



Water and Ecosystems Committee

September 27, 2011

Indianapolis, IN

Meeting Notes

Welcome

Teresa Marks, Director of the Arkansas DEQ

Speaker

Ellen Gilinsky, Senior Policy Advisor, U.S. EPA Office of Water

Nutrients

- Nutrients are a priority with this administration in terms of cleaning up existing excess and preventing future loadings
- March 2011 Stoner memo established a nutrient framework for states to follow
- Each state should plan and establish a framework to tackle nutrients and prioritize watersheds and identify where work will start
- Regions should already be working with states
- EPA looking at variances if states can't meet the criteria right now
- Mississippi River petition - EPA's written response is the policy EPA will pursue
- States must take ownership of nutrients
- During the recent Gulf Hypoxia Task Force meeting, each state talked about how they are addressing nutrients
- Numeric Nutrient Criteria workshop is planned for states to share information; Ohio has an interesting approach
- Healthy Watersheds Initiative – to prevent impairment from occurring; recently released action plan; Nature Conservancy is an active partner; starting with six watersheds
[Healthy Watersheds Initiative: National Framework and Action Plan \(Action Plan\), 2011](#)

Water Quality Standards

- Proposed changes narrowed to six key areas that were extensively discussed with the ACWA (ASIWPCA) and WEF standards workgroup; proposal due by the end of the year
- States should consider whether to adopt new EPA criteria – important not to ignore this
- Anti-degradation – states need weight of evidence on several parameters to downgrade a waterbody to tier 2; such a finding is only when absolutely necessary
- Variance procedures – allowing for after the standard has been adopted...for example, PCB because it is a legacy pollutant

Proposed New Construction General Permit

- Expect final rule will take a performance-based approach aimed at retaining water onsite
<http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>;
- Agency intended to propose the rule this fall but have not sent it to OMB yet
- EPA still working on how best to implement it

Clean Water Action Plan – Office of Water has been working with OECA

Pesticide General Permit – the deadline will be met and EPA will publish it on time

Questions and Comments

- IN – Region 5 is sending states letters on numeric limits. IDEM is finding that the science isn't adequate yet to set numeric limits
Gilinsky – Letter is reminding you that even narrative standards must be translated into limits in a permit. Office of Wastewater Management is working on implementation guidance
- CO – nutrient issues with numeric criteria...have over 300 stakeholders engaged; arrived at a tiered approach
- KY – regarding anti-degradation...state is at the end of 17 years of litigation; do not want to see federal action change the outcome

Nonpoint Source Panel

Russ Rasmussen, Deputy Division Administrator, Water Wisconsin Department of Natural Resources
Water Quality Trading

- Trading is one tool among many and not a panacea
- Must be executed among willing partners
- WI had statute authorization in 1997 to do trading – point-point, point-nonpoint source and point-government sources
- Ran three pilots but only one was successful; involved agriculture trade; learned a lot from the other two

Lessons learned:

- DNR's role should not be as a broker in the trade but to facilitate the trade into permit and ensure compliance
- A driver must exist in order for trades to occur – like a TMDL or a water quality standard
- Need an accurate model on what reduction you can expect
- Developed a framework document (trading cannot be used on technology-based limits) – outlines the role of DNR and what they will do and what is required by each party
- Identified statutory changes and where more guidance is needed

EPA is a big barrier:

- DNR is getting mixed messages from EPA regarding trading
- Especially on when credits can be applied to nonpoint sources
- Being told they can be applied only after the load allocations are met....which takes so long that it takes it off the table
- Agency is missing a huge opportunity to reduce phosphorous
- Want to get EPA to listen to reason but agency personnel say their interpretation is in the guidance
- It appears that EPA is using guidance as they would a rule

EPA – *Gilinsky* – EPA is updating the Water Quality Trading Policy this year.

<http://water.epa.gov/type/watersheds/trading/finalpolicy2003.cfm>

Don Villwock, President, Indiana Farm Bureau

Reducing Nutrient Pollution from Agricultural Lands

- IDEM has been a good partner
- Farming is drastically different now with genetically modified crops that help farmers better manage nutrients
- Farmers can produce engineered crops that are no-till and round-up ready

- New farm bill likely will do away with payments for buffer strips
- The private sector may step in with an incentive payment program
- Livestock sector – there are 600 pork producers with over 100 head
- Fertilizer has become so expensive that manure has become a valuable resource

John Oakley, Assistant Administrator, Department of Public Works, City of Indianapolis
Municipal Stormwater Challenges

- Indianapolis is unique in that they have a combined city and county government
- The city holds the NPDES permit and are in the midst of third term application
- Conducting alternative funding studies to figure out how to pay for stormwater compliance

Resolutions

Revised Draft Resolution # 08-15: Supporting Public Notification of Sewage Overflows

- The committee unanimously approved the revised resolution

New Draft Resolution: Support for Clean Water Act Section 319 Funding

- The committee unanimously approved the new resolution

Resolutions are posted at: <http://www.ecos.org/section/policy/resolution/?committee=2>

Project Update

Robert Zimmerman, Director of External Affairs, Delaware Department of Natural Resources and Environmental Control; Chair, State-EPA State Water Quality Management Resource Analysis
Information Collection Request

- U.S. EPA published an information collection request (ICR) in the *Federal Register* in support of the joint ECOS-EPA workload modeling effort.
- Comments were due on September 26, 2011.
- As of 9/19, the docket is showing that no comments have been received.

Next Steps for the ICR

- EPA reviews comments received on the ICR
- EPA addresses the comments in a revised ICR that is submitted to OMB for review
- Simultaneous with submittal to OMB, the ICR is re-published in the Federal Register for a new round of public comments, this time to be sent to an OMB docket
- ECOS plans to send a letter to OMB in support of the project, the ICR request and of EPA participating in the survey in states where they have direct implementation
- OMB decides whether to approve or deny EPA's request

Task Force Next Steps

- The Task Force will begin to re-familiarize States with the existing model through training
- Training – via webinars – is anticipated to be conducted in early February
- After participating in the training, States will be able to comment on how to improve the model
- A presentation to ECOS Commissioners and Directors is anticipated at the Spring 2012 meeting and will outline what the model will do and how it can help state agencies with their resources

Closing Remarks

Teresa Marks – request that states identify issues for the Water Committee to address.

- Oregon has a case that could be important pertaining to the permitting of forest roads (Ninth Circuit Holds NPDES Permit Required for Logging Roads)

Upcoming Conference Call Schedule

*All calls are on **Thursdays** from **2:00 – 3:00 pm Eastern.***

December 15

January 26

March 1

Next Committee Meeting

March 19, 2012 - March 21, 2012

[2012 ECOS Spring Meeting](#)

Austin, TX