

## February 17, 1999 Meeting Summary

A list of those who attended the meeting is attached. The December 17, 1998 meeting summary was approved as final (attached). Three handouts (attached) were provided at the meeting: Wayne County Comments on Water Quality Trading Policy - Draft 13 (Kelly Cave, January 12, 1999), revised pages to Draft 13 Rules which incorporated most of Wayne County's comments; and, a General Motors Corporation memo on Water Quality Trading Rule for Industrial Stormwater (Rebecca Maure, February 15, 1999).

A summary of the Governor's Steering Committee for Market-Based Environmental Programs (Steering Committee) was provided. The Steering Committee met on January 21, 1999 to review the workgroup's recommendations for a statewide trading program, to discuss comments made by the United States Environmental Protection Agency's (EPA) Region V office and the workgroup's recommendations for responding to EPA's comments. The Steering Committee adopted the workgroups recommendations for a statewide program and for responding to EPA with a couple of suggestions.

The workgroup recommended that provisions for trading to meet a technology-based effluent limitations specified in national pollutant discharge elimination system permits be deleted from the draft rules in response to EPA comments. The Steering Committee supported this recommendation but felt that provisions for intra-plant trading should be retained. Intra-plant trading is discussed in EPA's Framework for Watershed-Based Trading and members of the committee felt that it is important to pursue this opportunity with EPA.

The Steering Committee agreed with the workgroup's conclusion that there is limited potential for concentrated animal feeding operations (CAFOs) to participate in trading because of the "zero discharge" design requirements in federal regulations. The Steering Committee felt that agricultural operations associated with, but not part of, CAFOs should be eligible to generate credits and participate in trading. This recommendation is consistent with the workgroup's recommendations and is supported by the department.

The Steering Committee recommended adding a provision for citizen action to address compliance problems and hold the department accountable in addition to the NPS accountability and enforcement provisions in the current rules. Specifically, it was recommended that the rules include a provision for citizen suits. After Informal discussions with staff from the Department of Attorney General, SWQD staff concluded that this would not be possible without revisions to Part 31 of Act 451 to provide such authority. SWQD staff are proposing a citizen petition as an alternative. This approach is contained in the revised pages of Draft 13 that were handed-out at the meeting.

The Steering Committee supports the workgroups recommendation to hold the line on the following issues:

1. Trading should be allowed in nonattainment waters prior to a total maximum daily load being established or as part of a TMDL-implementation strategy.
2. Coastal Zone Act Reauthorization Amendments (CZARA) management measures are not promulgated technology standards and should be required for all nonpoint sources in coastal areas. In other words, NPS in coastal areas should not be required to go beyond CZARA management measures to generate credits and should be allowed to use credits to provide equivalent reductions where consistent with water quality standards.
3. Municipalities should be allowed to use credits to achieve maximum extent practicable (MEP) controls for urban stormwater, and to generate credits by making reductions beyond MEP.

4. Trading ratios of 7:1 to 10:1 are not appropriate, but an additional 10% offset for credit use in nonattainment waters would provide greater water quality benefits and is responsive to EPA comments.

5. Permits should not be required for every trade. In other words all NPS requirements for trades should not have to be incorporated into a point source NPDES permit.

The changes recommended by Wayne County (1/12/99) and the recommendations of the workgroup and Steering Committee have been incorporated in Draft 14 Rules (attached).

The next meeting of the workgroup has been scheduled for Wednesday, March 24, 1999. It will begin at 9:30am and will be held at the offices of the Michigan United Conservation Club in Lansing.