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Maryland Water Quality Trading Webinar Q&A

(Wastewater, Stormwater, On-Site Sewage Disposal, and Oyster Aquaculture)

Q: What is the cost of a credit?

A: Credits have a variable cost that is determined by the marketplace of supply and demand.

Q: Is there a fixed cost for credits?

A: There is no fixed cost; the market will be the driver for costs.

Q: Do you have to be a stormwater permittee to sell credits?

A: You do not have to be an MS4 permittee to sell credits. You just have to be able to meet the baseline requirements established in the regulations for your source sector.

Q: Will all sectors use the same form for purchasing credits?

A: The intent is to use one form for purchasing credits for meeting NPDES permit requirements. Those purchasing credits for other reasons should e-mail the trading administrator (mde.wqtrading@maryland.gov).

Q: Do I need to fill out a trading form if my organization performs a restoration projection in a local jurisdiction where an established memorandum of understanding gives credits to the local jurisdiction?

A: No, you do not need to fill out a trading form. The MOU between the jurisdiction and organization is the controlling documentation that must be submitted with the jurisdiction's annual report.

Q: Can new development and redevelopment generate credits from the stormwater practices installed to comply with development laws?

A: No, you cannot generate credit from a stormwater BMP that is required by development or redevelopment laws. The new/redevelopment can only generate credits from BMP practices that are beyond the minimum required under law.

Q: Can private redevelopment inside a local jurisdiction with an MS4 permit trade credits? Are private developers eligible to trade credits?

A: Credits generated by a stormwater BMP required as part of new development or redevelopment regulations are not eligible for trading.

Q: Is there a way to convert between credits and impervious acres treated?

A: Yes, credits are based on MDE's 2014 MS4 guidance document which provides the conversion factors. One impervious acre is equivalent to 7.69 TN lbs/yr; 1.91 TP lbs/yr; and, 0.43 tons/yr.

Q: Do I need to wait until a Phase I stormwater permit is modified to initiate trading?

A: Credits can be certified and registered before then; however, a Phase I permittee cannot apply credits to meet their permit requirement until the permit is modified.

Q: What is the process if an MS4 owns a wastewater treatment plant and wants to use credits generated by the wastewater plant for meeting its MS4 permit impervious restoration requirements?

A: While there may be only a single party, the fact that this is a wastewater point source to MS4 stormwater transaction will require the same process to be followed.

Q: Can credits be traded across sectors, or do they have to be traded within a sector? For example, do agricultural credits have to be used only for permits associated with agricultural activities?

A: One of the benefits of water quality trading is that credits generated by one sector can be used by another sector.

Q: Can I trade credits between different watersheds?

A: An NPDES permittee discharging in a given watershed, defined under the Chesapeake Bay TMDL Segmentation, should purchase a credit from within that watershed. http://arcg.is/1TKjqG

Q: Can MS4s trade with other geographies? Are there limitations?

A: For an MS4, the credits need to be in one of the jurisdiction's Bay TMDL Watersheds (http://arcg.is/1TKjqG) to ensure local water quality is maintained.

Q: Does trading improve local water quality?

A: Yes. Nutrient trading encourages entities to accelerate the pace of implementation leading to more rapid decreases in pollution and improved local water quality.

Q: Is there double counting? Local water quality may improve as credits are generated for purchase elsewhere, but the local improvements cannot be counted because they will be credited elsewhere.

A: There is no double counting, as any reductions can only be counted once toward meeting Bay TMDL goals. That said, as with any implementation, trading will be used both by the permittee for showing compliance with its permit and by the state toward showing progress toward its Bay TMDL reductions.

Q: Who is responsible for tracking the locations of the reductions from trading?

A: EPA intends to track the results of trading through a separate Chesapeake Bay Model run.

Q: How will a potential credit user or generator know if there is a local water quality impairment?

A: This is most relevant to the potential user, depending on where that user is located. Impaired waters are identified on MDE's website. Nearly all of Maryland's tidal waters are listed as impaired due to nitrogen and phosphorus.

Q: How do you comply with the impaired waters geography requirements in the regulations?

A: Trading geography is based on Chesapeake Bay segment-shed. Any reductions in any of those segment-sheds would provide local water quality improvement as well.

Q: How is trading for local nutrient impairments taken into consideration?

A: Local (non-tidal) nutrient TMDLs do not have the same 2025 deadline. The Department will consider trading for local nutrient impairments in the future.

Q: Can an agriculture producer certify credits and sell them to a jurisdiction in a different watershed?

A: Credits can be sold across watersheds. That said, if a credit is being used to meet NPDES permit conditions, and the permittee discharges to a watershed with an impairment, then credits must be purchased from the same watershed.

Q: Do credit generation and use have to occur within the same calendar year?

A: Credits generated during a year are for use in that year; however, there needs to be some time to true-up the credits, similar to end of calendar year taxes that are submitted in April of the following year. Enough time needs to be allowed for submitting accurate data and for the State to perform its verification of BMPs and credits.

Q: Will the wastewater treatment plant flow for the year be available ahead of time, or can wastewater plants only trade based on the prior year's data?

A: The actual annual cumulative flow will be based on the discharge monitoring report submitted by the participating WWTP at the end of the calendar year.

Q: Are the discharge monitoring reports for wastewater treatment plants available to the public?

A: Yes, the public can access the DMR from WWTP through EPA's ECHO site.

Q: What is the length of time that the trade is good for? How often would it have to be renewed/updated in case things change between the parties?

A: Nutrient credits are annual and would need to be updated annually; however, aggregators may provide longer-term contracts. In that case, the aggregator would need to update those longer-term credits annually.

Q: How will the Phase 6 model change Edge of Tide factors from the previous model?

A: Phase 5 and Phase 6 EOT Factors are different, although in most cases they will be similar. Updated numbers are available through CAST and new online maps will be published by MDE in 2019.

Q: Will BMPs have the same credit generation over their lifetime, or will reduction levels have to be verified every year?

A: It depends on the sector. There are various timelines for inspection required by the regulations. Most will require annual verification, but some can be re-verified within a three-year period.

Q: How will MDE ensure this new program is monitored and enforced?

A: MDE is not performing site-level inspection on all of the credits generated. MDE will be primarily reviewing and certifying credits based on the documentation provided and accompanying signatures of parties that are legally responsible to verify the practices were put into place and are functioning as designed.

Q: What background or experience do verifiers need for credits generated by wastewater, stormwater, on-site sewage disposal (septic systems), and oyster aquaculture?

A: Right now the regulations specifically identify a Professional Engineer and State or local government staff as appropriate verification personnel. Additional verifier requirements will be identified as the program develops.

Q: How will MDE ensure that engineers verifying credits are qualified?

A: Professional Engineers are certified through the Professional Engineering Licensing Program by the Maryland Department of Labor.

Q: How will MDE ensure that the verifying engineers are scrupulous?

A: Professional Engineers are bound by a code of ethics. "Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct,

they shall notify the proper authorities and withdraw from further service on the project." Unscrupulous work would be subject to review by MD Dept of Labor, Licensing and Regulation.

Q: Does MDE plan to require stormwater BMP maintenance providers to have some sort of certification?

A: There are guidelines and requirements for what constitutes adequate stormwater BMP maintenance. The adequacy of the maintenance work will be evaluated through local inspection and enforcement, and the Department's oversight through stormwater program reviews. Maintenance plans must be maintained for BMPs used in the credit generation process.