From: John Backus
To: Mark Barath
Subject: Re: WQS amendments
Date: 11/22/2011 10:47 AM

Mark: Will you please point me to the Federal Regulations regarding the variances/TR you mention?

Thanks, John

>>> <Barath.Mark@epamail.epa.gov> 11/22/2011 10:23 AM >>>
John:

Glad to help you out:

FWS: Fish and Wildlife Service
NMFS: National Marine Fisheries Services They look upon themselves as the gate keeper keeping the extinction horde at bay and can be the source of major headache. As an example, the draft BO for CB TMDL was 170 pages long.
BE: biological evaluation - done by EPA with every standards submittal as part with FWS and/or (NMFS
BO: biological opinion - done by mainly NMFS and/or FWS as response to EPA BE as part of Endangered Species Act Section 7 consultation.

In the 2005 TR EPA approval letter/package, there was almost no mention of the restoration variance, just an afterthought comment. None of us here were involved in that TR so were all that came from and what type of RIII deliberation occurred outside of CBPO draws a blank.

As you know, the regs state that in TR all variances must be re-evaluated with justification on why they should be renewed , etc. MD was given a pass with the last TR on this review requirement. The proposed draft EPA regs. coming out in new year will set a time limit for variance among other things.

And yes I understand where MD is coming from but we also have to deal with what the regulation say. The push and pull of all this has given some aches to deal with but that is life in WQS land. And yes we at all levels of government curse and complain about he fact that CBPO did not ever come out with actual TP/TN criteria recommendations.

Have a good holiday.

Mark A. Barath
Environmental Scientist
Office of Standards, Assessment and TMDLs (3WP30)
Water Protection Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pa 19103-2029
(215) 814-2759 Telephone
(215) 814-2318 Fax

From: "John Backus" <JBackus@mde.state.md.us>
To: Mark Barath/R3/USEPA/US
Date: 11/22/2011 09:01 AM
Subject: Re: WQS amendments

Hey Mark,
Will you please translate the acronym extravaganza that you just provided? That is impressive!
I should mention that last year, we added the Chester River Restoration Variance and was not a big deal after speaking with the Riverkeeper folks. I don't foresee any other issues...but you never know.

As we discussed yesterday, I understand your issues with the restoration variance "tool" from a WQS perspective. However, with the current data and tools that we have, along with, and within the context of the Bay TMDL, the Bay Model (with all its warts and wrinkles) this still makes the most sense...in the near term. As I see it, the only way we'll really know, is to implement the Bay TMDL per the WIPs, then see what the WQ outcomes are.

Thanks, John

>>> <Barath.Mark@epamail.epa.gov> 11/22/2011 8:29 AM >>>
John:
Thanks for the bit on revision. As I see it, the Chester River change is just that, a modification of existing variance. The Eastern Bay, on the other hand, is a new variance with all the warts and wrinkles associated with it. My only headache will be with the BE to NMFS. How that plays out is another story. We are still working out the final version of the NMFS BO on the CB TMDL for which all these WQS drive. And thank you for holding off until after the holiday season even though that wasn't your original intent.
Mark A. Barath
Environmental Scientist
Office of Standards, Assessment and TMDLs (3WP30)
Water Protection Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, Pa 19103-2029
(215) 814-2759 Telephone
(215) 814-2318 Fax

From: "John Backus" <JBackus@mde.state.md.us>
To: Cheryl Atkinson/R3/USEPA/US@EPA, Larry Merrill/R3/USEPA/US@EPA, Mark Barath/R3/USEPA/US
Cc: "Bruce Michael" <BMICHAEL@dnr.state.md.us>, Richard Batiuk/CBP/USEPA/US@EPA, "Rich Eskin" <reskin@mde.state.md.us>
Date: 11/21/2011 03:36 PM
Subject: WQS amendments

Here's the formatted regulatory amendments.
Text in **[Bold Brackets]** is deleted
Text in *italics* is new.

Notice that I had to move the section for the Chester River. It was inadvertently placed in wrong subparagraph when we initially added it.

If you have any questions, let me know.

-John

John Backus
Science Services Administration
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, MD 21230-1718
Phone: 410-537-3965
Fax: 410-537-3998

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. Thank You [attachment "MDE_26_08_02_03-3.doc" deleted by Mark Barath/R3/USEPA/US]

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. Thank You

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. Thank You