

**CHESAPEAKE BAY PROGRAM**  
**WATER QUALITY GOAL IMPLEMENTATION TEAM**  
**August 10<sup>th</sup>, 2009 Conference Call**

**SUMMARY OF DECISIONS, ACTIONS, AND ISSUES**

Update of No-Action and E3 Scenario Definitions and Approval – Jeff Sweeney

**ACTION:** Tanya Spano will verify the reason the reduction for significant industrial facilities is measured from TS to E3 level as inform WQGIT members.

**ACTION:** Jeff Sweeney will contact VA to clarify the impact of the definition of 25% of agricultural pasture land being returned to wetland for E3.

**ACTION:** Jeff Sweeney will contact Ken Pattison to explain the data set use to calculate the acreage of riparian buffers.

**ACTION:** Tanya Spano will follow up with the Wastewater Treatment Workgroup on the definitions for the significant industrial facilities and inform the WQGIT members.

**ACTION:** Bob Koroncai will determine if there are more changes and/or clarifications that the goal team can make, or if EPA needs to make the decision.

**ACTION:** CBPO will attempt to complete the Full Programmatic Scenario by October for WQGIT review prior to the PSC meeting.

Review of Bay TMDL 101 Public Meetings Messages, Presentations and Formats – Tom Damm

**ACTION:** Jennifer Sincock will copy WQGIT members on the federal register notice and inform them with the TMDL website goes live.

**ACTION:** Provide any feedback or suggestions on the EPA Chesapeake Bay TMDL website to Tom [tom.damm@epa.gov](mailto:tom.damm@epa.gov) or Jennifer Sincock [sincock.jennifer@epa.gov](mailto:sincock.jennifer@epa.gov).

## MINUTES

### Update of No-Action and E3 Scenario Definitions and Approval – Jeff Sweeney

- Understanding of the purpose of these scenarios is most important
- The difference between the loadings of the E3 and No-Action scenarios is the exercise, as seen in the charts that have been shown for the last 6 months with a fraction reduction from 2010 no BMPs to E3.
- E3 definition states that no costs and few physical limitations for implementing controls were considered and that E3 reductions could generally not be achieved; must be physically possible
- For atmospheric deposition the decision is still outstanding for allocation of target load. EPA recommendation is to keep it the same in No Action and E3
- Did not differentiate based on climate for wastewater treatment or potential for practices on crops, but there are inherent differences in crop types and acres of those crops.
- State is not limited to E3 maximums when submitting practices for implementation plans, milestones, progress assessments, or “what-if” scenarios; can submit practices not in E3

### No Action

- There was extensive vetting for 2003 allocation, these assumptions for this No Action scenario are mostly the same.
- Using No Action rather than 1985 because data from that time period is not good enough, would introduce inequity.
- Bob Yowell, PA DEP inquired about how multiple BMPs can apply to same acres, but not all possible BMPs can go on 10 acres, some are mutually exclusive. How does the model decide which things get done on the ten acres? Is there a max efficiency combination? Jeff Sweeney explained that when you have many BMPs, we know what is mutually exclusive and what isn't. There are many combinations and we have defined what is mutually exclusive and what isn't. We are working at county scale, not farm scale. Exclusivity has been subject to extensive review, just names of land uses have changed. We are 2 weeks behind in giving PSC E3 scenario and we have already run some scenarios. With time constraints it is very difficult to get approval or consensus from all workgroups.

### Everything, Everyone, Everywhere (E3)

- We expect that states will come in with new practices not included
- Wastewater Treatment Workgroup changed recommendation for industrial facilities
- This scenario assumes we know influence concentrations for industrial facilities. Tanya Spano explained that in some cases we're not sure that we have some of that data because initial monitoring may not have been done. No universal rule for all types of industry. Not going to be available in time for scenarios to be run. Industrial dischargers vary significantly. We are making broad assumptions for modeling. This is a percent reduction back from Tributary Strategy level to E3, less reduction than municipal.

**ACTION:** Tanya Spano will verify the reason the reduction for significant industrial facilities is measured from TS to E3 level as inform WQGIT members.

- No significant industrial wastewater was included, WWTWG added
- Atmospheric Deposition: recommendation in June was to use 2030 air scenario, changed to 2020 air scenario because it actually shows greater reduction
- Urban practices: many comments on feasibility, comments not disregarded, but definition hasn't changed much. Former Maximum Extent Feasible scenario being developed to address comments on do-ability

- New development: percent reduction on new development, extent depends on year scenario is run on
- There were comments on how we are defining different sectors. To me the best way to address is having two lines, at least one for PS and NPS. Seems like many jurisdictions leaning that way, and the recommendation may go to PSC. Difficult to get equity in one scenario among all sectors.
- Russ Perkinson, VA, states that there should be more than 10% difference between PS and NPS lines.
- Tanya Spano states that for many wastewater treatment plants, many had already implemented P controls in 1985, so idea that we can have same baseline for every sector is misleading, should not penalize a sector for different starting point.
- Nutrient management on urban changed
- Erosion and sediment control changed
- More clarity in agricultural practices
- Eliminated a few practices used in only one/two jurisdictions, so in any plan they would be going beyond E3, i.e. water control structures, dirt and gravel road, etc.

**ACTION:** Bill Keeling with work with Jeff Sweeney to review percent area available as riparian area for buffer implementation.

**ACTION:** Jeff Sweeney will contact Ken Pattison to explain the data set use to calculate the acreage of riparian buffers.

**ACTION:** Jeff Sweeney will contact VA to clarify the impact of the definition of 25% of agricultural pasture land being returned to wetland and riparian for buffers for E3.

- Helen Stewart, MDE, was concerned about the decision to allow point sources to reach design capacity and are at 4 mg TN/L discharge concentration, not E3. We're not doing something like this for NPS. Point sources have been effective in meeting gross allocation.

#### State's Reactions to E3, No Action

- Can you live with it in this context?
- If you cannot live with it, explain up to 3 things that are that basis for rejection.

**WV** – Can live with both, devil is in details when it comes to the slope of the allocation line

**VA** – Can live with both point sources and air. More concerns with E3, if E3 going to be unreal level of effort needs to be equally unreal, don't have design flow concept with urban stormwater, but applying to wastewater load, NPS not equal, depending on how much different of level of effort for PS, NPS. If just 10% difference, that is not enough. Without knowing the lines, we are uncomfortable. Can live with no action, for E3 we cannot live with it, unless there is significantly more than 10% difference between PS and NPS lines to make-up for this lack of equity it may be livable. Major problems include achievability of point source, more real that non-significant would get down, unreal to think that urban practices would get forest back, pasture conversion to wetlands for agriculture.

**PA** –

*Kenn Pattison:* as long as there is a clear indication of definition established by E3, difficulty is that PA already has bay program point source reduction program. To assume it would be different in E3 requires us to get more into NPS, which would lead into non attainability. If No Action is clearly defined we could live with it, if record indicated our concern.

*Pat Buckley:* E3 is not acceptable because it would take our point sources down to 3mg/l and there is no possible way that load could be addressed by NPS.

*Bob Yowell:* For NPS can't see how you can make it equitable, if I knew what the E3 scenario looked like in each state, how many acres of each BMP and we could look at for various state and that the model results showed that those menus got the desired result I could look at and see if those BMPs were equitable among various states. Forgetting point source part, how does it look farm to farm? Number is not going to be the same in every state and BMPs are preferred in different states, so how do you make it equitable otherwise?

**NY** – For E3, can't live with in NY, don't believe it is the way to go for allocating loads. May come down to September, October, and EPA will have to give us a load. We want to get going with something. For No Action, Ny has clothes detergent P limits in the 70s, using 2020 design flows when NYs are 1960 design flow, get over with it and do it

*Bob Koroncai:* I understand your temperature issues, but we need more info to proceed with that.

**MD** –

*Lee Currey:* I have to defer to Rich Eskin, but for No Action, not as many concerns, for E3, received comments from water management admin, N management usually are for extreme conditions. Allocation line set very high for point sources, still not clear about industrial, urban practices and NPS, I think they are general assumptions. When you mention equity, defines to some extent, but equity in allocation has two components, this and the line on the chart. For ag practices, we can't comment on at MDE.

*Bob Koroncai:* Industrial significant facilities are still confusing me, too.

**ACTION:** Tanya Spano will follow up with the Wastewater Treatment Workgroup on the definitions for the significant industrial facilities and inform the WQGIT members.

*Q:* is there a way to aggregate to % reduction on land use, not satisfy, but maybe something reasonable for a type of land. Given assumptions throughout watershed, many NPS could be addressed more simply.

**DE** –

*Jennifer Volk:* Defer to John for final judgment. Don't have anything additional to add to other's comments.

**DC** – We support you, we can live with them in context of the theory you describe, would like to see more justification of how E3 for point source was calculated. How were 3 and .1 decided on for significant points sources?

*Tanya Spano:* Through Wastewater Treatment Workgroup conference calls

*Bob Koroncai:* For No Action we need some clarity, especially on industrial facilities, but there is a pretty good feeling about the No Action scenario. On E3, mixed bag, some that can live with it, some that can't. For those that can't, seems like you need more information: BMP profile (acres), loadings, land use basic, handful with specific issues that you'd like us to address.

**ACTION:** Bob Koroncai will determine if there are more changes and/or clarifications that the goal team can make, or if EPA needs to make the decision.

*Bob Yowell:* On No Action, I heard several people say what year. I'm confused by it since Rich Batiuk said if could get the bay back to 1950 we'd be happy.

*Bob Koroncai:* We use the same base year for E3 and No Action. We will be taking a look at the base year and hoping to provide you a phase 5.2 analysis on the base year issue. When decided, both scenarios will be based upon that year.

#### Full Programmatic Implementation

- Highly subjective
- Cost analysis will happen eventually, and this could be one scenario to do that.
- some source sector workgroups could not come to any consensus, said that EPA could decide

- Value of this scenario is as a marker, not part of the allocation procedure; interesting to know what Tributary Strategies could get, what full funding could get, what any envisioned program could be pushed

**ACTION:** CBPO will attempt to complete the Full Programmatic Scenario by October for WQGIT review prior to the PSC meeting.

### **Review of Bay TMDL 101 Public Meetings Messages, Presentations and Formats – Tom Damm**

Tom provided a quick overview of the updated plans for TMDL outreach ([Attachment B](#)). He announced the EPA Chesapeake Bay TMDL website, which will go live this week:

[www.epa.gov/chesapeakebaytmdl](http://www.epa.gov/chesapeakebaytmdl)

**ACTION:** Jennifer Sincock will copy WQGIT members on the federal register notice and inform them with the TMDL website goes live.

*Q:* We would like to schedule meetings with webinar release, please inform us of data as soon as available.

- Pat Buckley would like to be informed of webinar events for local government.
- Tanya Spano pointed out missing elements include the 2025 implementation deadline, consequences, cost, etc. that she thinks should be acknowledged.

**ACTION:** Provide any feedback or suggestions on the EPA Chesapeake Bay TMDL website to Tom [tom.damm@epa.gov](mailto:tom.damm@epa.gov) or Jennifer Sincock [sincock.jennifer@epa.gov](mailto:sincock.jennifer@epa.gov).

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