

Workgroup Status Report

Workgroup: 537 Subcommittee

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Disclaimer: While the DEP staff assisting the subcommittee was very helpful, the content of this report reflects the views of the subcommittee members and not necessarily DEP staff.

Status Report and Recommendations:

The subcommittee met twice, once on June 15th and again on July 11, 2006. The subcommittee's charge was to examine the existing sewage planning process, applicable forms, guidance, etc. and identify any problems, language changes or potential policy changes needed to ensure the smooth implementation of the Tributary Strategy.

Generally the subcommittee felt there were several places the existing sewage planning process did not dovetail with the affects the Tributary Strategy will have on sewage planning and capacity. The subcommittee offers the following comments:

Point Source Workgroups Alternate Allocation Proposal

The subcommittee fully endorses the point source alternate allocation strategy and urges the Department to expedite the acceptance of this proposal. Subcommittee members firmly believe that the alternate allocation strategy will result in fewer procedural and administrative problems in the 537 planning and Chapter 94 reporting processes for both municipalities and the reviewing agency.

537 Planning

DEP should develop guidance to address the relationship between 537 planning and application of nutrient credits relative to capacity at plants. This guidance document should, at the least, address how a municipality can analyze nutrient capacity issues and should provide a suggested format/content for presentation in a 537 Plan, Plan Update, Special Study, or a like document. Subcommittee members have volunteered to assist DEP in drafting appropriate guidance documents to address nutrient capacity as described herein.

DEP should also consider when/if municipalities should re-open the 537 Plans to address the nutrient capacity issue (whether it be immediate or at the time of the next update). Some municipalities will inevitably choose to supplement their plans immediately. The Subcommittee suggests that DEP not strictly require a mandated and immediate re-opener for all 537 Plans.

Component 3 Form

The subcommittee recommends a review block or additional line item to the component 3 module form that asks if nutrient capacity can be met. This revision can be made to Module forms for immediate use by developers, individuals, municipalities and DEP reviewers.

Chapter 94

The Subcommittee proposes two approaches, a short-term 'band-aid' and a long-term programmatic revision.

DEP should issue guidance clarifying how a sewage plant calculates capacity including nutrient capacity so that all parties know the expected analysis and standard.

In the long-term, DEP should add a design standard that addresses nutrient capacity. Systems that are required to submit Chapter 94 Reports may be required to address nutrient capacity in addition to hydraulic and organic capacity in the annual report. This is the only existing vehicle for systems to analyze projected capacity and although an influent issue rather than an effluent issue, these reports are used by developers and engineers to make planning and development decisions prior to municipal submissions. The Chapter 94 Report is a logical place to add this information.

Additionally, DEP should create guidance for parties creating and submitting Chapter 94 Reports regarding what information would be required by DEP in the Chapter 94 Report related to nutrient capacity. It would be of great benefit to the public or DEP to create an example 'format' for a nutrient capacity section of the Chapter 94 Report.

On Lot Septic Systems

DEP should produce a document or statement that articulates how the current on lot septic program affects or is affected by the Tributary Strategy over the short and long-term.

DEP should rectify the logical conflict between recognizing credits, or nutrient load reductions, for both connecting an on-lot system to public sewer and for creating an on-lot system. DEP should also consider:

- establishing/confirming a standard, average value for malfunctioning connections
- allowing an applicant or municipality the option to establish, through satisfactory engineering and hydrogeologic analysis, that more or less (credits) than the standard average malfunction value is justifiable for new

and/or connected on-lot systems. This would be a site-specific analysis and one that few homeowners or municipalities would conduct, but the option should be available.

Septage

DEP should consider the possibility that sewage treatment plants may refuse to accept septage if it goes toward their loading cap. However, the Subcommittee believes that tipping fees may address this issue; there exists a risk that the tipping fee may exceed market viability and leave homeowners and the like with nowhere to go. DEP should consider either not counting septage toward a facility's load cap and/or recognizing credit offsets for acceptance of the material. Credit offsets are more administratively burdensome because weights and samples results would have to be used to calculate the offset on an annual basis, but the option should be provided to a STP.

Spray Irrigation/Non-Discharge Alternatives

DEP should consider whether non-discharge alternatives like spray or drip irrigation will be viewed on a case-by-case basis when proposed in a module and/or 537 Plan. If an applicant proposes a non-discharge alternative, will DEP require hydrogeologic and engineering analysis to establish no net nutrient load to the Bay in the submission. Or, will DEP establish a standard, average assumed load or overall reduction?

DEP's Act 537 program requires an analysis of alternatives for both plan revisions and planning modules. Therefore, the department could require that any new facility in the Chesapeake basin analyze non-discharge alternatives in this portion of the modules. Furthermore, with regard to the ultimate goals of the basin, the nutrient load could be looked from both a discharge and non-discharge alternatives and pick whichever has the least impact to the nutrient load in the nearest waterway. Large on-lot systems often require a hydrogeologic analysis (particularly in high nitrate areas), so this is a requirement that the developers already have in some areas.

Future Growth

While future growth was not an issue assigned to the subcommittee, considerable discussion took place. Recognizing that a nutrient cap is in place, it is only a matter of time before the exclusive use of nutrient credits will be the only way to achieve growth and compliance concurrently.

There exists concern with the viability of this approach in the longer term (20 years and beyond). Subcommittee members feel that more discussion needs to take place on this very important issue now and as the program develops over the next five to ten years. The Subcommittee recommends a continuing dialogue on this issue.