of meetings would be prepared by the facilitator and approved by the Negotiation Team at the following meeting. Only the named interest group representative (or named alternate if the representative is absent) may speak during the meeting, unless otherwise provided on the agenda for the meeting.

E. Facilitator. A neutral professional facilitator would be employed to chair the meetings and assist in the negotiation. The Facilitator’s role would be to ensure that the process runs smoothly rather than recommending an outcome. The Facilitator would be responsible for establishing and enforcing the procedural rules governing the meetings, and, among other things, developing meeting agendas, focusing discussions, working to resolve any impasses that may arise, distributing background materials, etc.

F. Technical Support. Although it is anticipated that each interest group would call on its individual members to provide the technical resources needed to support and advance its positions in the negotiation, additional technical support would be needed. EPA, the States, the Chesapeake Bay Program, and other organizations would be asked to provide this additional support.

G. Schedule. The negotiation would be scheduled to conclude within six months after it begins, with four 2-day negotiating sessions in the first two months. This is a demanding schedule, however, it will promote efficiency and cost-effectiveness by avoiding the multiple learning curves, distractions, lost momentum and personnel turnovers associated with long, drawn out negotiations.

H. Decision-Making.

* The Organizing Committee recognizes that this schedule may have to be adjusted to accommodate a second workshop in the event the Committee concludes it needs additional guidance from the workshop participants prior to proceeding with the negotiation.

1. Procedural Matters: The negotiators would operate by consensus on procedural matters. Generally, “consensus” means that all the negotiators would agree they could at least abide by the proposed approach, even if a participant might prefer another approach.
2. Substantive Matters: On substantive matters, the negotiators would operate by consensus. “Consensus” means that all the negotiators would agree they could accept the proposed position, even if a negotiator might prefer a different position. If consensus is achieved, it would take the form of a written statement that would be appropriately authorized by signature of each negotiator. The negotiators will always work toward consensus. If consensus cannot be achieved on a substantive matter, to the extent individual negotiators wish to submit their written views on that matter, these views would be presented in a report accompanying the proposed policy and guidelines. However, every effort would be made to produce a final report that reflects consensus on the major elements of the policy and guidelines.

I. Final Action. The final report of the Negotiation Team would be submitted to the Chesapeake Bay Program Nutrient Subcommittee, with a request that the Subcommittee adopt the policy and guidelines and then submit them to the Chesapeake Executive Council for adoption as a directive. Implementation would be left to the individual Bay states with the expectation that individual trades conforming to the policy and guidance would be readily approved.

II. TOPICS FOR NEGOTIATION PROCESS BREAKOUT SESSIONS

Negotiation Team Representatives. Do you agree with the proposed list of participants? How should the individual representatives be selected? What criteria should be used in the selection of the individual representatives? If individual representatives are unable to continue to serve, how should their replacements be selected?

Workgroups. Do you believe the process should incorporate the concept of workgroups to act as a resource to the negotiation team? If so, who should serve on these workgroups?

Public Participation. Should the public have an opportunity to participate in the negotiation in addition to participant representation through interest group affiliation and the opportunity to attend meetings of the Negotiation Team? Where should the negotiation meetings be held? Should there be an opportunity for public comment on the final report before it is submitted to the Nutrient

Subcommittee? If so, how should those comments be received and who should evaluate the comments and decide whether to make changes to the proposed policy and guidelines in response to the comments?

Facilitator. Should the Facilitator have any particular qualifications? Do you agree with the role of the Facilitator? Do you agree with the tasks assigned to the Facilitator? Who should select the Facilitator? Who should the Facilitator report to?

Technical Support. What level of technical support should be provided to the negotiation process and who should provide it? If workgroups are established, should technical support be provided to the workgroups and the Negotiation Team or only to the Negotiation Team?

Schedule. Do you agree with the schedule? If not, what changes would you propose to the schedule?

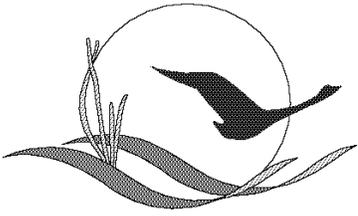
Decision-Making. Should the negotiations operate entirely by consensus on substantive issues, and should majority and minority views be recorded where consensus cannot be achieved? If majority and minority views are recorded, what weight should be given to these views? What role should such views play in the implementation of the policy and guidelines?

Safeguards. What safeguards should be employed to prevent individuals from obstructing or abusing the process? For example, should sanctions be imposed for poor attendance at meetings, and, if so, what should those sanctions be? As another example, should participants be prohibited from commenting in the press on the positions of other participants in the negotiation?

**NUTRIENT TRADING FOR THE CHESAPEAKE BAY:
KEY TOPIC QUESTIONS (used for Morning Breakout Sessions)**

This list of topic questions highlights some of the issues that would need to be considered in designing a nutrient trading policy and guidelines for the Chesapeake Bay. This is not offered as an exhaustive list, but is provided to stimulate the discussion at the workshop.

1. Who might be the likely buyers and sellers of nutrient credits in a trading program for the Chesapeake Bay?
2. How would a trading program accommodate new sources and/or expansions of existing sources?
3. Should technology based nutrient removal be required as a precondition to trading?
4. Do we need an entity to assist in identifying and brokering trades? If so, what would that entity be?
5. In how large a geographical area should trades be allowed and what are the relevant factors to consider?
6. Should banking of allowances (saving allowances for future years) be permitted? If banking is allowed, should there be conditions, such as, a time limit on the use of banked allowances?
7. Should states not signatories to the Bay Program's 40% nutrient reduction goal be included in a trading program for the Chesapeake Bay?
8. What would be the oversight process and enforcement mechanisms for a trading program in the Chesapeake Bay? What would be the roles for citizens, local governments, environmental groups, dischargers, and EPA?
9. Should nonpoint source trading be included and, if so, how would nonpoint source trading accountability be established? What are the relevant factors to consider?
10. Can trades between point and nonpoint sources be accomplished in a trading program for the Bay? Which source would be assigned discharge allowances? If allowances are provided for nonpoint sources, who would be responsible for controlling agricultural and urban nonpoint source loads?



**NUTRIENT TRADING TO MAINTAIN
THE NUTRIENT CAP IN THE
CHESAPEAKE BAY WATERSHED**



SUPPORT SURVEY SHEETS

The purpose of this support survey sheet is to acquire information on your interest and ability to support continued efforts in the development of Nutrient Trading Policy and Guidelines for the Chesapeake Bay Watershed. The December 14 workshop's purpose is to initiate such a development process yet the year following this event is where the majority of the work will be done. However, to make this effort as comprehensive and effective as possible, we will need support from representatives all over the Bay watershed in varying disciplines. Please indicate below how you are able to contribute to this process. **PLEASE RETURN THIS FORM TO THE REGISTRATION DESK PRIOR TO LEAVING TODAY, OR FAX TO KATRIN O'CONNELL @ 410-956-3712.**

Name: _____

Organization: _____

Address: _____

Phone: _____

Fax: _____

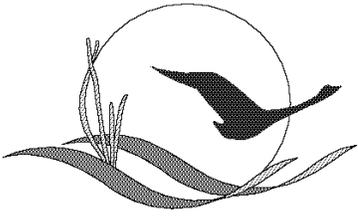
Email: _____

I am interested in becoming a member of the Stakeholder Negotiation Team: Yes No

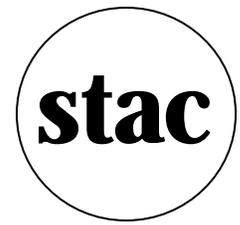
I am interested in providing technical support to a member of the Stakeholder Negotiation Team: Yes No

I would be interested in assisting in the development of a Nutrient Trading Policy and Guidelines in the following ways:

THANK YOU!!



NUTRIENT TRADING TO MAINTAIN THE NUTRIENT CAP IN THE CHESAPEAKE BAY WATERSHED



BACKGROUND ON THE CHESAPEAKE BAY NUTRIENT TRADING WORKSHOP

ORGANIZING COMMITTEE

The Chesapeake Bay Program convened a meeting of stakeholders from the entire Chesapeake Bay watershed in June of 1998 to exchange views about emerging nutrient trading issues. At this meeting, there was high interest in, and support for, the development of nutrient trading policies and guidelines for the Bay region. It was also agreed at this meeting that conducting a workshop (now planned for December 14, 1998) should be the first step in that process.

At the June meeting, volunteers were solicited to form an "Organizing Committee" to plan this workshop. This committee, composed of the following members, has met approximately once every month since June to prepare and plan the December 14 Nutrient Trading Workshop:

Keyur Sharma, Maryland Department of the Environment
410-631-3739

Dave Evans, McGuire, Woods, Battle & Boothe (representing Virginia
Municipal Authorities Association)
804-775-4317

John Kennedy, Virginia Department of Environmental Quality
804-698-4312

Allison Wiedeman, EPA, Chesapeake Bay Program Office
410-267-5733

Waldon Kerns, Virginia Polytechnic Institute & State University
540-231-7417

Roy Hoagland, Chesapeake Bay Foundation
804-780-1392

Cy Jones, Washington Suburban Sanitary Commission
301-206-8831

Emily Wilson, Maryland Farm Bureau
410-922-3426

Jerry Griswold, U.S. Department of Agriculture, NRCS, Chesapeake Bay Program Office
410-267-5754

Len Shabman, Virginia Polytechnic Institute & State University
540-231-6844

Rich Collins, University of Virginia
804-924-1970

Tanya Spano, Metropolitan Washington Council of Governments
202-962-3776

Katrin O'Connell, Chesapeake Workshops Unlimited (workshop coordination &
logistical support)
410-956-5045

APPENDIX III

BREAKOUT SESSION SUMMARIES

Breakout Group 1 – Facilitator: *Waldon Kerns*

Morning Session

If trades are to occur between point and non-point sources, then we need to develop and implement better measuring and monitoring procedures.

What do we know about level of certainty for non-point reduction measures?

Need non-point source accounting mechanism if source is unregulated.

Need mechanism to account for point source dollars going to non-point sources.

Must have a mechanism to account for a nutrient balance.

Must have mechanism to track implementation and effectiveness of best management practices

Need to develop more credible monitoring practices.

Should we look at monitoring practices as used in other programs?

We must design better mechanisms to account for growth in urban non-point sources.

We need agreement on interaction between regulatory programs and trading programs.

If a source is under TMDL, can that source be part of a trading program?

We must know the capacity for reduction from different sources.

Will trading deal with present standing or will it be based on some target?

Is discussion of trading premature? Do we need answers to the following questions before development of trading policy and guidelines?

Is 40% reduction in concrete or will we improve on it?

By year 2000, the 40% goal will be reevaluated, should trading discussions wait until then?

Can we develop a program along with policy before clarifying final goals?

Many programs think about trading well before implementation.

Must tie trading to regulatory framework over periods of 3-5 years.

How will trading relate to point source permits?

How does trading fit into a voluntary CBP program?

Why engage in trading?

Trading can provide least cost solutions.

Trading can help accomplish local goals as well as bay goals.

Trading can help account for long run cost impacts.

Geographic area concerns must be considered as part of any trading policy and guidelines.

What will be scale of trading – total bay driven, tributary, smaller than tributary?

What will be TMDL scale - local areas may not be able to trade?

Even if citizens are involved in community programs, will they get involved in program based on total bay impacts?

What will be distance of trade?

If local area not impacting bay, should they be involved in trading?

Can municipalities with no CAP be involved in trading as long as reductions credited within municipality that has a CAP?

How do you include seasonal impacts on concentration of nutrients?

Will trading result in loss of local functions – are streams more like wetlands than air?

Should trading be allowed among tributaries?
How do you build impact across political boundaries into trading programs?
(across local lines, tributary lines or state lines)

CAP questions

Should trading be used to maintain the CAP or also to get further reductions?
Do economic incentives provide reason for reducing the CAP?

How will new and expanding sources be treated in a trading program?

Can trading help get zero net increase in nutrients pollution for major urban or agriculture developments?

If not trading what are other mechanisms to manage new and expanding sources?

Requirements to offset new and expanding loads upfront could involve trading.

Who enforces traded reductions?

Enforcement mechanisms must be more fully understood.

What will be stakeholder weight in trading program?

Is there a role for self enforcement in trading programs?

What will be enforcement mechanism to accompany contracts and agreements?

Will additional resources be needed to implement trading programs?

Do we need higher standards and better enforcement before going to trading?

If we don't have good monitoring for regulatory programs, how will we get monitoring for non-regulatory programs?

How do we handle controllable point sources versus non-controllable urban and agricultural sources (often non-controllable because of lack of technology)?

Trading program can heighten scrutiny of all sources.

Should we establish minimum standards for non-point sources based on what's cost-effective, then allow trading versus maintaining some predetermined goal?

We need to maintain flexibility to allow for development of cost-effective options.

How will discharges in non-point sector be treated in a trading program?

Will the TMDL process serve to assign discharge allowances?

Will jurisdictions be able to make allocations by source based on division by manageable areas (chunks)?

Should trading programs concentrate on urban sources?

Must be more specific about definitions.

Group 1 - Afternoon Session

General Comments

Effort should concentrate on alternative procedures for moving ahead rather than development of a directive for trading.

The present effort should not go all the way to EC. Need preliminary work done first.

All participants felt that the effort to look at trading should continue.

The team should look into ways to get periodic buy in from various groups.

Should higher level bring the trading issue to the EC for a directive on how to proceed?

EC could provide a directive in the near future and then expand on it later.

Negotiation Team Comments

Who should determine negotiation team members?

Should IC make appointments or review lists of appointees?

What role should PSC have in naming representatives?

Who should be members of negotiation team?

Who will represent local entities and industries?

Should CBC be represented on team?

Present Bay committees lack proper representation.

Should negotiation team include representation from LGAC?

What is the role for the CBC?

How should negotiation team function?

What should go to IC and PSC?

What type of consensus is needed during the negotiation process?

Trading effort should be integrated into Chesapeake 2000 effort.

Trading task force should work with CAP issues and policy group under NSC.

Keep Governors informed as process is developed.

Facilitator should report frequently on progress to different groups.

Negotiation team should examine the trading issue until September 1999 then, if appropriate, propose trading policy and guidelines to be part of Chesapeake 2000 agreement.

Do we need workgroups and, if so, how should they function?

Should workgroups be support groups or trading expert groups?

What type workgroup is needed to adequately represent public?

Public interest in water quality may not be the obvious economic benefits for point sources and non-point businesses. So include other types of benefits.

How do we handle the facilitator role?

Should be process person to deal with tough issues but with sufficient staff support.

Need neutral processor with knowledge of issue.

Organizing committee should develop list of facilitators for consideration.

Should facilitator report to chair of negotiation team or to trading workgroup?

Task force should make final selection of facilitator.

Breakout Group 2 – Facilitator: Roy Hoagland

Morning Session

The most important issue among the participants was the question of whether nonpoint sources should be part of the trading scheme/program. While the discussion acknowledged problems with the inclusion of nonpoint sources and trades with nonpoint sources (eg, monitoring), there was a consensus that nonpoint sources must be included. Some even questioned whether a program without nonpoint involvement was worthwhile given our understanding of the contribution of nutrient pollution from nonpoint sources.

The group also agreed that there needed to be significant site-specific monitoring for nonpoint source pollution under a trading program. Nearly all supported the development and establishment of accepted protocols for this monitoring. A related item of consensus was that the program had to achieve verifiable water quality improvements.

Another issue for which there was consensus was that local water quality must be protected under any trading scheme. One watershed's needs, or a local stream's needs cannot be allowed to decline because of trades or water quality issues elsewhere. One concern expressed was that urban streams should not be "trashed" so that the larger Bay is healthy.

An interesting discussion item centered on the costs of a trading program. Two issues arose: 1) That the cost of a nutrient trading program should not be at the expense of other needed or existing programs. 2) That the cost of the program should be built into the trade; ie, the "expense" of the trading program must be part of the sale and purchase. Monitoring costs should be built into the program.

The size of the watershed within which trading could occur was an issue of significant concern. The group did not reach a decision on what should or should not be the primary criteria for defining the trading area. The issues discussed included:

- 1) There are conflicting interests between the positive trading potentials from a large area versus the differing environmental sensitivities within a large area.
- 2) There may be the need for equivalencies to allow trading from one place to another.
- 3) It is not realistic to include non-signatory states.
- 4) Some suggested a priority system whereby trades within a local watershed receive greater priority than trades outside.

The group agreed that there needed to be an accounting system of some sort for the trading program. There were no strong feelings over whether the system should be governmental or private.

Group 2 – Afternoon Session

There was a clear consensus among the members of the group that the process for development of the policy and guidelines should go forward but wanted changes to the process. The group advocated the following broad changes but differed on the specifics of achieving these changes:

1) Broaden the negotiation team: There needs to a greater or more definitive opportunities for stakeholder involvement. For example, some felt it is incumbent on the participants to incorporate in the process the perspectives of others and to report back to others. While some felt it should remain relatively small, others felt there needed to be many more participants; eg, elected local government official participation, consultants and developers. There need to be workgroups to support the negotiation team, with work farmed out to them.

2) Lengthen the schedule: It needs lengthening to ensure adequate involvement by others. Some suggested greater CAC, STAC, LGAC and IC participation; however, others felt the CBP was too cumbersome to be productive.

3) Produce a “framework” or “model program” but not a detailed, prescriptive or directive program: The group did not want the final product to dictate how trading would occur. There were suggestions that the product contain “key components and alternatives” that address the “tough” questions. The “protocols” for monitoring should be included. It appeared that all felt implementation at the state level was appropriate.

One interesting miscellaneous item: There was much significant debate on whether trading should be used to achieve versus maintain the cap. There were strong opinions on both sides.

Breakout Group 3 – Faciliator: *Cy Jones*

Morning Session - Issues

A. Top Two Issues:

1. Should nonpoint sources even be included in the trading program? Would there be the flexibility to have the trading initially address point sources only and later add nonpoint sources?
2. How is the cap allocated to the various sources? (Caps have been set for tributaries, but no allocations among sources has been done.)

B. Other Issues Discussed

1. What should be the minimum level of effort required by potential trading partners before being allowed to trade (i.e. what minimum technology-based requirements should be in place as a prerequisite for trading?)
2. How should the uncertainty and randomness of nonpoint source controls be incorporated into trades?
3. How should the groundwater lag time be incorporated into trades with nonpoint sources?
4. How should trades with nonpoint sources be enforced?
5. Could point sources buy credits by paying into a state nonpoint source fund?
6. Growth of agricultural processing plants
AFO/CAFO Permit Process
7. What is being traded?
8. Length of trade?
9. Are restrictions permanent?
10. Is there any flexibility?
11. Will the trading program be credible to those considering participating?
12. What should the trading boundaries be?

Afternoon Session - Negotiation Process

1. Representation

Add Chesapeake Bay Commission *

Add USDA (NRCS or FS) *

Agriculture representative needs to be broad-based - animal & crop.

A local government could represent point source and urban nonpoint source interests.

For industrial point source, solicit top 3-4 industrial dischargers

2. Workgroups

Workgroups should be formed as needed to undertake specific tasks.

Workgroups should have broad representation but should have the necessary technical expertise.

3. **Public Participation**
If there is to be public participation, it should start early and be substantial.
There should be good public outreach.
Negotiating Team meetings should be advertised.
Perhaps a workgroup should be formed to handle public participation *
4. **Facilitator**
An independent, impartial professional facilitator should be used.
5. **Technical Support**
Providing adequate technical support should be a top priority. *
Consider hiring consultants or contractors to undertake the necessary technical analyses.
Possible role for STAC:
 - STAC funding for technical assistance
 - Coordinate technical work & contractorsNeed to recognize that states don't have the resources to provide this.
6. **Schedule**
The schedule is very tight; there would be some advantages in relaxing it.
There would also be disadvantages to relaxing the schedule - would not be able to get to EC until 2000.
Why wait until April, 1999 for first meeting of Negotiation Team?
For state implementation step, make technical ad hoc groups available to the states to provide assistance
Some people (a minority) felt that trading programs must be in place before cap attainment so we could deal with new plants/expanded discharges starting in January 2001.
7. **Decision-Making**
If consensus is reached on an issue, then no minority reports should be included.
If no consensus is reached, forward majority/minority reports to NSC, IC, PSC, EC.
8. **Safeguards**
Team members must be diligent about attendance.
Trust each other!

Items marked with * were considered critical.

Breakout Group 4 - Facilitator : *Len Shabman*

Morning session: Group 4 included a number of people knowledgeable about the Bay program. Nonetheless, these people felt that they needed to know far more about the topic before they could intelligently discuss or react to proposals. My impression was that this group had not read the hand out on trading that was included in the mailing. They also volunteered that the panel discussion confused them more than it clarified the concept or its application. The flip chart notes included a number of questions about trading -- -- none of which are new. My judgment is that any movement to develop guidelines must be accompanied (in parallel) by educational program for those who are not part of the negotiation process. The group felt that a strawman trading document for the Bay watershed might help focus the discussion.

Afternoon Session: In general, the afternoon session focused on developing a client for the negotiation team and on assuring that there would be a checkpoint where a decision to not move forward with any trading policy could be made. The group developed an alternative to the flow chart and that is included the flip chart notes. We did not spend significant time on the details of the negotiation process as it was proposed. Some are concerned about timing and this is reflected in the notes. With respect to the particular topics for the session the following was noted:

How will negotiation team representatives be selected and who will appoint them?

A professional facilitator with their own technical support would make the process more likely to succeed.

The schedule is too ambitious and might be extended by one-year.

No particular important points were made about other aspects of the strawman. Perhaps we just ran out of time and energy.