

From: William Keeling, VA DEQ

Date: Wednesday, April 20

Virginia could use CBP modeling tools to develop trading or offset baseline BMP scenarios and beyond baseline BMPs credits after WIP 3 is completed. However, that is far different than trying to quantify individual trades using a regional scale lumped parameter modeling tool. I do not understand EPA continuing to try and force the “partnership” jurisdictions to use CBP modeling for situations it cannot support or ever was intended to be used. This concept was objected to at the TOWG by multiple partnership jurisdictions attending that workgroup and for good and appropriate reasons. And without consensus at that workgroup it seems inappropriate for it to even be brought to the WTWG for consideration.

Understanding each trade we have in Virginia is on the order of a partial pound to one or two pounds of TP at most and in total around 600 pounds of TP. We do not see how a model that might be plus or minus 1000 pounds or more (being generous) in its TP estimate will even see this in terms of accurately defining/tracking loadings. Also the model works at a regional scale and cannot simulate site specific situations related to offsets or trading. Virginia and other partner jurisdictions experience significant amounts of our annually reported implementation being cutoff and not otherwise accounted for in CBP modeling. It would seem most likely that the offset/trading BMPs would also end up being cutoff or not allowed since the model will likewise not be able to accommodate them. Basically if the model cannot represent the baseline BMPs (annual progress) correctly how does anyone expect it to represent those BMPs that go beyond that level of treatment? This seems a very significant effort for very little to nothing to show in return. This does not seem a good use of resources and actually a distraction of the WTWG understanding all the issues CBP is facing trying to get phase 6 WSM functional and annually reporting progress.

This is Virginia’s formal written objection to the concept of using NEIEN and CBP watershed model to report/track NPS offset or trading BMPs. It simply is not the appropriate place or tool to use to try and account for Virginia’s offsets/trades. Even if implemented by EPA I have been instructed to say Virginia is not prepared or willing to utilize the proposed schema.

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From: Greg Sandi, MDE

Date: Thursday, April 21

MD Comments on the NEIEN BMP Trading Schema (WTWG)

- 1) The schema needs to be able to accommodate the separation of wet and dry manure in accordance with the proposed Manure Treatment Technology BMP panel report.
- 2) The schema needs to be able to delineate the 3 tradable constituents (N/P/TSS) as some BMPs, or groups of BMPs, may generate credits for one constituent but not all.
- 3) The schema needs to be able to track sales of BMP reductions from one BMP, among multiple buyers. (EPA addressed this in an email to me, but I want their answer to be explicitly stated to the other jurisdictions for their understanding.)

Tracking BMP trades using NEIEN (policy questions)

- 1) Maryland understands that the State and other Bay Partners do not recollect that a partnership decision on using NEIEN BMPs to track trades was a policy that was agreed to.
- 2) There are technical complications related to "Excess" in the model that may counteract any potential benefit a traded BMP might provide (e.g. A traded BMP might not get credit in the primary model run, therefore no difference will be observed in the secondary model run.)
- 3) How would we reconcile the distribution in load reduction credits between the two model runs to determine specific sector load reductions? Would another set of data need to be provided or would it be determined by Maryland's nutrient trading tool?
- 4) Overall there are concerns about mixing data streams and models to determine the reduction credits generated within Maryland that have not been addressed by EPA on a technical level.

From MDA:

- EPA should recognize the validity of the credits calculated by using the Maryland tool and allow for differences in the scale of the two models. The TM states that results need to mimic the Bay Model, not match it.
- BMPs should continue to be reported as currently done but can identify those BMPs that are being used to generate credits in a separate category.
- Focus should be on credits since a number of BMPs may be used to generate sufficient credits to meet a buyer's needs or there may be one BMP used by multiple buyers.
- Sequencing of BMPs may be different in the Bay Model and the Maryland tool.
- In Maryland, there are separate marketplaces for N, P, and sediment, which is likely to result in most trades having unsold credits in one pollutant or multiple pollutants. Trying link all of this to individual BMPs is an accounting nightmare.
- Also in Maryland, BMPs may be sold pending implementation so there will always be BMPs that are certified but not used until they are adopted or installed.
- The new, enhanced registry provides the number of credits traded, the date range, the buyer and seller geography (lat/long, HUCs, major basin), and the permit number. (Pretty much everything on slide 4 of Olivia's presentation) It does not track BMP specifics (to show, for example, that 10 acres of riparian forest buffer are behind the 20 credits generated).

From: Ted Tesler, PA DEP
Date: May 3, 2016

Matt and Pat,

Pennsylvania shares the concerns raised by Virginia in reporting trading program activity through the NEIEN interface. We believe that this approach is akin to using a mallet to swat a fly. Given the very few number of trades executed the few benefits of NEIEN trade reporting will not justify the effort. We believe that simple stand-alone activity reports for trading activity are sufficient for this purpose. The reporting of proposed trade activities or other offset data that is not true "Bay Progress Data" will only potentially introduce error or possible double counts within the system. We agree that because this approach has not been approved by the T&OWG (which we believe it should be), the concept should be tabled until fully vetted and after the release of the Phase 6 watershed model. We believe that a technical justification and governing body approvals should be presented in advance of the proposed reporting schema.

We look forward to an opportunity to discuss this further,

-Ted

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