

Questions re: Nutrient Trading Policy

General questions

- Where is the legal/statutory/regulatory authority for the Nutrient Trading Policy? What is the authority for the Chesapeake Bay Strategy to govern Pennsylvania?
- Where else has this been done? Have they had successful trades?
- What is the projected impact on the homeowner/taxpayer who may see increased rates for wastewater treatment? How does this impact compare to the impact on those who cause/contribute to the non-point sources?
- Has DEP done an economic analysis on achieving nutrient reductions indirectly through trading vs. by directly addressing non-point sources?

Program implementation

What program measures will be used to measure the success of the program?

What are the plans and timeframe for transferring the program to the private sector?

At what level of success will it be transferred?

When moved from DEP's jurisdiction to the private sector, how will accountability be ensured?

- How does this fit into the existing framework of enforcement of standards, permits, etc.? How will private contracts be incorporated into an NPDES permit? How will private contracts affect citizen enforcement actions authorized under the Clean Water Act?
- How will the interim program be implemented and staffed?
 - Who will be responsible for monitoring and verifying nonpoint source nutrient and sediment reductions?

Given the ongoing budget concerns, what are the department's plans for staffing this effort?

Where is the workload analysis for implementing this policy and program?

- What does DEP consider to be advanced nutrient management techniques?

Measurement and Accountability

While trading has successfully occurred for years in the context of air quality, water quality programs do not have the same mechanisms to ensure accountability. The policy states that DEP "may" monitor BMPs but it apparently won't be required; in air trades, there are requirements for CEM and stack testing. How will those involved in this interim program be held accountable?

- How will DEP determine the baseline from which nonpoint source nutrient and sediment reduction credits are generated?
- How will DEP quantify, monitor and verify nutrient and sediment reductions from forested riparian buffers, cover crops, and advanced nutrient management techniques?

- What are the monitoring methods that sources will be required to install to calculate and verify the nutrient credits they generate?
- What methodologies will DEP use to justify deviation from the 1:1 trading ratio to account for nonpoint source nutrient reduction uncertainties and to compensate for the loss of a pollutant's volume caused by natural attenuation during travel over land or in water?

Water Quality Improvements

Will the Chesapeake Bay model be 'trued up' against actual impacts on water quality every year, to ensure that trading doesn't just become a shell game with no actual environmental improvements?

- The policy states that the department intends to use a combination of "watershed permits and individual NPDES permits for documenting point source trading." Please explain what a watershed permit is, what's the statutory foundation for such a permit, who'd be required to obtain one, what it would regulate, how regulated entities would demonstrate compliance, whether there will be permit fees, who will pay them, etc.