Executive Summary

With the signing of the Chesapeake 2000 Agreement, Pennsylvania made a commitment to help remove the Chesapeake Bay from the federal Clean Water Act's (CWA) list of impaired waters by 2010. The Agreement called for the development of new nutrient and sediment reduction goals.

For Pennsylvania, yearly nitrogen, phosphorus and sediment discharges to the Bay must be reduced to no more than 71.9 million pounds, 2.46 million pounds and 0.995 million tons, respectively. These goals are often referred to as "cap goals". Once Pennsylvania reaches these goals, the nutrient and sediment loads must be maintained at these levels to sustain the improved water quality within Chesapeake Bay.

To reach the cap goals, Pennsylvania must reduce nitrogen and phosphorus loads by 48.2 million pounds and 1.98 million pounds, respectively per year and sediment loads by 0.25 million tons per year. Pennsylvania's Chesapeake Bay Tributary Strategy, published in December 2004, calls for the majority of reductions to be achieved by the implementation of nonpoint source Best Management Practices (BMPs). Specifically, 86% of the nitrogen and 78% of the phosphorus reductions will be achieved through agricultural and urban BMPs. Point sources, such as municipal wastewater treatment plants and industrial facilities, generate 14% of the nitrogen load and 22% of the phosphorous load and are responsible for achieving equivalent reductions.

New legal requirements under state and federal law have increased the efforts needed to achieve compliance with surface water quality standards, including those of wastewater treatment facilities, including existing, expanding and new facilities, that the Department of Environmental Protection (Department) permits under the federal National Pollutant Discharge Elimination System (NPDES).

These new legal requirements are driven by the CWA, which requires states to protect and maintain the quality of surface waters. The relevant surface waters, under federal law, include the Chesapeake Bay and its tidal tributaries. Pennsylvania and Maryland implement federal CWA requirements through their own state laws and regulations.

Anticipating these new standards and the ensuing requirements on Commonwealth dischargers, Pennsylvania participated in a cooperative effort with EPA and the states in the Chesapeake Bay watershed to develop the "NPDES Permitting Approach for Discharges of Nutrients in the Chesapeake Bay Watershed." Published in December 2004, the Permitting Approach acknowledges the role of the state Chesapeake Bay Tributary Strategies to identify the nutrient load reduction actions that are designed to achieve discharge reductions as stringently as necessary to meet the federal Bay water quality criteria and attain the applicable state water quality standards. The Permitting Approach further called for EPA and the state NPDES permitting authorities to agree to issue NPDES permits for all new point sources and begin to reissue NPDES permits for existing significant point sources consistent with the applicable state tributary strategy. The Permitting Approach further encourages states to explore opportunities for trading of nutrient reductions. Pennsylvania's Chesapeake Bay Tributary Strategy also addresses

nonpoint sources of nutrient loadings from agricultural and developed lands. It also includes nutrient trading as a voluntary, market-based program that will accelerate nutrient reductions and reduce compliance costs.

The Department also conducted substantial public outreach and education on these impending requirements. After the Maryland's water quality standards became effective in August 2005, the Department began to officially alert NPDES permittees of the new requirements, and published an interim final trading policy and guidelines in October, 2005. After hearing concern from the public and the Legislature, the Department conducted an intensive stakeholder process throughout most of 2006.

The Chesapeake Bay Tributary Strategy Steering Committee was re-convened in January 2006 to address public concerns regarding implementation of the Tributary Strategy and the development of a Nutrient Trading Program. Membership was broadened to bring in additional public stakeholders not previously represented. To work through multiple issues concerning the strategy and trading the Steering Committee formed several workgroups, including Point Sources, Agriculture, Legacy Sediment, and Stormwater and Development. A previously established Nutrient Trading Workgroup was also brought under the umbrella of the Steering Committee. These workgroups were tasked, by the Steering Committee, to provide guidance and clarification on the implementation of the Tributary Strategy and the development of the Nutrient Trading Program.

In an effort to pull together an integrated packet of information related to the revisions of the Trading Policy and Appendix documents as well as the proceedings from the Chesapeake Bay Tributary Strategy Steering Committee Meetings and the various workgroups the following information will be posted to the Department's Chesapeake Bay Website at http://www.dep.state.pa.us, Keyword "Chesapeake Bay".

1. Trading of Nutrient and Sediment Reduction Credits- Policy and Guidelines (posted on November 15th);
2. Appendix A- Nutrient Criteria Specific for the Chesapeake Bay Watershed (posted on November 15th);
3. Attachment 1: Point Source Allocation Strategy (posted on November 15th);
4. Attachment 2: Overview of Wastewater Planning Program Procedures (posted on November 15th); and
5. Attachment 3: Overview of the Agriculture Sector's participation in Nutrient Trading (posted on November 15th).
6. Executive Summary (posted when completed);
7. Frequently Asked Questions on Trading (posted when completed);
8. Comment Response Document (This will be posted upon completion of the final comment period which will end on December 15, 2006)
9. Listening Session and Guidance Document Comments (posted when completed); and
10. Overview of World Resources Institute and the Creation of Nutrient Net (posted when completed).