

Update for TOWG Accounting for Growth

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Agenda

- What's this all about
- How did we get here
- Basic principles
- Work Group
- Points of consensus
- Points without consensus
- Tentative schedule
- Where to go for more information

What's This All About?

- Bay TMDL
 - EPA provided allocation to the Bay states for nutrients (nitrogen and phosphorus) and sediment
 - State divided that allocation among sectors
 - We must reduce existing loads to meet allocations
 - We must account for new loads that have no allocation
- Accounting for Growth (AfG) – Maryland's WIP
 - Allocation for wastewater built in growth capacity
 - No allocation for new loads in the other sectors

How Did We Get Here?

- 2012 Effort
 - Discussion draft and draft regulations released
 - Eight meetings held around the State
 - Ended without broad consensus
- 2013 Effort
 - Facilitator engaged
 - Work Group convened
 - 10 meetings plus committees plus give and take
 - PROGRESS!

Basic Principles

- Right to pollute does not transfer with the land
- If a load doesn't have an allocation, it must be offset
- An allocation is a State resource to be managed by the State
- Loads must be offset permanently, but the practices producing the offset may change and the responsibility for them may shift
- AfG cannot undermine other important State policies

Work Group

- Seventeen persons, representing
 - Agriculture (3)
 - Commercial and Residential Development (3)
 - Environmental NGOs (4)
 - Local Government (4)
 - The Public (3)
- Professionally facilitated
- Support team provided information and technical support

Points of “Consensus”

- To what types of activity does AfG apply?
- The formula:
$$\begin{aligned} & \text{the post development load} \\ & - \text{the allocation for the development} \\ & \hline & = \text{the load to be offset} \end{aligned}$$
- Nitrogen, phosphorus and sediment must be offset

Points of “Consensus”

- Fee in Lieu
 - Available
 - Setting price
 - Counties should have the option to run Fee-in-Lieu programs

Points of “Consensus”

- Margin of safety / Use of ratios
- When offset must be in place
- Local Impairments

Points of “Consensus”

- Effective Dates
- Grandfathering

Points Without “Consensus”

- How to calculate the post-development load
- Assigning an allocation to the development

Points Without “Consensus”

- Some details on fee-in-lieu
 - How to address disturbance of less than an acre
 - How can counties qualify to run their own fee-in-lieu programs

Points Without “Consensus”

- Trading geographies
- Regulation of brokers and aggregators
- Specifics on grandfathering
- Details on credit verification

Tentative Schedule

- August and September – Agencies consider recommendations; develop policies and draft regulations
- September 17 – Brief House Env. Matters Committee
- Mid-October – MDE submits proposed regulations to the AELR Committee
- October 30 – Earliest submission of proposed regulations to the Maryland Register
- December 30 – Earliest possible submission of Notice of Final Adoption to the Maryland Register
- January 20, 2014 – Earliest possible effective date

More Information

- www.mde.state.md.us/Pages/Home.aspx
- www.mde.state.md.us/programs/Water/TMDL/ChesapeakeBayTMDL/Pages/programs/waterprograms/tmdl/cb_tmdl/index.aspx
- www.mde.state.md.us/programs/Water/TMDL/TMDLImplementation/Documents/AccountforGrowth/AfGWorkGroupReport_FinalRev.pdf

Thank you

