



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

James Tierney, Assistant Commissioner  
Water and Watersheds  
New York Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233

FEB 17 2012

Dear Mr. Tierney:

Enclosed to this letter is EPA's final assessment report regarding the status of New York's Trading and Offset Program. As you are aware, the review of each Chesapeake Bay Watershed jurisdiction's offset and trading program is the first such assessment that EPA has performed. EPA plans to revisit these assessments periodically.

The timing of this first assessment was important to providing feedback to the jurisdictions as they prepared their draft Phase II Watershed Implementation Plan (WIP) and 2012-2013 two-year milestones. We want to thank you and your staff for the time and discussion regarding the status of New York's Trading and Offsets Program during our meeting in June 2011 as well as during follow-up calls. EPA would like to continue working with you in the resolution of our recommendations as New York moves forward to meet the assumptions and requirements underlying the Chesapeake Bay TMDL.

In this assessment, EPA has recommended and emphasized to all jurisdictions the need for credible offset programs for each sector that will contribute new or increased nutrient or sediment loads to the Chesapeake Bay Watershed. EPA is committed to ensuring that all jurisdictions have effective offset programs in place. If a jurisdiction does not develop a credible offset program to manage growth in particular sectors, EPA expects that jurisdiction to demonstrate that those sectors either are not growing or do not contribute new loads even though they are growing. This numeric demonstration should be based on recent historical trends and should be consistent with the assumptions and requirements underlying the Chesapeake Bay TMDL.

Remaining unresolved recommendations specific to New York are identified in Appendix A of the final report. EPA understands that some of these issues cannot be immediately corrected. EPA expects New York to develop a plan of action to address by the end of calendar year 2012 all unresolved, jurisdiction-specific Tier 1 and Tier 2 recommendations from the final report and to address by the end of calendar year 2013 all unresolved recommendations common to all jurisdictions. As a first step, EPA and New York should agree on a schedule to develop an action plan that can be incorporated into New York's final Phase II WIP. This schedule should include actions over the same period as New York's current two-year milestones for the Chesapeake Bay.



EPA recognizes that New York included significant information regarding offsets and trading in its draft Phase II WIP. EPA will work together with New York to address EPA's observations in the final report in its final Phase II WIP, as appropriate.

Please contact Patricia Gleason of my staff at 215-814-5740 to coordinate any follow-up meetings.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Capacasa", with a long horizontal flourish extending to the right.

Jon M. Capacasa, Director  
Water Protection Division

Enclosure

cc: Ron Entinger  
Ruth Izraeli

