

SUMMARY
Trading and Offsets Workgroup (TOWG)
Conference Call
Wednesday, September 18th, 2013, 10:00AM – 12:00PM
www.chesapeakebay.net/calendar/event/19164/

Introductions & Updates

- David Foster (Chester River Association; TOWG Chair) welcomed participants and reviewed the [agenda](#).
 - Jeremy Hanson (Chesapeake Research Consortium, CBPO) verified participants.

Accounting for Growth in Maryland

- Brigid Kenney (MDE) updated the workgroup on Maryland's accounting for growth strategy.
 - View [the presentation](#) for more details.
 - All the information is also available in the final report of Maryland's Accounting for Growth (AfG) workgroup, available at:
http://www.mde.state.md.us/programs/Water/TMDL/TMDLImplementation/Pages/Accounting_For_Growth.aspx
 - She explained there was a lot of discussion by the AfG workgroup on the issue of a Fee-in-Lieu (FIL). Compromise was reached that a FIL should be available at the start of the program. The workgroup recommended that price should be recalculated periodically. Counties will have option to run own ILF program, otherwise the funds are placed in the state's Bay Restoration Fund.
- Kenney asked for questions from the participants.
 - David Foster: how did the group arrive at cost for the FIL? Is it an annual or one-time cost?
 - Kenney: One time. We looked at available BMPs. For nitrogen, a permanent high cost option would be upgrading a septic system to BAT, for approximately \$3500. The group recommended the FIL should be recalculated every three years and they set it high enough to keep a robust market.
 - Eric Sprague (Alliance for the Chesapeake Bay: If a BMP for an offset has to be in the ground, how does that apply to when a FIL is paid? Would the fee count as a BMP "in the ground?"
 - Kenney: Payment of the FIL would count as compliance for the developer.
 - Sprague: Offsets must be permanent, so is the expectation that anything funded through FIL funds must also be permanent?
 - Kenney: Great question. This is still under discussion so details are still to be determined. Welcome to ideas or suggestions on this.
 - Russ Baxter (VA DEQ): Curious about Maryland's definition of "permanent" in the accounting for growth program. Would think that a septic system is far from permanent, given need for continuous operations and maintenance.
 - Susan Payne (MDA): Maryland also has a policy to maintain its agricultural production. Under the nutrient trading program, the retirement of large portions of agricultural land is not allowed.

- Erik Michelsen (South River Federation; AfG workgroup member) noted that members of the development community in Maryland are well aware of issues such as the TMDL. They have been advocates for the new stormwater standards and other efforts.

Accounting for Growth in Virginia

- Russ Baxter (VA DEQ) updated participants on Virginia's accounting for growth efforts.
 - View the presentation [here](#) for more details.
 - Baxter encouraged participants to contact him with any further comments or questions.
- Beth McGee (Chesapeake Bay Foundation): Curious about the rationale for focus on phosphorous for stormwater.
 - Baxter: Personally not sure about the specifics, but stormwater experts indicate that phosphorous is the keystone pollutant for stormwater in Virginia. We have found that if you control for phosphorous, you control for nitrogen as well.
- Foster: interested in some of the differences between Maryland and Virginia. Both states are interested in preserving farmland and keeping it in production. Maryland does not allow taking larger amounts of land out of production for conversion to trees, but Virginia does not have that policy.
 - Baxter: Our philosophy has been that the decisions are best left to the landowner. If the landowner wants to convert land to trees, we did not want to put restrictions on that.
 - Foster: As long as a developer is implementing the new required practices and standards for stormwater, then Virginia does not expect that there will be an increase in nutrient loads from the developed land.
 - Baxter: Correct. An analysis of predevelopment land uses found that Virginia's 0.41 lbs Phosphorous (per acre-year) requirement is sufficient to maintain nutrient loads at a no net increase level. So post-development should not see an increase if the standards are followed. The standards only apply above a certain threshold, not all projects, but the threshold will apply to most activities. offset...
- Marya Levelev (MDE) asked how the price is set for the offset credits.
 - Baxter: The prices are set by those who sell the credits. The only market at this time is the for permanent stormwater offsets to meet a portion of their post-development requirements. Developers have to do everything on site, or do what they can and purchase permanent credits for the rest, under the given restrictions. There were a couple fee-in-lieu programs, but those are being phased out.
 - Allan Brockenbrough (VA DEQ): To date about 70 lbs of permanent offsets have been transferred. Those exchanges have been in the \$10,000-\$15,000 per pound of phosphorous range.
- Stephanie Flack (Nature Conservancy): Will Virginia allow purchase of credits for MS4 permit compliance? Or just to meet post-construction requirements?
 - Baxter: We will allow it for MS4 compliance in the future. This was part of recent state legislation. We expect this will be more prominent in the next permit cycle when the MS4 areas have to do more than 5%.
- Chris Pomeroy (MD/VA Association of Municipal Water Agencies) asked both states to speak to reactions from large industrial permittees on these offset programs.

- Baxter: Right now we have a draft permit out for public comment. We need to spend more time characterizing and understanding the loads from industrial sites. Then we can address the issue more fully in the next permit cycle.
- Kenney: not sure about Maryland's perspective on this.
- Nikki Rovner (Nature Conservancy): there was discussion in the state Regulatory Advisory Panel that the localities may not be interested in purchasing nutrient credits. Sediment is not currently in the trading regime, so permittees will be focused on reducing sediment to meet their requirements, and in so doing they may reduce nutrients enough so they will not need nutrient credits.
- Payne noted that under legislation passed this last year, sediment was added to the nutrient trading program in Maryland.

Updates

- Foster thanked the presenters and participants for the discussion. He reminded TOWG members that they should continue to submit
- Ridge Hall asked for an update for the release of the technical memoranda from EPA.
- Susan Payne: Good idea. We would also like input on the schedule for the memoranda that the jurisdictions have already provided feedback on.
- Rountree mentioned he will be working with Cy Jones (WRI) to develop a presentation on how trading may be able to help jurisdictions offset and reduce loads from their on-site septic systems. The presentation will be given as a part of a STAC workshop in December.
- Foster: interested in discussion on trading for compliance.
 - Rountree agreed that this subject would be welcome. He felt it should be considered by the states as they continue to develop their programs.
- Rountree: It could be worthwhile for the workgroup to hear more about water quantity trading.
- Pomeroy noted that there was favorable language for trading on page 67 of Judge Rambo's opinion issued on September 13th. This is an issue that was raised by separate litigants (Food & Water Watch).
- The opinion is available online at http://www.epa.gov/reg3wapd/pdf/pdf_chesbay/BayTMDLCourtDecision91313.pdf
- Michael Helfrich (Lower Susquehanna Riverkeeper) asked to hear an update from Olivia Devereux on analysis of supply and demand in Pennsylvania. She indicated she was going to look at other states.

Adjourned

Next conference call:

Wednesday, October 16th, 2013 (canceled due to government shutdown)

Wednesday, November 20th, 2013

www.chesapeakebay.net/calendar/event/19166/

Participants

<u>Name</u>	<u>Affiliation</u>
David Foster (Chair)	Chester River Association
Pat Gleason (Coord.)	EPA Region 3
Jeremy Hanson (Staff)	CRC, CBPO
Guy Alsentzer	Lower Susquehanna Riverkeeper
Dan Baldwin	MDP
Russ Baxter	VA DEQ
Heidi Bonnaffon	MWCOG
Robert Boos	PENNVEST
Jay Braun	PA DEP
Allan Brockenbrough	VA DEQ
Pat Buckley	PA DEP
Steve Bunker	The Nature Conservancy
Nissa Dean	Alliance for the Chesapeake Bay
Paul Emmart	MDE
Stephanie Flack	The Nature Conservancy
Alex Foraste	WEG
Ridge Hall	Chesapeake Legal Alliance
Michael Helfrich	Lower Susquehanna Riverkeeper
Brigid Kenney	MDE
Marya Levelev	MDE
Beth McGee	Chesapeake Bay Foundation
Erik Michelsen	South River Federation
Betsy Nicholas	Waterkeepers Chesapeake
George Onyullo	DDOE
Rick Parrish	Southern Environmental Law Center
Susan Payne	MDA
Chris Pomeroy	V/MAMWA
Jacob Powell	Virginia Conservation Network
Marel Raub	Chesapeake Bay Commission
Rebecca Roose	EPA
Glynn Rountree	NAHB
Nikki Rovner	The Nature Conservancy
Kevin Schneider	GreenVest
Rosewin Sweeney	Venable LLP
Kim Snell-Zarcone	Conservation Pennsylvania
Eric Sprague	Alliance for the Chesapeake Bay
George Van Houtven	RTI International
Jennifer Walls	DE DNREC
Kate Zook	USDA, OEM