

## **Attachment 1: Point Source Allocation Strategy**

### **DEP Decisions on Point Source Workgroup (PSWG) Alternate Allocation Proposal**

New effluent limits for NPDES permits for point sources are needed to meet new water quality standards promulgated by Maryland in August 2005, which relate to restoration of the Chesapeake Bay. The effluent limits are being based on annual mass loads for nitrogen (TN) and phosphorus (TP) for point source facilities in the watershed, in relation to wastewater flows (i.e. “cap loads”). The Department developed an allocation approach described in Pennsylvania’s Chesapeake Bay Tributary Strategy (December 2004) to accomplish the compliance obligations with respect to the new Maryland standards.

The key issue raised through the work group process was whether an alternate approach to allocating the reductions assigned to point source could be considered. The direction given to the PSWG was that change to individual discharge loads was acceptable, however, no changes could be made to the overall point source cap load.

The workgroup focused on individual discharger cap loads, anticipated cost, availability of treatment technology and implementation timeframe. In late June, the results of those discussions were presented to the Chesapeake Bay Tributary Strategy Steering Committee with a recommendation that they be distributed to the affected significant dischargers for review and comment. A significant discharger is any sewage treatment facility with design flows of 0.4 MGD or greater; or any industrial waste facility, which discharges 75 lbs TN and 75 lbs TP.

The alternate proposal for point source compliance details a rationale for having plants treat to 6 mg/l TN and 0.8 mg/l TP at design flow, rather than 8 mg/l TN and 1 mg/l TP at their projected 2010 flow. The Department and EPA staffs have reviewed the technical aspects of this proposal in detail, and the Department has conferred with other stakeholders and experts about the alternate approach.

The alternate proposal was available for comment by the affected dischargers for six weeks in 2006 from mid-July through the end of August. The Department received 80 comment letters. A significant majority of the commentators opted to send comments in favor of the alternate allocation proposal under consideration. Some were in favor even though they were negatively impacted by the new proposal. Only a few of the comments received were opposed to the alternate allocation proposal. At least one commentator wanted the Department to give the facilities the opportunity to choose their loads using the alternative that is best for them.

#### Decisions

Based on the majority of the comments received (92%), the Department has decided that the alternate allocation method will be implemented. Specifically, in accordance with the PSWG recommendations:

- a. Existing “significant” sewage dischargers will be expected to achieve a cap load based on an average of 6 mg/l TN and 0.8 mg/l TP at design flow.
- b. A significant sewage discharger will be able to meet its cap load by achieving an annual loading equivalent to 8 mg/l TN and 1 mg/l TP at design flow, but will need to either arrange for a trade to achieve its cap load, or contribute a fixed annual amount, to be determined based on cost of credits to meet performance levels of 6mg/l TN and 0.8 mg/l TP, to a dedicated fund that supports agricultural or other non-point source BMPs.
- c. The Department will implement a phased approach imposing TN and TP cap loads for “significant” sewage dischargers, based on their respective delivered loads to the Bay. This phased approach would not prevent any plants from implementing an earlier implementation schedule if they choose. The Department has the responsibility and reserve the right to secure additional reductions across any/all sources if necessary to meet the cap limits in 2010.
- d. For non-significant facilities, any expansion must result in no net increase in loading, based on current annual average daily design flow and current average effluent nutrient concentrations.
- e. Trading for nutrient reduction credits will be encouraged as a cost-effective method of achieving cap loads.
- f. Implementation of the Tributary Strategy for industrial point sources for the thirty (30) significant industrial direct dischargers caps those sources at their aggregate 2002 loading, plus a 10% reserve for future growth. The work group suggested the same consideration for significant industrial customers connected to sewage systems, perhaps in the form of an adjusted cap load for the sewage discharger. The Department investigated the significance of this scenario and was unable to determine if it presents a real problem. Therefore, this type of situation will be reviewed on a case-by-case basis.
- g. Any significant sewage dischargers that have already voluntarily accepted NPDES permit renewals based on achieving 8/1 at 2010 flows will not be required to achieve lower cap loads based on this alternate approach.
- h. All sewage discharges proposing to expand their facilities beyond existing design flows will be evaluated in terms of where they would fit under the phased approach.
- i. As in the current strategy, any plant with final Act 537 approval for increased design flows before August 29, 2005 (effective date of Maryland water quality regulations) will receive cap loads based upon these increased design flows.
- j. The Department will continue development of the Watershed NPDES Permit approach in order to facilitate implementation of the Tributary Strategy.

- k. Permitted CSOs under an approved LTCP (long term control plan), will be excluded from contributions to the nutrient cap at that particular facility.