

Offset Subcommittee

Issue Paper A - Thresholds for Off-site Compliance

Background

The previous regulatory language referring to the state “buy-down” provision indicated relaxed thresholds for small sites and re-development sites. Specifically, the language was as follows (suspended 4VAC50-60-69 *Offsite Compliance Options*, subsection B.3):

b. A new development project disturbing less than one acre in the Chesapeake Bay watershed may achieve all necessary phosphorus reductions through a payment.

c. A new development project outside of the Chesapeake Bay watershed must achieve all necessary phosphorus reductions on site.

d. Development on prior developed lands disturbing greater than or equal to one acre must achieve at least a 10% reduction from the predevelopment total phosphorus load on site and then may achieve the remaining required phosphorus reductions through a payment.

e. Development on prior developed lands disturbing less than one acre may achieve all necessary phosphorus reductions through a payment.

This provision was modified at the end of the regulatory process in order to provide an accommodation for small sites, infill sites, and redevelopment sites.

Issue

Committee members questioned the extent to which this provision would affect total loads, how many sites would be affected, etc.

Evaluation

DCR provided permit data for the period of February thru August 2010 for our evaluation. Based on a review of the permit data (charts attached), it appears that approximately 2/3rd of total permit issuance are for projects less than 5 acres in size, and that those permits represent approximately 10% of the total disturbance area subject to development and redevelopment. These percentages were verified as being generally representative for a longer timeframe (several years) of permit data. The committee felt that the five acre threshold was indeed an appropriate administrative threshold for allowing off-site treatment options (offsets). The subcommittee further posited that since the performance metric is nutrient loading, rather than disturbance acreage, the administrative threshold should also be expressed in lbs of nutrient load reduction required. Establishing the threshold in terms of nutrients would also avoid situations where a highly impervious 4.9 acre site were allowed to trade, but a 5.1 acre low density project would not. For a highly impervious five acre site, the total load would be around 10 lb of TP. Assuming an allowable load of approximately 0.41 lb/ac, the total allowable

load would be approximately 2 lb. As such, the removal requirement would be approximately 8lb/yr, which is proposed as the administrative threshold.

Potential Regulatory Language Modifications

3. Unless otherwise provided for in a local water quality program approved by the Board, utilization of stormwater nonpoint nutrient offsets to achieve compliance with the water quality technical criteria shall be subject to the following limitations:

a. (SEE ISSUE PAPER B)

b. A new development project or development on prior developed lands disturbing less than five acres or with a removal requirement of 8 lbs of phosphorus per year or less may achieve all necessary phosphorus reductions through offsets.

c. Development on prior developed lands disturbing greater than or equal to five acres or with a removal requirement greater than 8 lbs of phosphorus must achieve at least a 10% reduction from the predevelopment total phosphorus load on site and then may achieve the remaining required phosphorus reductions through offsets.

Discussion

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