



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JAN 23 2018

Ms. Lynn Buhl, Assistant Secretary
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, MD 21230-1700

RE: Draft Maryland Water Quality Trading Program Regulations

Dear Ms. Buhl:

I would like to thank the Maryland Department of the Environment (MDE) for the opportunity to discuss and comment on the above subject regulations over the past several months. As we discussed in a telephone conversation on January 8, 2018, EPA has no further comments at this time, however, reserves its right to provide further comments to future revisions of these draft regulations based on comments received by MDE during the public comment period. It is EPA's position that these draft regulations directly impact MDE's implementation of the federal National Pollutant Discharge Elimination System (NPDES) permit program and thereby require EPA's review and approval. Prior to the adoption of these regulations, please forward to EPA's for review and approval.

Also discussed on the January 8, 2018 call, was the use of the uncertainty ratio of 1:1 identified by MDE in its regulations as to be " applied to trades involving credits generated by nonpoint sources and acquired by stormwater point sources or other nonregulated sources." EPA agrees with MDE's application of the 1:1 ratio and not a 2:1 ratio. The uncertainty ratio of 2:1 recommended in EPA's technical memorandum dated February 12, 2014 and titled, "Accounting for Uncertainty in Offset and trading Programs" was primarily designed to address the difference between monitored and modeled loads. As loads from both MS4 permittees and non-point sources are both modeled loads, it would be inappropriate to apply this technical memorandum to MS4 trading. Given the nature of loads for both classes of sources, the approach that MDE has proposed is not unreasonable.



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We look forward to receiving MDE's final regulations soon and plan to review expeditiously. Please do not hesitate to contact me at mcmanus.catharine@epa.gov or 215-814-5337 or Patricia Gleason of my staff at gleason.patricia@epa.gov 215-814-5740.

Sincerely,



Catharine McManus, Acting Director
Water Protection Division