

WV Sector Growth Assessment and Plan Addressing EPA Trading/Offset Recommendations

Tier 1 Recommendations

- 1. West Virginia either needs to establish an offset program to manage new sector growth, or EPA expects a quantitative demonstration as to why those sectors either are not growing or do not contribute new or increased loads even though they are growing. This demonstration should be based on recent historical trends and should be consistent with the suite of Bay models and their underlying assumptions. EPA expects the demonstration to address septics, agriculture and development.***

Section 11 of the West Virginia WIP provides an overview of offset provisions and intended implementation protocols. Offsets are needed for new or expanding wastewater sources for which future growth allocations are not provided. The WIP describes a case-by-case approach in which the 5.3.2 model is used to determine offset credits and the NPDES permitting program is used as the control mechanism. TMDL baseline provisions are included. Additional trading/offset program activities are not planned at this time.

Since issuance of the TMDL, West Virginia has received two requests for consideration of offsets. One wastewater entity has requested combination of two individual wasteload allocations such that the combined delivered load would be equal to the sum of the two individual allocations. WVDEP has agreed in principle but has not yet finalized permitting actions. The other case involved a request for wastewater expansion supported by manure export. WVDEP coordinated with modelers at the CBP to quantify the benefit of the manure export, considered TMDL baselines and derived export amounts necessary to support the increased wastewater loads. Again, an agreement in principle has been reached, but the wastewater expansion has not been initiated and the prerequisite permitting actions have not yet been finalized. Draft permit actions for both cases will be provided to EPA for comment.

Our experience to date suggests that the offset provisions described in the WIP can accommodate the limited offset evaluations believed to be needed for new or expanding wastewater sources. The following information addresses the need for an offset program to address new loads from non-wastewater source sectors.

Stormwater

The West Virginia urban/residential stormwater sector does not require a program at this time because the WV WIP provides a future growth provision for increased loads from this sector. Please reference Section 7.F (pgs. 56-59) of the WIP. TMDL sector goals are maintenance of 2010 No Action loadings. New (post-2010) urban land development will be tracked, as will pre-development landuse, and post-construction stormwater controls will be tracked and reported annually. A report addressing cap maintenance will be developed at the end of 2015. The report results will allow reconsideration during the time period associated with the midpoint assessment process and afford an opportunity to address any deficiencies in the Phase III WIP.

On-site Wastewater Treatment Systems (Septics)

The WV WIP does not prescribe pollutant reductions from existing on-site systems. This was determined after considering the relatively high cost for upgrades of existing systems against the limited pollutant reduction benefit for the loading contributed by that sector. Note that the sector, as represented in the Phase 5.3.2 model, is responsible for less than 5% of the WV nitrogen load and none of the phosphorus load. As time goes by, some increased pollutant loading can be anticipated from new on-site systems but the increase will be small and countered by sector loading reductions associated with the assimilation of existing on-site systems by expanding publicly-owned centralized systems.

WV also believes the model has overrepresented the WV population utilizing on-site systems in parts of our Bay watershed. The methodology to estimate population on septic systems is based largely on the geographical boundaries of sewer service areas and the WV sewer service areas used were incomplete. They captured only a portion of the publicly-owned systems and none of the areas of the private systems. To that end, West Virginia is digitizing a comprehensive coverage for use in the next model version. Again, the relative impact of new septic loads and the need for offsets may be reconsidered in the midpoint assessment process.

Agriculture and Forest

A detailed assessment of growth in the agriculture sector is provided in Section 8.E (pgs 98-101) of the WIP. The discussion therein clearly demonstrates flat or declining trends in agriculture animals, declining trends in land used for agricultural production and declining trends in overall sector nitrogen loading between 1985 and 2010. There is no indication that the observed trends discussed in the WIP will change in the near future.

Forest loads aren't germane to the demonstration as increased loading from forest would be related to increased forest area that would represent an overall improvement resulting from conversion from more polluting land uses. Decreased forest load would be associated with increased loads from other sectors.

Summary

West Virginia intends to continue offset implementation in accordance with the provisions described in WIP Section 11 and comprehensively revisit the issue in the midpoint assessment.

Tier 2

- 1. West Virginia may need new regulations to allow credit generation by agriculture sources. EPA expects WVDEP and WVDA to continue to work together to evaluate the need for additional regulations.***

New regulations are not needed for agriculture sources to participate in the case-by-case offsetting envisioned in the WIP. Although development of a formal trading program is not expected in the short term, WVDEP and WVDA will evaluate the need for new regulations if a program is pursued in the future.

