



THE ADMINISTRATIVE WATCH

ADMINISTRATIVE WATCH ADDRESSES ENVIRONMENTAL, HEALTH & SAFETY ISSUES

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DEP ANNOUNCES NEW NUTRIENT AND SEDIMENT TRADING PROGRAM

The Pennsylvania Department of Environmental Protection (“DEP”) recently published Interim Final Guidelines creating The Nutrient and Sediment Reduction Credit Trading Program. The Program is part of Pennsylvania’s plan to achieve aggressive reductions in the discharge of nutrients and sediments to the Chesapeake Bay by 2010. Initially, the Program applies only to trades in the Susquehanna and Potomac Watersheds, but DEP is expected to ultimately implement it on a statewide basis. Point and nonpoint sources of nutrient (Phosphorus and Nitrogen) and sediment discharges should review the Guidelines and evaluate the potential for trading opportunities.

Under the Program, credits are generated when “environmental performance levels are better than those required by state or local regulations.” Specifically, a point source discharger generates credits available for trade when it discharges less than the loading limit expressed in its NPDES permit. Nonagricultural nonpoint source dischargers without NPDES permits generate credits by discharging less than the level of pollutant load associated with existing land uses and management practices established pursuant to state and local regulations. Agricultural nonpoint sources that meet certain eligibility requirements may also participate in the Program.

The Program allows point sources, nonpoint sources, and third parties to trade credits generated over a one-year period. However, like-kind credits must be traded (e.g., Phosphorous must be traded for Phosphorous). At present, credits may only be traded within (but not between) the Susquehanna and Potomac Watersheds. The Program allows participants to use credits earned through state or federal funding, as long as the funding grantor did not restrict such use. Furthermore, sources generally may apply credits toward a regulatory requirement or voluntary commitment, but they may not use credits to achieve technology-based effluent limits.

Initially, the DEP will maintain a database of credits generated and traded, but the DEP is encouraging use of a market trading scheme. The Program is scheduled to begin on January 1, 2006, but will apply to projects occurring before and after that date. In the meantime, there is the potential for significant public participation in the process. Interested parties have until November 18, 2005 to submit written comments on the Program to the DEP. If you have any questions about how you can take advantage of the Program, or how best to submit your comments and suggestions to the DEP, please contact Don Bluedorn at (412) 394-5450 or dbluedorn@bccz.com, or Emily Lewis at (412) 394-5451 or elewis@bccz.com.

Two gateway center
Pittsburgh, pa 15222
412.394.5400
WWW.BCCZ.COM

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