

Expanding the Nutrient Credit Exchange:

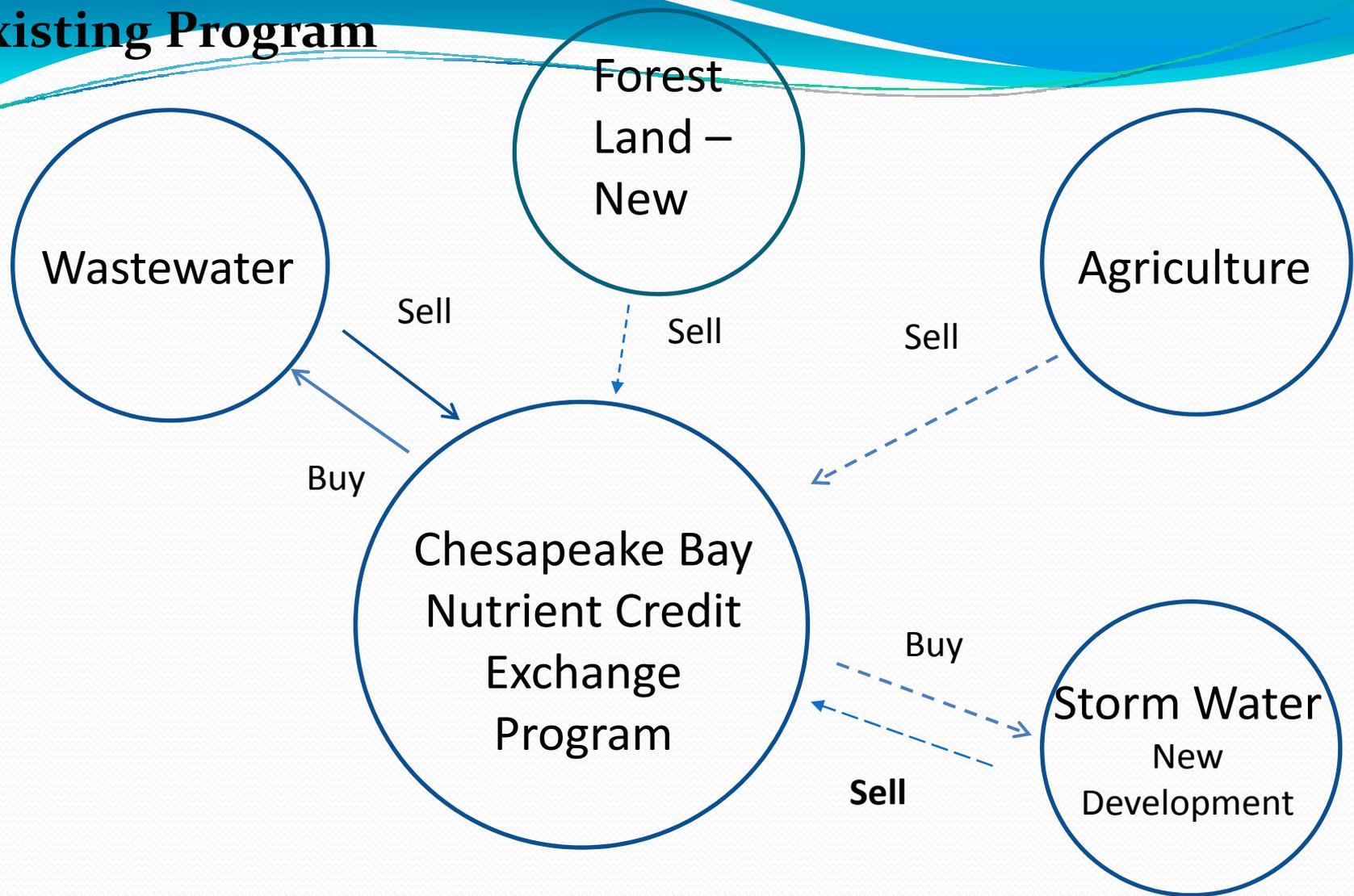
Virginia's Watershed Implementation Plan and
SJR 334

Russ Baxter

Virginia Department of Environmental Quality



Existing Program

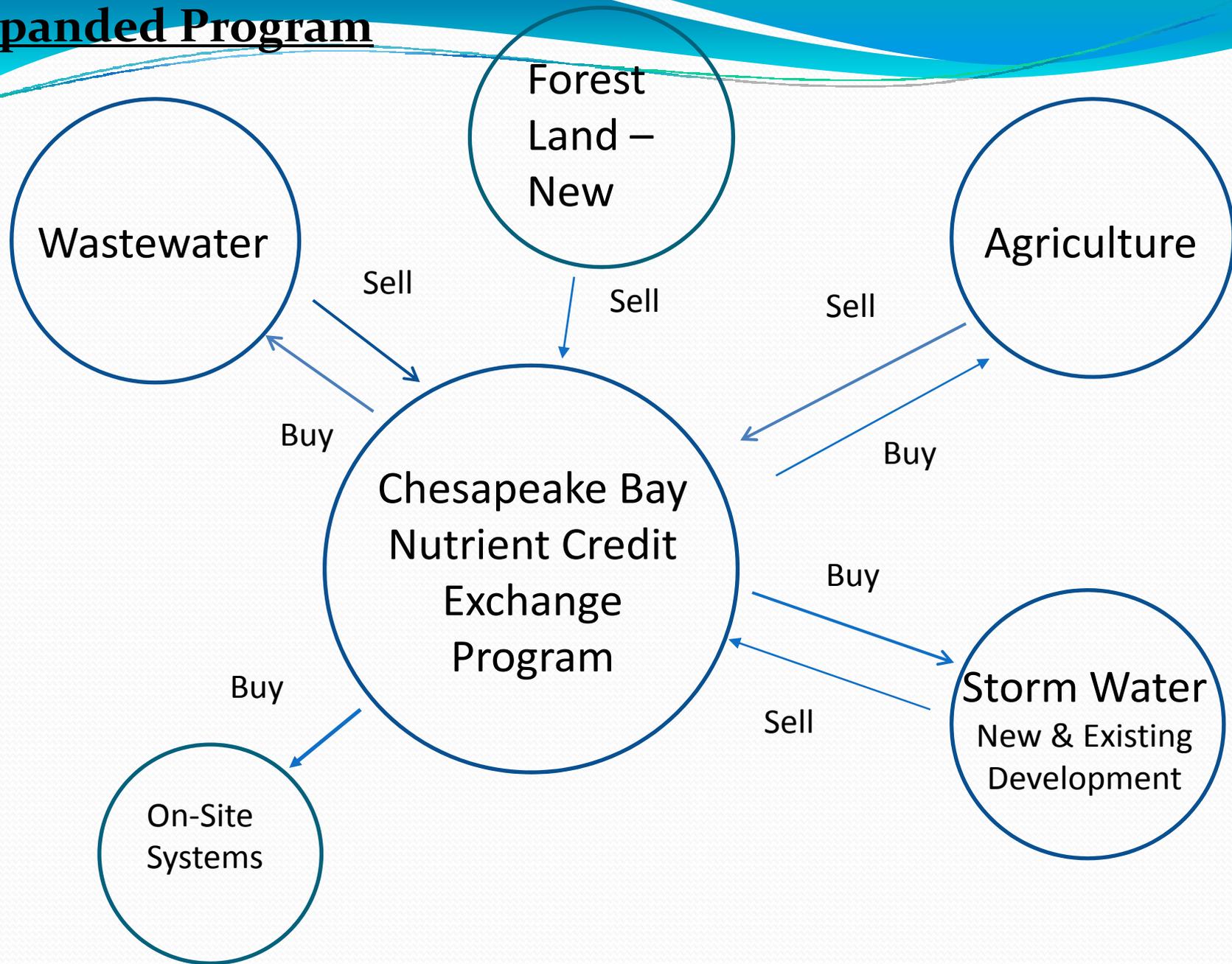


Source Sectors Not in Program

- Storm Water – Existing Development
- On - Site Systems

Dashed lines: Agriculture and new Forest land can only sell to new or expanding; Storm Water only for NPS

Expanded Program



Watershed Implementation Plan

- Calls for Study of Nutrient Credit Exchange with schedule sanctioned by the General Assembly and the Governor (Section 1.7)
- Identifies Key Issues:
 - Availability of Credits:
 - “Drivers”: Onsite Septic, Urban, Ms4
 - Baselines: At what point are credits generated?
 - Certification, enforcement and accounting:
 - Permitting: Including trading and offsets in permits
 - Use of public or private nutrient “banks” or funds

Nutrient Credit Elements of the Phase 1 WIP

- WASTEWATER: Section 4.4 (page 40-41) – Proposed additional offsets – Expansion of wastewater facility to less than 40,000 gpd; Dischargers less than 1000 gpd.
- URBAN: Section 6.4 (page 90) – To address additional reductions needed from urban lands
- ON SITE/SEPTIC: Sections 7.4, 7.5 (page 106) – “allow for increased loads from onsite/septic to be aggregated at a jurisdictional level and available for offsets”

Senate Joint Resolution 334 (2011)

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2011 SESSION

INTRODUCED

INTRODUCED

S334

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SENATE JOINT RESOLUTION NO. 334

Offered January 12, 2011

Prefiled January 11, 2011

Requesting the Secretary of Natural Resources to study the expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program. Report.

Patron—Whipple

Referred to Committee on Rules

WHEREAS, the General Assembly established the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.) in 2005 in order to (i) meet pollution reductions and cap load allocations cost-effectively; (ii) accommodate continued growth and economic development in the Chesapeake Bay watershed; and (iii) provide a foundation for establishing market-based incentives to help achieve the nonpoint source reduction goals; and

WHEREAS, an investment of over \$1.5 billion in implementing this program over the past five years has enabled the Commonwealth to achieve significant reductions in nutrient loads discharged to the Chesapeake Bay from Virginia's municipal and industrial wastewater treatment facilities; and

WHEREAS, the General Assembly expanded the program in 2009 to allow for nonpoint source nutrient offsets to be secured for new land development projects; and

WHEREAS, with the advent of the Chesapeake Bay Total Maximum Daily Load (TMDL) mandated under the federal Clean Water Act, Virginia's Watershed Implementation Plan recognizes that a further expansion of the Nutrient Credit Exchange Program could assist in the implementation of programs and practices necessary to meet the nutrient reductions required by the TMDL; and

WHEREAS, such a program that could allow trading and offsets of nutrients among stormwater, onsite septic, wastewater, agriculture and forestry activities would allow for improved decisions regarding the implementation of needed nutrient reduction practices in a timely and cost-effective manner; and

WHEREAS, this free market-based approach and the expansion of credit markets could bring additional resources from the private sector to nutrient reduction efforts and the Commonwealth has proposed such a program in its Watershed Implementation Plan; and

WHEREAS, a broad-based study with representatives from public and private source sectors and state and local government would allow for the development of a comprehensive program that would meet the needs of the Commonwealth and the relevant nutrient source sectors; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Secretary of Natural Resources be requested to study the expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program.

In conducting its study, the Secretary of Natural Resources shall convene a stakeholder committee to study and develop recommendations relating to the creation of a comprehensive Chesapeake Bay Watershed Nutrient Exchange Program that operates effectively to include both point and nonpoint source pollutants. The stakeholder committee shall include representatives from the nutrient source sectors identified in the Chesapeake Bay TMDL, private sector interests with experience and expertise in market-based approaches and nutrient credits and trading, state agency personnel, local governments, conservation and environmental organizations, and any other persons deemed by the Secretary to have relevant knowledge, perspective, or experience. The Secretary may request the participation of the U.S. Environmental Protection Agency or other federal agencies with experience and expertise.

Technical assistance shall be provided to the Secretary of Natural Resources by the Department of Conservation and Recreation and the Department of Environmental Quality. All agencies of the Commonwealth shall provide assistance to the Secretary of Natural Resources for this study, upon request.

The Secretary of Natural Resources shall complete his meetings by November 30, 2011, and shall submit to the Governor and the General Assembly an executive summary and a report of his findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2012 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

SJR 334 – Schedule Requirements

- “The Secretary of Natural Resources shall complete his meetings by November 30, 2011”
- “The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2012 Regular Session of the General Assembly”

2011 Legislative Changes

- **SB 1099:** Modifies the provisions of the Code that deal with use of offsite credits to meet stormwater requirements
- **SB 1100:** Creates subfund of the water quality improvement fund that may purchase nutrient “certified” offsets. “Priority shall be given to nutrient offsets produced from facilities that generate electricity from animal waste.”
- **SB 1102:** **nutrient** “allocations, credits, or offsets from animal waste-to-energy or animal waste reduction ... shall be considered point source allocations... and shall not be subject to a two-for-one trading ratio”