

Water Quality Trading Workgroup

Summary of the January 13, 1998 Water Quality Trading Workgroup Meeting

The first meeting of the workgroup began with a welcome and opening remarks by Mr. Tracy Mehan, Director of the Office of the Great Lakes. Surface Water Quality Division (SWQD) staff presented an overview of the findings of the SWQD Market-Based Program Feasibility Study (July 1997). The group discussed fundamental policy and program issues, including: equity, accountability, closed/open trading paradigms, baselines for point and nonpoint sources and the concepts of water quality-based and technology-based trading.

The group considered several mechanisms related to how trading would take place. Agency rules, permits, contracts between trading partners and voluntary watershed management plans were identified and compared. The group was in favor of keeping the range of options open as we moved forward. The baseline for point and nonpoint sources came up in the context of equity, both between point and nonpoint sectors and among agricultural nonpoint sources. The group discussed differences and similarities, regulatory implications and commonly held perceptions of generally accepted agricultural practices (GAAMPS) and best management practices (BMPS). The group recognized the equity issues associated with these concepts and there was a general consensus that the terminology (GAAMPS vs BMPS) was not as important as the actual practices themselves being implemented in an equitable and accountable manner consistent with the "right to farm" and the effect of improving water quality.

After lunch, the group walked through the recommendations contained in the feasibility study. There was a consensus within the group for all of the recommendations, except for the recommendation for technology-based trading. This generated an excellent discussion that led into program design considerations and water quality implications. A concern was raised about the use of credits that would result in localized degradation of water quality. A distinction was made between closed (TMDL-based) trading where all point and nonpoint sources would have a shared burden to make reductions so that localized increased loadings (decreased water quality) would not occur as a result of trading. It was also noted that technology-based trading would capitalize on the marginal control costs for source categories. The iron and steel industry example was noted where cost savings were significant, there was not localized adverse water quality affect and no greater permit/enforcement effort required. The group decided to discuss this issue further. It raises a key regulatory for the agency, anti-degradation.

The group felt that a voluntary program should require acceptance of trading program rules or regulations and the ability to opt-out. A suggestion was made for the consideration of a opt-out buy-back provision which would require sources to purchase (buy-back) credits that had been registered but not generated. The group was receptive to this concept which would apply market forces on both ends of trading (generator and seller).

The group agreed to the approach of retiring a percentage of each trade, the use of trading ratios and ecosystem indices as options to be considered for providing a direct environmental benefit from trading. The ecosystem index was suggested in the context of wetlands which would be created to improve water quality and which would also have the added benefit of providing aquatic and wildlife habitat. Several members of the group expressed a preference for a direct retirement of credits but no one objected to giving further consideration to "ecological indices" as a measure of environmental benefit.

Watershed-based trading was agreed upon but several members of the group raised the importance and questions related to determining or defining the "watershed" for trading purposes. The group discussed remedial action plans (RAPS), community-based watershed management plans and nonpoint source management plans approved by the department under Section 319

project grants in the context of how to define a watershed. Everyone agreed that this would be a very important and difficult issue affected by the pollutant to be traded and the end points or desired out comes of trading. It raises issues such as: Can trading to meet a 1.0 mg/l phosphorus limit be done on a major tributary to a great lake with nested trading to comply with more restrictive water quality-based effluent limitations in a smaller segment of the major tributary? Other issues are raised by the specific characteristics of individual watersheds such as: existing water quality, the relative number and mix of point and nonpoint sources and loadings, population growth, land use patterns and economic development.

The meeting wrapped-up with a discussion on how the group would like to be organized and who should be the chair. Considerable concern was expressed about the need for the group to have notes and minutes for each meeting. Members of the group suggested that individuals should have the ability to submit written comments on agenda items for meetings they are unable to attend. The group agreed to take these issues up at the next meeting. The group also decided to work section by section through the strawman rules which were handed-out at the meeting.