From: Richard Batiuk
To: Larry Merrill; Mark Barath
Subject: Fw: Comments on Notice of Proposed Action to Amend Water Quality Standards
Date: 02/14/2012 04:15 PM

Larry/Mark-
Here's the latest from on the MD WQS.

Thanks, Rich

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----- Forwarded by Richard Batiuk/CBP/USEPA/US on 02/14/2012 04:14 PM -----

From: "John Backus" <JBackus@mde.state.md.us>
To: Richard Batiuk/CBP/USEPA/US@EPA, "Bruce Michael" <BMICHAEL@dnr.state.md.us>, "Jim George" <jgeorge@mde.state.md.us>, "Lee Currey" <lcurrey@mde.state.md.us>, "Rich Eskin" <reskin@mde.state.md.us>
Date: 02/13/2012 11:28 AM
Subject: RE: FW: Comments on Notice of Proposed Action to Amend Water Quality Standards

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Thanks,
I'll wait to here from Lee. Today is the last day for comments (so far this is the only one). Once I get the go ahead, I'll proceed to file the notice of Final Action with a current target date for publication in the MD Register of March 9, with an effective date of March 19. I will still have to run it up to the Sec. and AG's offices, and that takes time.

John

>>> Rich Eskin 2/10/2012 5:03 PM >>>
Lee needs to confirm:

I think the appropriate response is:

These changes will effect discharges/allocations associated with the Baltimore Harbor only in the most general way. That is, that without these changes, an additional 4 million pounds of reduction from current loads would be needed. These additional Bay-related reductions would likely be distributed to numerous segments, so without these water quality actions, any current allocations would be lower and increased reductions would be necessary, potentially including those for Baltimore Harbor.

That said, at this time, if the Baltimore Harbor TMDL should be more stringent, those restrictions would continue to apply, unless and until Maryland moves formally to replace existing State-created tidal TMDLs with the allocations derived from the Bay TMDL to provide consistency under the assumptions of a single model. A revision that Maryland is considering.

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>>> "Michael, Bruce" <BMICHAEL@dnr.state.md.us> 2/9/2012 2:20 PM >>>
John:
Has this question been addressed? It is my understanding that the CB TMDL is more conservative than the Baltimore Harbor TMDL. That said, I do not think that the proposed changes to the water quality criteria due to the DO variance has any impact on the load allocations being used/distributed by MDE for their local allocations.
Bruce

From: John Backus [mailto:JBackus@mde.state.md.us]
Sent: Wednesday, February 08, 2012 10:56 AM
To: Batiuk.Richard@epamail.epa.gov; Michael, Bruce; Jim George; Lee Currey; Rich Eskin
Subject: Fwd: FW: Comments on Notice of Proposed Action to Amend Water Quality Standards

So far, these are the only questions/comments received on the proposed restoration variance amendments. I think what they are asking, although it's related, isn't

specifically relevant to the proposed action. Sounds like they may need some clarification as I have overheard some discussions internally regarding how the Bay and other pre-existing nut. TMDLs compliment/conflict with each other.
-Would appreciate some guidance and assistance in replying to MPA/MES.
Thanks, John

>>> Kenna Oseroff <KOSER@menv.com> 2/2/2012 3:19 PM >>>
Hello John,
For clarification and as a follow up to Nathaniel Brown's (MPA) email below. Please refer to this clarification request.
MES, on behalf of MPA, requests clarification from MDE regarding how this change effects (or if this change effects) reporting and/or allocations associated with the Baltimore Harbor TMDL for the nutrient loads associated with June 1st through September 30th discharges.
Thank you
Best regards,
Kenna

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From: Nat Brown [mailto:nbrown2@marylandports.com]
Sent: Thursday, February 02, 2012 3:07 PM
To: 'jbackus@mde.state.md.us'
Cc: Kenna Oseroff; Tammy Banta; Melissa Slatnick; Karen Cushman; Cassandra Carr; Holly Miller; Stephanie Peters; Amanda Peñafiel; Steve Storms; David Blazer; David Bibo; Cecelia Donovan; David Peters
Subject: Comments on Notice of Proposed Action to Amend Water Quality Standards
Importance: High

Hello John:

In response to your email dated January 12, 2012, in which it was announced that MDE is accepting comments regarding the above referenced subject, I have requested the Maryland Environmental Service (MES) to provide review of said topic. Please accept the below comments on behalf of the

MPA and MES with regard to this notice.

"In response to your email below I have summarized the changes that should take effect in the State Water Quality Standards (SWQS) below and offered one clarification to be submitted to MDE.

EPA identified, through modeling, that within the middle, mesohaline segment of the Bay, non-attainment of dissolved oxygen (DO) set for the designated uses associated with deep water fish and shellfish occurred for the entire mesohaline segment. Specifically, studies were completed to show that further nutrient reduction of loads didn't increase the attainment of the DO in the deep channels in certain tidal areas including the Patapsco River mesohaline deep channel, the lower Chester River's, and Eastern Bay's deep channel, as well as the entire Bay Mainstem Segment 4 mesohaline. As a consequence, EPA instituted a variance for the nutrient TMDLs for deep channels in the watersheds mentioned below based on the findings.

For the Bay Mainstem Segment 4 there is a 7% variance, Patapsco River mesohaline segment (PATMH) there is a 14% variance, the Chester River there is a 16% variance, and for the Eastern Bay there is a 2% variance from June 1st to September 30th. This means that EPA feels that the target allocations are adequate to restore the designated uses in these sections of the Bay's deep channels. This would be applicable to any permits issued for a watershed that effect the designated uses for the deep channels for fish and shellfish refuge.

This change will reduce the needs for reductions of nutrients associated with the Bay TMDL (nitrogen, phosphorous, and sediment) which implies reductions in cost for implementation. Poplar Island would not be affected by this change since the SWQS for DO requirement for Poplar is determined by the shallow water bay grasses and open-water fish and shellfish uses. However, Masonville and Cox Creek are subject to the Baltimore Harbor TMDL, as well as the Bay TMDL (PATMH location), where deep water fish and shellfish habitat is taken into consideration for nutrient limits/loads. HMI is still waiting on the new permit to be issued and the jury is still out on whether or not nutrient loads will be written into the new permit. (Conversations with Paul Hlavinka, MDE Permit writer, at the December 14th, 2011 MDE TMDL waste load allocation meeting.)

MES requests clarification from MDE regarding how this change effects (or if this change effects) reporting and/or allocations associated with the Baltimore Harbor TMDL for the nutrient loads associated with June 1st through September 30th discharges".

Should you have questions, please feel free to contact either my office, or Ms. Kenna Oseroff at MES. Thank you.

Sincerely,

Nathaniel K Brown
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Harbor Development
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nbrown2@marylandports.com

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