

**MEMORANDUM**



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**SUBJECT:** DEQ Comments on Dept. of Planning and Budget's Economic Impact Analysis for Point Source Nutrient Regulations

**TO:** Cindy Berndt

**FROM:** John Kennedy

**DATE:** January 28, 2005

On January 3, 2005, DEQ staff provided comments to DPB on their Economic Impact Analysis for the two amended point source nutrient regulations, 9-VAC-25-40 (Policy for Nutrient Enriched Waters) and 9-VAC-25-720 (Water Quality Management Regulation). Most of the comments were minor corrections or edits, and DEQ concurred with DPB's findings on fiscal impacts and estimated costs of the proposed regulations. One substantive issue was addressed in the comments, regarding DPB's suggestion to remove individual, technology-based effluent concentration limits, as follows:

As previously noted in discussions with DPB staff, DEQ was specifically directed by Governor Warner, at the 2003 CBP Executive Council meeting, to "begin the regulatory process to set technologically-based numerical limits for nutrients in discharge permits". This policy instruction cannot be ignored in the proposed rulemaking, and serves an important function of ensuring that all point sources in the Bay watershed contribute in some measure to the nutrient reduction effort. While this approach may somewhat limit the flexibility of a trading program, it is a vital part of the nutrient reduction initiative that addresses a controllable source of nitrogen and phosphorus in a reliable, cost-effective, feasible, measurable, and enforceable manner.

In addition, a management program for nutrient discharges from wastewater treatment plants must be part of, and consistent with, the overall watershed approach in order to achieve the river basin nutrient allocations. Even small wastewater treatment plants are important sources of nutrients when compared to individual land-based sources of nutrients within local watersheds. If wastewater plants are not removing nutrients that will clearly undermine efforts in local watersheds to enlist property owners to install best management practices for reducing land-based nutrient sources.

However, DPB's suggestions for improving the cost-effectiveness of the proposed regulations will be fully evaluated and considered during the public comment period. It is DEQ's intent to formulate this program in a way that accomplishes another component of Governor Warner's 2003 Executive Council directive on point source nutrient limits – "The regulations should aim to maximize water quality benefits in the most fiscally responsible manner possible". A point source trading program should be designed to fit within the framework of a watershed restoration program, recognizing the cost-effectiveness, reliability and measure of accountability for all the types of point source and non-point source nutrient reduction practices needed to meet the water quality goals.