



Maryland
Department of
the Environment

Cold water Committee meeting number 4

November 16th, 2018



Action Item Progress

- Coldwater Advisory Group Website
- Updates to Data summary Document
- Review of Comments Received for “*Draft Existing Use Identification and Procedure Documents*”
- Consult with AG office to ensure consistency and clarity in regulatory language
- Revise “*Draft Existing Use Identification and Procedure Documents*”



AG review of authority

- Maryland Antidegradation Policy is stated in 26.08.02.04:
 - *Waters of this State shall be protected and maintained for existing uses and the basic uses of water contact recreation, fishing, protection of aquatic life and wildlife, and agricultural and industrial water supply as identified in Class I.*
- However, Antidegradation Policy Implementation Procedures requires clarification in 26.08.02.04-1
 - *Where water quality is better than the minimum requirements specified by the water quality standards, that water quality shall be maintained. These waters are listed by the Department as Tier II waters.*



General Categories of Comments

General
language and
definitions

Comments on
ad hoc Advisory
Committee

Expand on Data
collection and
submission
requirements

Regulatory and
Policy Concerns

Notifications

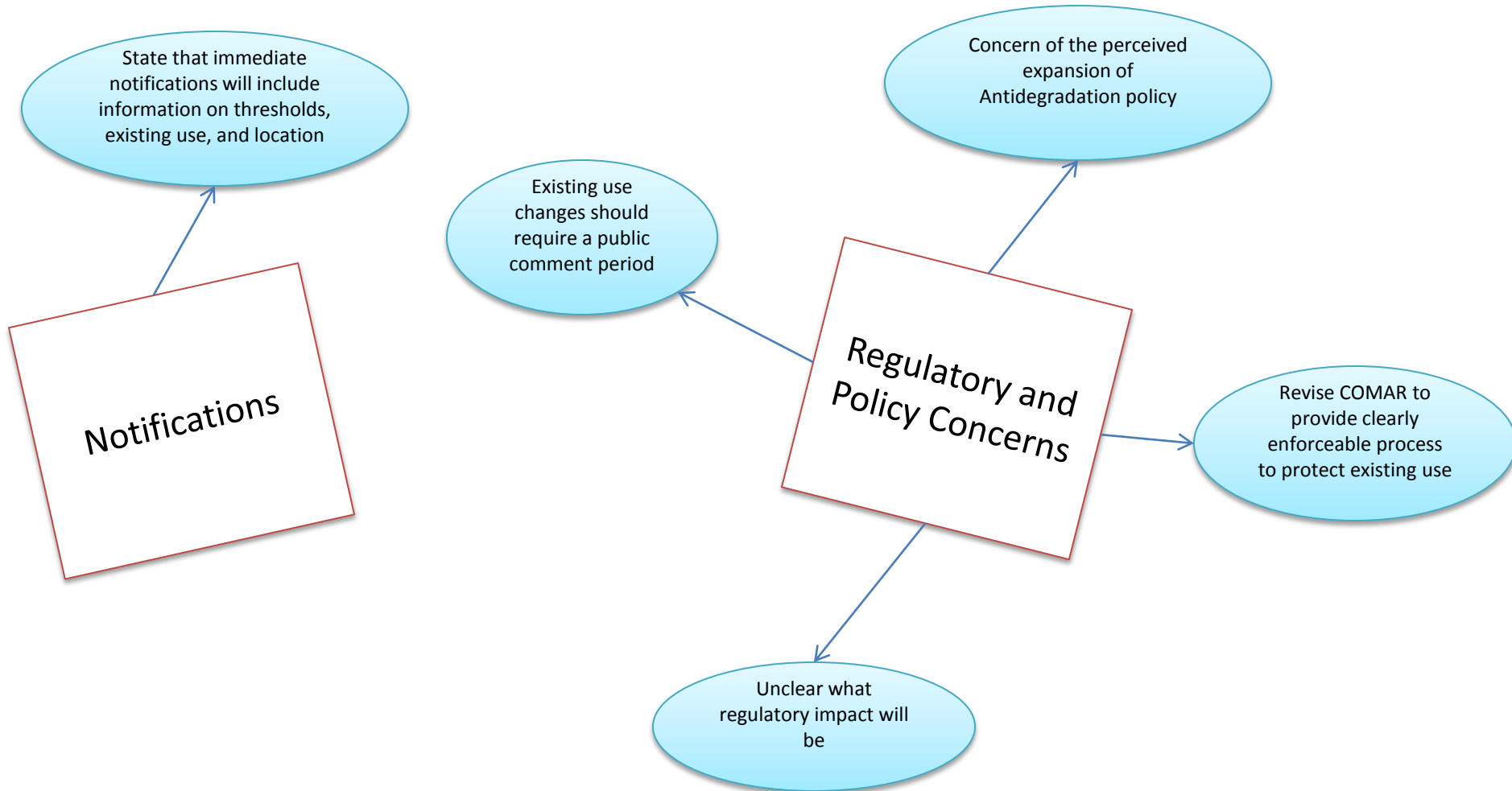


General Categories of Comments Used to Update Policy Document



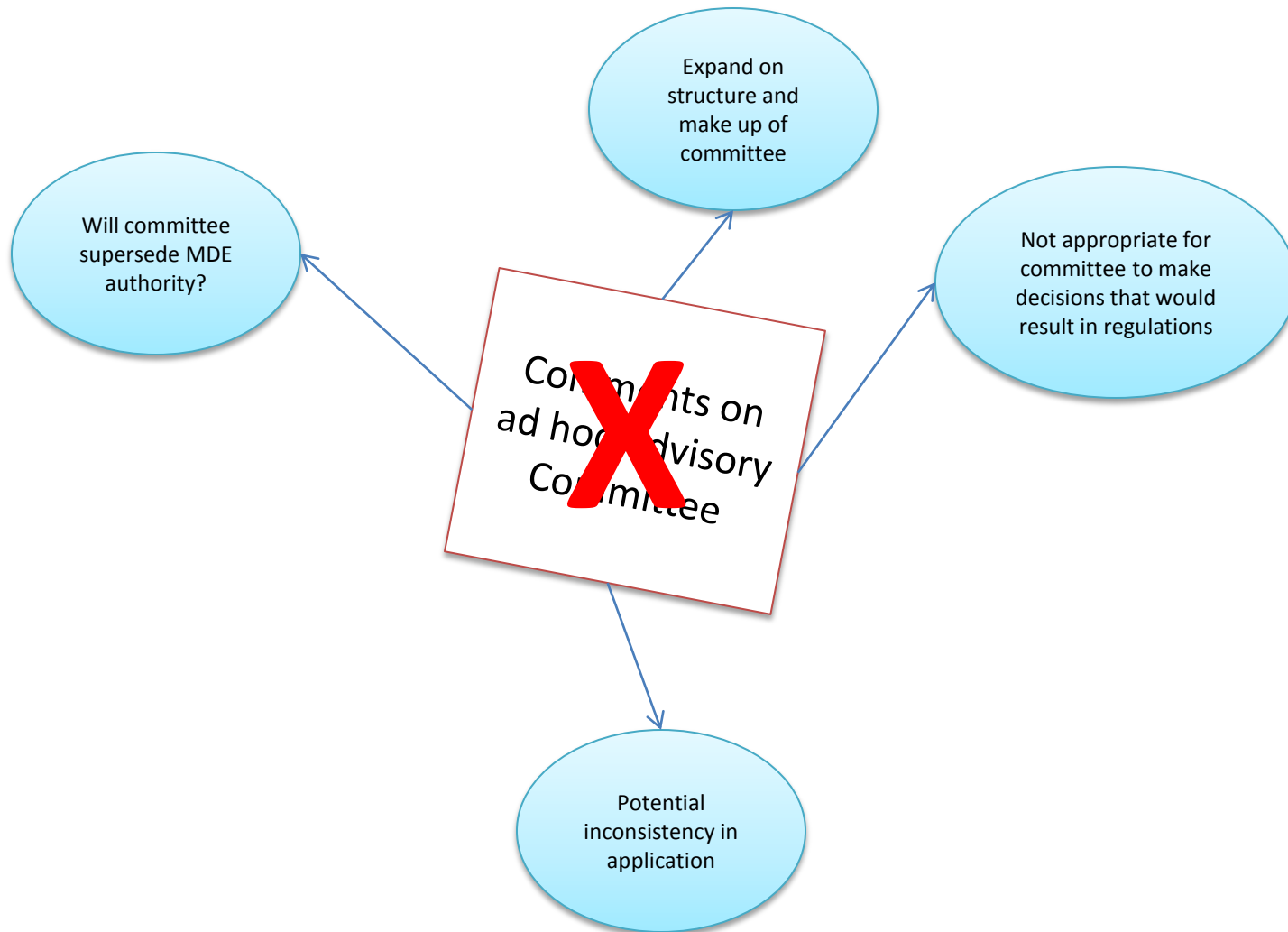


General Categories of Comments Used to Update Policy Document





General Categories of Comments





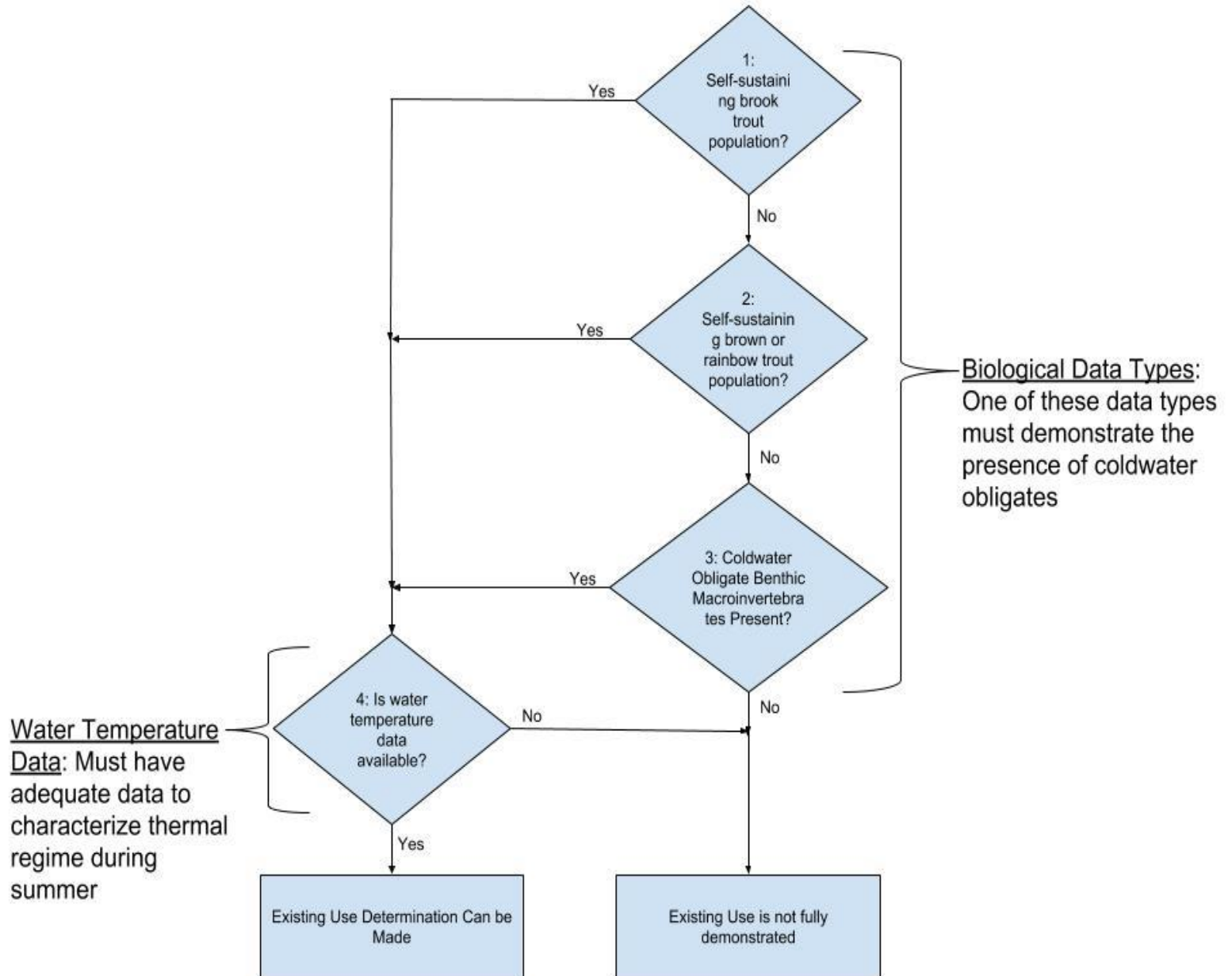
Substantive Updates to document

- Expanded description of the steps used for reaching an existing use determination:
 1. The Coordination of Monitoring Activities
 2. Submitting Data to the State
 3. Documenting an Existing Use
 4. Early Notification and Public Comment Period
 5. Summary Rationale and Final Notification
 6. Data Gaps and Identifying Monitoring Needs
 7. Regulatory Implications and Steps Taken to Reduce Regulatory Uncertainty



Substantive Updates to document

1. The Coordination of Monitoring Activities
 - Clarified types of data that MDE will accept
2. Submitting Data to the State
 - Added additional mandatory requirements related to existing use verification
 - Emphasized that raw data must be submitted
3. Documenting existing use
 - Use general scheme of flow chart
 - Note that flow chart is not used to determine scale of existing use, only the presence of an existing use





Substantive Updates to document

4. Early Notification and **Public Comment Period**

- 30-day public comment period
- Public hearing will be held **if requested during comment period**
 - Audio recording will be made public
- Final existing use determination will be made approximately 10 business days after close of comment period



Substantive Updates to document

5. Summary Rationale and Final Notification

- Ad hoc committee removed from procedure
- MDE, in consultation with DNR, determines use, temperature thresholds and scale
- MDE will produce an “Existing Use Determination and Rationale” document
 - Will describe and justify Use, threshold, and scale

6. Data gaps and identification of monitoring needs

- No substantial changes



Substantive Updates to document

7. Regulatory Implications and steps taken to reduce regulatory uncertainty
 - Broad and timely notification of presence of existing use
 - Screening Practices
 - Use of case-specific factors to inform the permit issuance process



Next Steps

- Finalize existing use policy and procedure document
- Final WSA Director's office review
- Comment period in Maryland Register
- Next round: Cool Water Designated Use
- Announcement of Proposed Rule making for Triennial Review