

August 30, 1999 Meeting Summary

A list of those who attended the meeting is attached. Copies of Draft #19 rules (July 1999) were distributed. Draft #19 rules include revisions to address the U.S. Environmental Protection Agency's (EPA's) comments and changes the Workgroup recommended for the watershed management planning rule (Rule 22), the watershed designation rule (Rule 21) and to allow credits generated in a nonattainment area to be used in an attainment area located in the same watershed.

The Workgroup approved the July 1, 1999 meeting summary as final.

The Workgroup spent most of the meeting reviewing Draft 19 rules, discussing the format, content, and timetable for completing a side-by-side guidance manual and preamble.

After discussion, the Workgroup agreed not to recommend a discount factor to address distance between a source that generates and a source that uses credits. The Workgroup felt that the draft rules contain a number of factors that taken together should be adequate to address this issue, including:

1. A 2:1 trading ratio.
2. The Department may establish site-specific or trade-specific trading ratios on a case-by-case basis as necessary to assure that water quality standards are maintained.
3. Directionality is built into the rules.
4. Trading under a total maximum daily load (TMDL) will provide net loading reductions beyond the wasteload allocations, loading allocations and margins of safety established under the TMDL.
5. The rules include a discount factor to address impoundments.
6. Many of Michigan's major watersheds are of a size that reduces the concern over distance between generators and users of credits. The larger watersheds could have higher discount factors set by the department on a case-by-case basis.
7. The rules prohibit any use of credits that would result in an adverse localized impact.

Urban stormwater removal efficiencies to complete Tables 1 and 2 will be provided from members of the Workgroup by September 10, 1999. A subgroup will review the agricultural baseline quantification procedures to be sure that they are correct. This will also be completed by September 10, 1999.

The Workgroup made assignments for the completion of a draft preamble, Draft 20 Rules and Rule Index by September 30, 1999. Comments on the side-by-side prepared by Pete Maciejewski and write-ups on individual rules are due to Ted Starbuck by September 30, 1999. After these have been compiled, they will be distributed to the Workgroup for peer review and comment before being finalized.

The Workgroup made a number of recommendations that are necessary for the trading program to be successfully implemented. These are as follows:

1. Funding. The Workgroup recommends a permanent funding source be established after the program has been in place long enough to determine and document the level of resources that

will be needed to administer the program. A specific time frame was not discussed. Based on the air emission trading program, it may take between three to five years to achieve a level of trading activity that can be expected to continue on a long-term basis. In the meantime, the Workgroup feels that the costs of implementation should be borne by the existing Department program funding levels.

2. Internet Access. Information is vital for trading to occur and to allow the public to track trades. The Internet provides an accessible means of providing information necessary for trading to occur and be tracked. The Workgroup recommends that the Department develop and maintain a web page with the following components:

- a. Background information - what trading is and how it works.
- b. Access to trading rules, procedures, and forms.
- c. A Geographic Information System to delineate watersheds and locate where trades occur.
- d. Access to an electronic trading registry that is maintained by the Department.
- e. Links to other trading sites and programs, such as the Great Lakes Trading Network.
- f. Links to EPA sites.

3. Information and Outreach. The Workgroup recommends that the Department promote and provide training for the new program. Various ways to accomplish this were suggested, including training to Department staff, trading workshops for the public and private sectors at two or three locations across the state, publications, and presentations. Several members of the Workgroup highly recommend special efforts by the Department to integrate trading into permitting, the development and implementation of TMDLs, programs to address urban stormwater, local watershed initiatives, and implementation of the Clean Michigan Initiative.

4. Water Quality Trading Guidance Document. The Workgroup recommended that a guidance document be prepared to provide background, explain the intent, provide examples, and cross-reference the rules. The Workgroup has agreed to develop a document with the goal of having it published in collaboration with the Department and the agencies and organizations represented on the Workgroup. Several members of the Workgroup would like to see this done at the same time the rules undergo formal rulemaking. Everyone on the Workgroup agrees this document should be available when the rules become effective.

There is a broad and high level of consensus within the Workgroup for the recommendations that the Workgroup has made. The recommendations are consistent with the findings and recommendations of the Market-Based Program Feasibility Study (Surface Water Quality Division, 1996) and the trading framework recommended by the Governor's Steering Committee for Market-Based Programs. The trading framework recommended by the Workgroup is consistent with and vital to the implementation of watershed initiatives at the local, state, and federal level.

For the program recommended by the Workgroup to be successful, the EPA must provide and support implementation of policy or regulations that:

- * Allow trading to occur in impaired waters pending development of TMDL's.
- * Allow trading as a nonregulatory incentive-based element to implement TMDL's.

- * Does not require a point source permit to be reopened and modified for every trade.
- * Does not require a nonpoint source to obtain a permit or incorporate nonpoint source requirements into point source permits.
- * Does not require a formal TMDL modification for individual trades between and among point and nonpoint sources.
- * Does not require that all management measures recommended under the Coastal Zone Act Reauthorization Amendments be implemented before a nonpoint source can generate credits.
- * Allows urban stormwater reductions greater than those achieved by complete implementation of the mix of management practices specified in a program submitted and approved under an National Pollutant Discharge Elimination System permit to be eligible to generate credits that can be used or traded.

The Workgroup decided that this would be the last full Workgroup meeting. Individual members of the Workgroup will meet over the next couple of months to finalize the preamble and users manual.

I would like to thank each Workgroup member for your input, perseverance, and patience. The high level of consensus for a statewide trading program could not have been achieved without your individual contributions and the very engaging discussions that occurred. The trading program rules prepared by the Workgroup will establish clear legal authority for water quality trading in Michigan and may also provide a trading framework that can be used by others. It has been an honor and a lot of fun to serve as the chair of this Workgroup.