

New Hope For MDEQ's Water Quality Trading Program

The Michigan Department of Environmental Quality (MDEQ) is planning to implement a statewide water quality trading program in the near future. According to Dave Batchelor, a Program Specialist for MDEQ's Surface Water Quality Division, the proposed "Part 30" water quality trading rules are expected to become effective by summer 2001.

The central concept of the proposed rules is that wastewater dischargers with high pollution control costs should have an opportunity to take advantage of pollution reductions made by other dischargers that can control pollution at a lower cost. The rules would allow dischargers to "buy" pollution reductions generated by other dischargers to comply with discharge limits specified by an applicable legal requirement.

Under the proposed program, dischargers who voluntarily reduce their pollutant discharges below an established "baseline" will be able to register their reductions, minus a percentage to be retired as an "environmental quality contribution," as "credits" in a water quality trading registry. Credits must be real, surplus and quantifiable – meaning that they must represent an actual reduction in pollution; the reduction must be greater than that required by law, and the reduction must be scientifically quantifiable.

The baseline for point sources will be set not at permitted discharge levels but at a level actually representative of the discharge, as determined based upon a three-year period representative of the discharge. The baseline for credits to be generated by nonpoint sources will be determined based on pollutant loading reductions calculated to have been achieved through use of "best management practices" aimed at reducing pollution.

Dischargers who want to use registered credits to help them comply with water-quality-based discharge limits must first reach a deal to buy the credits from the credit generator, and then register their intent to use the credits with MDEQ. MDEQ will have 30 days to review and approve of all registrations of credits and of intent to use credits. Credits may be "banked," but only for five years.

Trading will be allowed to occur among and between point and nonpoint sources on a watershed basis.

For trading of nutrient-related credits, the program will allow trading-by-rule, under which the permits of the involved parties will be modified by rule as opposed to a formal permit modification process involving public notice and comment. Trades involving pollutants other than nutrients, or cross-pollutant trading, must be approved by MDEQ and will involve a more formal permit modification process.

MDEQ will not certify or guarantee that registered credits are real, *i.e.*, that they represent an actual reduction in pollution. Both the generators and purchasers of credits will be subject to enforcement action and other sanctions if it is discovered that credits on which a trade is based are not real, surplus, and quantifiable or if the pollutant reduction is not equal to the quantity of credits that were registered.

To reduce the risk of purchasing “unreal” or inadequate credits, purchasers of credits will have to perform due diligence into the validity of the credits, buy more credits than they believe they really need, and/or buy credits from more than one source when possible.

Municipalities and sewerage authorities will be allowed to develop their own pretreatment trading programs.

Credit registration information will be publicly available on-line through the water quality trading registry to be established and maintained by MDEQ.

Although MDEQ’s water quality trading program has been under development for several years, its finalization has been delayed by the U.S. Environmental Protection Agency’s (EPA) opposition to key components of MDEQ’s program. According to Batchelor, however, EPA under the Bush administration is now “looking to work more cooperatively” to allow water quality trading to take place in Michigan.

Additional information on MDEQ’s proposed water quality trading program may be accessed on the Web at www.deq.state.mi.us/swq/trading/temp5x.htm.

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