

How is the Chesapeake Bay Strategy Affecting Land Use Planning in Pennsylvania?

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PA DEP asserts non-point sources account for approximately 80% of nitrogen and phosphorous pollution load to the Bay watershed in PA

Made up from:

- Trapped sediments
- Agriculture
- Urban runoff

20% of load alleged to be coming from point sources including:

- Sewage treatment plants
- Industrial dischargers
- Permitted agricultural operations

CBS requires significant reduction of:

Nitrogen

- Not previously limited
- \$\$

Phosphorous

- Not previously limited everywhere
- Chemicals

New discharges = ØN / ØP

Previously land and development use driven by comprehensive plans and zoning.

Comprehensive plans represent local decisions regarding location and form of development.

Availability of sewer capacity appears currently as significant driver, adding confusion and complexity.

Why is sewer a limiting factor for development now?

- I. Real estate market
- II. Costs of development
- III. New capacity very expensive because CBS
- IV. Municipalities not able or willing to raise rates
- V. Timing and circumstances

Real Estate Market:

- Land costs escalated
- Economy
- Housing market – fewer buyers; hesitant, not willing to pay
- Mortgage market disaster/tight
- Commercial preferred

Costs of Development:

- Land
- Construction and engineering costs
- PennDOT, DEP, agency permits/approvals
- Stormwater infrastructure
- Land development costs
- Technology expensive

New capacity expensive:

- Many plants considering major upgrades
- All have to install some Nitrogen tx. - unless trade
- Nitrogen tx. very expensive; 8/1 vs 6/.8
- Any flows > design capacity, supplement with credits
- New discharges

Municipalities reluctant to raise rates:

- Other financial pressures or rate payers
- Election issues
- Disagree with DEP allocation/legality of CBS
- Challenging CBS application
 - Commonwealth Court
 - Environmental Hearing Board
- Limited funds ÷ limited public funding available

Timing and circumstances:

Municipal plants in variety of positions

- At capacity
- Well below design capacity
- Tx. technology difficult to upgrade
- Some nutrient deficient

Results in:

1. Inability of developers to shoulder upgrade/capacity costs
2. Facilities using tx. capacity to tx. for N.
3. Facilities prohibiting new connections until upgrades complete
4. Facilities not planning new upgrades and refusing connections
 - Limited sewer capacity throughout region
 - Limited not necessarily in actuality – but local decisions/circumstances driving the result

STPs

- Deciding to put pressure on:
 - Legislators – for funding
 - Builders – to pay for upgrades
 - State – for program and implementation
- Deciding to upgrade only when required
- Deciding to not use excess tx. capacity for new connections
- Deciding not to upgrade at all due to cost [cap capacity]
- Deciding to opt for more expensive tx.
- Deciding not to utilize nutrient credits

Where is planning left?

Out in the cold.

- Development currently moving to areas with available capacity irrespective of planning
- Development utilizing satellite/non-centralized alternatives
- High density development very risky unless obtain sewer first
- Concepts of TND and preservation of larger, more meaningful space difficult to make a priority
- Planned patterns no longer driving development

What do we do to get back on track?

- Choose the most cost-effective solutions
- Sewer more expensive, allocate costs to right customers
- Consider credit trading
- Work for funding assistance
- Stick to comprehensive plans

Tools

1. Sewer districts to address costs– be reasonable
2. Some de-centralized solutions may be required
 - Bonded
 - O & M agreements
 - Long term management
 - Possible dedication
3. Bite the bullet on fees to the extent feasible
4. Analyze treatment alternatives/technology
5. Consider credit trading
 - Point source
 - Non-point source
 - Community-based solutions

Credit Trading

Existing Examples

- Developer package plant
- Mt. Joy, Lancaster County
- Fairview Township, York County

Existing Trading System

- Currently contemplated public, free market
- Website listings
- Private assurances/contracts

Builders Assn/MAA requests

- Credit “bank”
- Provides long-term, guaranteed fixed cost credits
- Assurances for future growth
- Independent board to oversee trading
- DEP still to certify credits; DEP member only