

March 24, 1999 Meeting Summary

A list of those who attended the meeting is attached. The February 17, 1999 meeting summary was approved as final without revisions. There were a number of handouts provided at the meeting: "Part XXX. Water Quality Trading - Draft #14" (SWQD, March 1999), Draft 14"a" (same as Draft 14 except discharge reduction credits changed to credits), "Water Trading Comment" (GM, March 18, 1999), "Comments on Water Quality Trading Policy - Draft 13, Revised Pages" (Wayne County DEQ, March 23, 1999); and, "Comments - Draft Rule for Water Pollutant Trading" (FLB Services, Inc., March 23, 1999). Copies of all these handouts are attached except Draft 14"a".

Most of the meeting was spent discussing the approach for finalizing the draft rules and preparing a technical support document. The workgroup process will be completed in the next 4-6 months so that formal rulemaking can be completed by the end of the year. In the next 2 months, the group will finish its review of the draft rules to assure that the framework for a statewide program is acceptable. After this is done, it was agreed that a sub-group will be established to make recommendations for possible reorganization and final word-smithing to make the rules as clear and user-friendly as possible. At the same time the group will prepare a technical support document so that both are ready at the same time.

The technical support document will explain important terms and provisions of the rules, provide a cross-reference of rules that are related or address the same issues, and provide guidance and examples to those who may wish to participate in trading. The group felt that the target audience should include citizens, agency officials, industry, municipalities, environmental and agricultural organizations and legislators. The group agreed on a side-by-side format and Pete Maciejewski offered to develop the format for discussion at the next meeting.

The workgroup made assignments for individuals to prepare draft write-ups for each of the rules. Each write will include the following elements, where appropriate: purpose of the rule, explanation of the rule in 'layman language', external references to appropriate reports, studies, documents or regulations, cross-references to other rules that are related or address the same issue (internal reference), and examples of how the rules would be interpreted and applied. Examples of baseline calculations for a typical point source, urban and industrial stormwater and agriculture will be provided as appendices. Mark Kieser will prepare the appendices with help from others on the group. The write-ups for each rule are to be completed and will be discussed at the next meeting. For those rules that more than one individual has been assigned, it will be the responsibility of the group to coordinate and prepare the write-up. In addition to the individual write-ups of specific rules that were assigned, Pete offered to do an independent write-up for each of the rules. The chair of the group will prepare a preamble for the TSD. This will be E-mailed to those who were in attendance at the meeting for review prior to the next meeting.

The remainder of the meeting was spent discussing the program evaluation rule (Rule 20) and the citizen petition rule (Rule 21). There is support for a requirement that the department conduct periodic program evaluations to assure that the goals of the program are being met. The evaluations will also provide information that can be used to assess trends in water quality where trading occurs, determine whether trading causes adverse localized impacts, determine the costs of administering the program and track the credits that are traded and retired. The group discussed what the price paid for credits should be compared with to evaluate the economic savings from trading. The group decided to compare credit cost to direct control cost if such data is available, but not to require the buyers of credits to furnish this data. The group recommended that the department should be required to look at certain indices, including: the specific watersheds where trading occurs, the type and number of trades, the quantity of credits generated, used, traded and retired. This information is basic to the program and is sufficient to determine whether modifications are necessary. These recommendations will be incorporated into Draft 15 rules (attached) for discussion at the next meeting.

There is support within the workgroup for a citizens petition provision, especially with the environmental groups. This is seen as an important mechanism to enhance point and nonpoint source enforceability and to assure that the department is accountable to the public. The group recommended that the draft rule be modified to provide the generator and user of credits with a copy of a petition filed by a citizen relative to their operations. This recommendation has been incorporated into Draft 15 rules.

The group also discussed a recommendation made by the National Wildlife Federation to incorporate a dual notice of generation for nonpoint sources. Specifically, NWF suggested that a notice should be required after, not just before, a nonpoint source has actually implemented a management practice or installed a control structure. The intent is to 'remind' the nonpoint source of its obligation to properly install and maintain activities that are undertaken to generate credits and to enhance enforcement. While the whole group did not see this as really being necessary, there is support as long as it does not become a barrier for agricultural participation. It was pointed out that the rules already include a form of dual notice. A notice of generation is required of the person or source that generates credits. This notice must include the effective date upon which credits will be or have been generated. A notice of use is required before any credits can be used. Credits will be registered with series numbers that make it possible for credits to be tracked from generator to user. The group also discussed several other options including annual or semi-annual reporting or annual re-registration and certification of credits. Another alternative is for periodic independent verification by a certified planner that nonpoint source measures are being implemented properly. The group did not reach a consensus or make a recommendation on how to address this issue.

There is support for a watershed management planning provision in the rules. Several members of the group commented that the department does not have a consistent approach or mechanism to facilitate the development and implementation of community-based watershed management plans. The department currently has different provisions and requirements for 319 projects, Clean Michigan Initiative (CMI) funds, remedial action plans (RAPs) and urban stormwater. This is duplicative and increases costs. Several members of the workgroup that have a lot of experience with these kinds of programs recommend an integrated approach so one watershed management plan could be used for trading, CMI, RAPs and 319 projects. The watershed management planning provisions (Rule 19) will be discussed further at the next meeting.

The next meeting will be held at the Michigan United Conservation Club office on April 22, 1999. It will begin at 9:30am.