



12/19/2011

Ms. Patricia Gleason
U. S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

Dear Ms. Gleason

Virginia conservation Network appreciates the opportunity to comment on EPA's nutrient trading and offset program reviews. We certainly recognize the complicated nature of a multistate review and the time and effort put in to developing them is appreciated.

The reviews include three types of recommendation/ observations: program recommendations common to all jurisdictions and two tiers of state specific observations. The state specific observations clearly outline the action a state is expected to take based upon respective tier; however the common recommendations do not appear to carry equal weight as the state specific recommendations. Based upon their content, the common recommendations should be weighted on par with the tier 1 state specific observations. The relative importance of recommendations, EPA expectations and specific state responses to these recommendations should be clarified as such in the final report.

In general the common recommendations raise several important issues, but there is still a lack of definite guidance on how jurisdictions should respond to each item. For instance, there is little offered on EPA's position on interstate trading. Specifically in that regard, reconciling the dramatic differences in baselines and credit calculations demands greater clarification and guidance.

The common recommendations must also require states to explain how they will evaluate proposed trades that occur within the watershed of an already impaired waterway. Virginia, for instance, in statute and regulation requires compliance with "local water quality limitations" however does not specify how this goal will be met by code or appropriate guidance. Trades should require an actual demonstration that local water quality will not be degraded. Offering clear recommendations on how these fundamental Clean Water Act provisions should be implemented would be beneficial to all jurisdictions and provide a basic level of consistency.

In the observations specific to Virginia, EPA correctly identifies the problems with the grandfathering provision in the stormwater regulations and the permit loophole that does not



require offsets for pollution loads associated with small wastewater treatment plants. Addressing these issues is fundamental to providing reasonable assurance. The language in the observations however is phrased as a question, and does not convey the weight EPA gives to a tier 1 observation, earlier described as items that “must be addressed by the jurisdiction in order to maintain consistency... with the TMDL”.

Again thank you for the opportunity to comment, and if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jacob Powell", is written in a cursive style.

Jacob Powell
Policy and Campaigns Manager
Virginia Conservation Network

CC:
Nick Dipasquale, Jeff Corbin and Kevin DeBell