

**EPA INTERIM ASSESSMENT OF PENNSYLVANIA’S 2012-2013 MILESTONES AND WIP PROGRESS**

The U.S. Environmental Protection Agency (EPA) is providing this interim assessment of Pennsylvania’s progress towards meeting its 2012-2013 sector-specific milestones to assist Pennsylvania in meeting its short-term goals and maintaining progress on its Watershed Implementation Plan (WIP).

**Load Reduction and BMP Implementation Progress**

According to the data provided by Pennsylvania for the 2012 progress run, Pennsylvania is surpassing their 2013 milestone target for phosphorus and is on track to meet the 2013 milestone target for nitrogen. Pennsylvania needs to reduce an additional 1% for nitrogen to achieve the 2013 target. Sediment loads increased from 2011 to 2012, so Pennsylvania needs to reduce an additional 5% to achieve the 2013 target. For future progress runs starting in 2013, EPA encourages Pennsylvania to clarify the source of best management practice (BMP) data and distinguish actual increases in implementation from improved reporting of existing implementation when reporting annually to Chesapeake Bay Program Office (CBPO). The following table contains a sample of BMPs that Pennsylvania implemented through 2012 to make progress towards its 2013 milestone targets, as well as 2012 delivered and 2013 target loads for wastewater.

| <b>Implementation of Select BMPs<sup>1</sup> and Wastewater Loads</b> |  |  |                            |                                    |
|---|--|--|----------------------------|------------------------------------|
|   |  | Unit   | 2012 Progress <sup>2</sup> | 2013 Milestone Target <sup>2</sup> |
| Agriculture   | Nutrient Application Management (All Forms)  | Acres  | 1,397,761                  | 1,450,720                          |
|   | Cover Crops (All Forms)  | Acres  | 63,010                     | 67,245                             |
|   | Conservation Tillage   | Acres  | 522,064                    | 694,546                            |
|   | Livestock and Poultry Waste Management Systems   | Animal Units   | 676,989                    | 660,309                            |
| Urban   | Infiltration Practices   | Acres  | 88,432                     | 86,975                             |
|   | Erosion and Sediment Control   | Acres  | 9,765                      | 18,625                             |
| Wastewater  | Septic Connections   | Systems  | 64,021                     | 55,706                             |
|   | Nitrogen Loads   | Pounds delivered to Chesapeake Bay                           | 11,100,289                 | 10,539,918                         |
|   | Phosphorus Loads   | Pounds delivered to Chesapeake Bay                           | 786,808                    | 975,029                            |
|   | Wastewater Facilities Meeting Water Quality Standards in Chesapeake Bay as of June 30, 2012 <sup>3</sup> | Facilities Meeting/ Total Facilities (Percent of Facilities) | 92 /213 (43%)              | 146 / 213 (69%)                    |

Notes:

<sup>1</sup> Table only includes a subset of BMPs that were implemented as of June 30, 2012 and reported by jurisdictions in their 2012 progress runs and projected by jurisdictions in their 2013 milestone targets. At the end of the 2012-2013 milestone period, EPA will assess implementation based on achievement of the milestone target nitrogen, phosphorus and sediment loads. Therefore, jurisdictions may change the BMPs that they implement during the milestone period to achieve their milestone target loads.

<sup>2</sup> 2012 progress and 2013 targets represent the total acres, feet, or animal units that will have BMPs in place as of 2012 or 2013. Values do not represent a net increase in BMP levels compared to the start of the milestone period in 2011. 2012 actual loads and 2013 target loads are provided for wastewater.

<sup>3</sup> Based on permits for significant facilities with effluent limits in effect that meet DO and SAV/clarity standards.

## **Agriculture – Enhanced Oversight**

### **Achievements**

- Pennsylvania issued the concentrated animal feeding operation (CAFO) General Permit and it became effective as of April 1, 2013.
- Pennsylvania developed the Agriculture Complaint Policy in September 2012.
- Pennsylvania developed revised delegation agreements with county conservation districts to implement manure management requirements.
- Pennsylvania conducted extensive outreach to agricultural community on state regulatory requirements.
- Pennsylvania developed a conservation tillage transect survey to more fully account for conservation tillage in Pennsylvania.
- Pennsylvania hired 4 additional regional agricultural compliance staff.
- Pennsylvania is on track to meet programmatic milestones by the end of 2013.

### **Improvements to Meet 2012-2013 Milestones and Maintain WIP Progress**

- EPA expects Pennsylvania to focus implementation on priority practices with significant commitments for implementation increases. Pennsylvania identified eight BMPs for accelerated implementation including nutrient management, conservation tillage, cover crops, pasture management and waste management systems among others.
- EPA expects Pennsylvania to continue to track progress for milestones and update EPA periodically on those milestones where there was no progress to report for the programmatic update in January 2013.
- EPA expects Pennsylvania to increase coordination and improve consistency in approaches between the Pennsylvania Department of Environmental Protection's regional offices and local conservation districts to address resource concerns at all animal agricultural operations in a timely manner.

## **Urban/Suburban Stormwater –Enhanced Oversight and Total Maximum Daily Load (TMDL) Backstop Actions**

### **Achievements**

- Pennsylvania reissued the Stormwater Municipal Separate Storm Sewer System (MS4) Phase II General Permit (PAG-13) and the Construction General Permit (PAG-02).
- Pennsylvania conducted municipal workshops regarding the reissued PAG-13 permit. Pennsylvania completed the initial development of a tracking system for stormwater BMPs. EPA expects that the completion of this tracking system will support the reporting of stormwater BMPs in annual progress runs submitted to the CBPO.
- Pennsylvania shared approximately 19 municipal separate storm sewer system (MS4) permit applications and 15 TMDL implementation plans with EPA for review and comment.
- Pennsylvania conducted several workshops with the regulated community on the updated Erosion and Sediment Pollution Control Manual.

### **Improvements to Meet 2012-2013 Milestones and Maintain WIP Progress**

- Pennsylvania had made the following commitments but has not provided revised deadlines to complete these tasks:

- Develop a Chesapeake Bay Pollutant Reduction Plan (CBPRP) guidance document and training by April 2013. EPA has offered assistance on this milestone.
- Submit an MS4 Compliance Monitoring Strategy to EPA by September 2012.
- Develop MS4 TMDL Plan and Permit Guidance by April 2012. Pennsylvania presented on this topic during PAG-13 workshops and considers that information sufficient guidance to the permittees. No additional guidance is planned.
- Pennsylvania committed to develop a policy on designation of small MS4s by June 2012. The due date for this milestone has been revised to December 31, 2014. EPA expects this milestone to be completed by December 31, 2013 or provide justification why this milestone cannot be met.
- Pennsylvania committed to update the MS4 Annual Report by August 2012. EPA has developed a report based on a national model tailored to PAG-13 requirements and shared it with Pennsylvania in 2012. Pennsylvania is currently working to modify the EPA report to address Pennsylvania needs. The due date for this milestone has been revised to December 31, 2014. EPA expects this milestone to be completed by December 31, 2013 or for Pennsylvania to provide justification as to why this milestone cannot be met.

### **Wastewater Treatment Plants and Onsite Systems – Ongoing Oversight**

#### **Achievements**

- Pennsylvania made good progress in issuing updated permits in compliance with the Bay TMDL. Twenty-eight permits for significant dischargers (11 municipals and 7 industrials) were reissued to include permit limits consistent with the TMDL for the first time.
- Ninety-two of the 213 significant dischargers have nutrient permit limits which are currently effective, and an additional 54 will have nutrient permit limitations effective in 2013.
- The Phase II Watershed Implementation Plan (WIP) Wastewater Supplement has been essential in documenting adjustments to permitted nutrient loads while maintaining the TMDL total waste load allocation (WLA) assigned to Pennsylvania for wastewater dischargers.
- Pennsylvania revised its permitting approach so that publically owned treatment works (POTWs) can generate credits for accepting additional wastewater flows from the retirement of septic systems.
- Pennsylvania maintains a listing of non-significant municipal and industrial wastewater permits to assist in the tracking of the aggregate WLAs.

### **Improvements to Meet 2012-2013 Milestones and Maintain WIP Progress**

- EPA expects Pennsylvania to issue the remaining significant permits by the end of 2013. As of March 1, 2013, thirteen permits for significant dischargers (4 municipals and 9 industrials) still need permit limits that incorporate TMDL WLAs. As part of the issuance process for the remaining industrial facilities, Pennsylvania should manage the total suspended solids (TSS) allocations in order to be consistent with the assumptions and requirements of the TMDL .

### **Offsets and Trading – Enhanced Oversight**

#### **Achievements**

- Pennsylvania is on schedule regarding the development of their statewide storm water offset policy in 2014.

- Pennsylvania has been working with stakeholders to develop a strategy for the expansion of its Nutrient Credit Trading program and the modification of the trading baseline.
- Pennsylvania has committed to reevaluate sector growth periodically and submitted an initial sector growth demonstration in response to EPA trading and offset assessment findings in February 2013.

### **Improvements to Meet 2012-2013 Milestones and Maintain WIP Progress**

- EPA expects Pennsylvania to continue to work with stakeholders and EPA to develop a modified baseline for trading that is consistent with the Bay TMDL. The projected completion date for a final revised baseline is 2015.
- Pennsylvania should supplement its initial sector growth submittal with additional information to support Pennsylvania's determination that the projected increase in the agricultural sector loads will not require an offset program and how agricultural loads will be tracked.
- A response to the common recommendations that EPA made in its 2012 trading and offset program assessment is due to EPA by the end of 2013. EPA is issuing Technical Memoranda to assist with this response as well as guide development and implementation of trading and offsets programs.

### **Suggested Considerations for Development of 2014-2015 Milestones**

- Consider milestones to increase the pace of nitrogen and phosphorus reductions. EPA expects milestones for nitrogen, phosphorus and sediment targets to be on track for achieving the goal of having practices in place by 2017 that would achieve 60% of the necessary load reductions compared to 2009.
- Consider providing a list of priority practices and focus programmatic milestones on supporting the accelerated implementation of these priority practices as well as the other BMPs in which Pennsylvania's WIP and milestone input decks show increased implementation.
- Consider milestones for improving data tracking, verification, and reporting for practices that are in the field but not currently reported as described in Section 6 of the WIP.
- Consider milestones that are focused on regulatory compliance and developing a comprehensive compliance assurance program for Animal Feeding Operations (AFOs) and small farming operations.
- Consider milestones regarding the MS4 requirement to develop, review and accept the CBPRPs by April 2014.
- Consider milestones regarding the revision of the stormwater management BMP manual.

### **Summary Points and Next Steps**

- EPA will continue to host quarterly calls with Pennsylvania to track progress.
- The Chesapeake Bay Program partnership is developing verification protocols in order for nutrient and sediment controls to be more accurately credited by the Chesapeake Bay Program models. These protocols will address the source of BMP implementation data and under-reported and non-cost shared practices and will include guidelines for identifying and removing duplicate records and addressing expired, failed, or removed practices.