

Offset Subcommittee

Issue Paper D – Offsets outside Bay Watershed

Background

The current statute for trading pertains presently to the Chesapeake Bay watershed only (ref HB2168 (2009)). The statute indicates that, “*The Board may establish by regulation a stormwater nutrient program for portions of the Commonwealth that do not drain into the Chesapeake Bay.*” Given that permittees outside of the Bay watershed may need off-site compliance options in the absence of local programs, the subcommittee will consider options for providing those.

Issue

At present, it does not appear that DCR is interested in administering a “buy-down” program or similar state option, until the dynamics of the expended Nutrient Credit Exchange have been hammered out. Even then, the adopted/suspended regulations would have only allowed for participation in the buy-down program within the Bay watershed.

Evaluation

Possible resolution of this matter could occur through the following mechanisms:

- 1) The Board/Department could establish a separate and parallel nutrient credit program for areas of the state outside the Chesapeake Bay Watershed.
- 2) Some other stopgap measure to allow contributions could be put in place in the regulations to provide a vehicle for off-site compliance.

Developing a parallel exchange program at this point may be unwise, given that Virginia will be grappling (presumably) with substantial revisions to the current credit exchange in the next two (2) years to accommodate the Bay TMDL objectives. As such, a fee could be established by the department which would be remitted to the Water Quality Improvement Fund to allow a vehicle for off-site compliance outside the Bay watershed.

Potential Regulatory Language Modifications

For sites located outside the Chesapeake Bay watershed, and where the offsite options of subsection A of this section are not available for use or where a qualifying local program otherwise elects to allow the use of this subsection, offsite compliance may be achieved through a payment to the Virginia Water Quality Improvement Fund at a rate to be established by the Department. The Department will identify funding rates that provide for generally equivalent reduction of nutrients and may adjust the rate periodically based on costs and nutrient reductions achieved.

Discussion

- Is this sufficient?
- Extent to which this provision is needed?
- Still would require on-site controls to extent practicable (presumptive MEP)?
- Other ideas?