

Accounting for Growth Work Group Summary

Meeting #3: 3/22/2013

In Attendance:

Work Group Members: Stephen Harper, Jon Laria, Alison Prost, Mike Powell, Lynne Hoot, Sandy Coyman, Bevin Buchheister, Cathy Drzyzgula, Shannon Moore, Pat Langenfelder, Katie Maloney, Erik Michelson, Dru Schmidt-Perkins, Yates Clagett, Mary Ann Lisanti, Tom Ballentine, Claudia Friedetzky

Support Team: George Chmael, Kate Culzoni, Jeff Corbin, David Costello, Julie Pippel, Steve Stewart, Doug Lashley, George Kelley, Candace Donoho, Dusty Rood, Dave Goshorn, John Rhoderick, Dave Nemazie, Darrell Brown, Dan Baldwin, Lee Currey

Absent:

Work Group Member: Josh Tulkin

Support Team: Joe Tassone, Brigid Kenney, Les Knapp

Public Attendees:

Paul Emmart (MDE), Jim George (MDE), Elizabeth Burdick (Water Stewardship), David Foster (Chester River Keeper), Claudia Friedetzky (Sierra Club), Marya Levelev (MDE), Susan Payne (MDA), James Hearn (WSSC), Rosewin Sweeney (Venable), Mark Symborski (Montgomery Co.), Phillip Stafford, Helen Stewart, Robin Clark, Verna Harrison, Brenda Dime, Erin Gray, Sara Walker, Dinorah Dalmasy (MDE), Bob Gallapher, Mark Symborski, Trent Zivcovich

Welcome and Overview

Facilitator, George Chmael, welcomes everyone to the third AfG Work Group meeting and notes that the Work Group will continue to discuss topics that are the foundation to an AfG Program with a goal to work towards consensus recommendations. It is anticipated that many of these issues will require thorough discussion and then, if consensus cannot be reached at that time, the Work Group will return to the issue after other topics are discussed to complete recommendations. In an effort to further facilitate advancement on each topic, the Support Team has prepared and distributed clarifying questions meant to drive discussions to the most salient topics and steer the Work Group toward decision-making. In addition, creation of sub-committees is another possible tool if the Group is unable to sufficiently advance discussions to the point of recommendation development. Topics to be discussed today include nutrients to be offset, baselines, MDA's nutrient trading online assessment tools, trade mechanisms and rules and onsite credit and mitigation tools.

The Support Team has sent background information for the Work Group on the issues to be discussed. The information and [materials](#) sent, along with the Guiding Principles, should provide more clarity on the minimum threshold for the Accounting for Growth Program elements that the Work Group develops.

Presentation on Nutrients to Offset, Loads and Loading Factors

David Costello from MDE presents information provided in the [Background Information for Nutrient Offset Discussion](#) document. He explains that EPA has made it clear that all new or increased loads of nitrogen and phosphorus must be offset, but is allowing

states flexibility to develop programs to accomplish this outcome. Maryland is committed to developing an AfG program that meets EPA requirements and that also assures that its finite allocations are managed responsibly in the public interest. The BMPs installed at a development will affect the post-development load of N and P, and the offsets obtained from credit-generating BMPs offsite may include practices that offset both N and P. If the chosen N BMPs are shown to reduce P, that may obviate the need to find additional P offsets. Where the chosen N BMP does not sufficiently reduce P, the P load needs to be offset. Also, where the development is located in a watershed with a local P impairment, the local TMDL requires a P offset.

Jeff Corbin, of EPA, follows up by noting that EPA requires that all three pollutants - nitrogen, phosphorus and sediment - need to be offset under an AfG program. If the states can demonstrate and account for the fact that reducing nitrogen will also reduce phosphorus and sediment, then that can be acceptable. Where the state cannot account for reductions, P and sediment must be offset separately.

David Costello also notes that the *AfG Options* table created by Steve Stewart provides background for the Work Group and lays out the options for much of the discussion today as well as the pros and cons of each one.

To get the discussion started, George Chmael refers to the handout with a list of questions that will help the group focus discussion on the topics at hand.

1. What is the AfG Program endpoint for nutrient load?

- Zero load baseline (100% offset)
- Forest load baseline
- TMDL allocation (CB or Local Baseline)
- Other

The development community notes that they could not agree on formal recommendations until other key issues were discussed, however, the TMDL allocation load seemed reasonable.

Representatives from the environmental community highlight the need to comply with the Clean Water Act and that this program must address additional loading to already impaired water bodies. They note that zero load or forest load seemed most reasonable given the uncertainty and need for a margin of safety within the program.

County representatives note that the AfG program cannot be too restrictive and TMDL or forest loads could accommodate that although further understanding of what "TMDL load allocation" really means is necessary.

Public interest representatives note the need for more information on what has to be done versus what could or should be done under the law and in accordance with other state policies. One question is whether recommendations need to be crafted with policy impacts in mind based on information from the "model world" or the "real world."

Agricultural representatives note that too many incentives to convert farmland would weaken the industry.

Work Group discussion recognizes the importance and sensitivity of land conversion from one sector to another and the current rules around sector allocations. The Work

Group needs to discuss what happens with extra reductions with respect to TMDL allocation. Are they retired to benefit the Bay, public and local jurisdiction, or do they lead to increased flexibility or a credit for a sector?

2. Should the AfG Program consider different loading factors based on geography?

- Use statewide average
- Use averages for the 5 major basins
- Other

MDE presents the maps requested by the Work Group at the February meeting. Maps provided included a 5-basin versus state delivered load/lb for nitrogen and phosphorus pollutants as well as a map distinguishing the inland local phosphorus impairments at the 8-digit water basin level.

A representative of local government notes that using edge of stream load at the basin level and delivered load to the sub-basin level would work best for local government. It was also noted that local impairments need to be dealt with differently.

An environmental representative notes that maps should distinguish local P impairments for the Bay as well, not just non-tidal segments. Also, a working definition of “local” is important when considering Edge of Stream versus delivered load.

A Support Team member highlights that addressing all TMDLs at once will help lower costs for all sectors including local government.

ACTION: MDE will provide a map using Edge of Stream loads to the Work Group prior to the next AfG meeting in April.

Nutrient Trading - Current MDA Tools for Agricultural Sector and other Tools

John Rhoderick presents the MDA trading tool found on MDA’s website <http://nutrientnet.mdnutrienttrading.com>, demonstrating and explaining the current trading mechanisms and rules for certification, registration, verification and monitoring for each farm and credits generated for the market place. He notes that an AfG Program will need to include similar mechanisms to certify credits and the Work Group will have to consider the following questions and develop recommendation around:

1. Safeguards - Should the current MDA model for transparency, verification and monitoring (inspection) requirements apply to wastewater treatment credits, septic credits and stormwater credits in an AfG Program or should modifications be made?
2. If yes, what additional requirements are needed for transparency/verification/monitoring of nutrient credits for stormwater, septic and wastewater offsets?

Mockup of Onsite Assessment Tool to Determine Credits Onsite and Mitigation Needs

As a starting place and an example, John Rhoderick provides some examples from Anne Arundel County, provided by Work Group member, Erik Michelson, that describe the potential impact of, and on, new development of an AfG program.

Work Group members suggest that an expanded version of this mockup (a more comprehensive load, impacts and likely cost calculator), along with an expanded version of the table prepared by Steve Stewart, one that includes all key AFG issues and decision options, would help the Work Group to better understand the issues and to make recommendations

ACTION: The Support Team, with possible assistance from a sub-group of Work Group members, will expand Steve Stewart's table and create a tool (calculator) to assess additional scenarios for Work Group to review and utilize prior to the April Work Group meeting and all subsequent meetings.

Offset Capacity Analysis Provided by MDP

Dan Baldwin presents the Offset Capacity Analysis conducted by MD Department of Planning. The current analysis was done only for nitrogen to evaluate the supply of credits that could be available for purchase in an AfG Program. Although the data sources are limited, the analysis provides a good idea of future credit generation.

Questions for Work Group consideration related to the offset capacity analysis include:

1. Does Maryland have sufficient offset capacity to accommodate an AFG program and to support the development of an adequate nutrient trading market? The MDP analysis and presentation, and MDA survey indicate that it does.
2. What should be included in the AFG Program to ensure that Maryland does indeed have and maintains sufficient offset capacity?
3. If ever it is determined that Maryland lacks sufficient offset capacity, what fall backs must the AFG Program include to address this problem?

Next Steps

George Chmael announces that the next meeting will be held on April 19, 2013 at 12:30 p.m. at MDE. George Chmael and other Support Team members thank all attendees for their commitment and hard work.

Remember, the [AfG website](#) is up and running and organized by meeting. Materials will be online in a timely manner.

Public Comment:

None