

## **EPA INTERIM EVALUATION OF WEST VIRGINIA'S 2014-2015 MILESTONES**

The U.S. Environmental Protection Agency (EPA) is providing this interim evaluation of West Virginia's progress towards meeting its 2014-2015 sector-specific milestones and Watershed Implementation Plan (WIP). The Chesapeake Bay restoration operates through a measurable accountability framework. This framework includes the WIPs, annual progress reviews, and two-year milestones. Jurisdictions have the opportunity to adaptively manage their plans and make necessary adjustments to stay on track within this framework and at the midpoint assessment. In 2016, EPA will evaluate whether West Virginia achieved its 2014-2015 milestones and has commitments to achieve the Chesapeake Bay Program (CBP) partnership goal of practices in place by 2017 that would achieve 60% of the nitrogen, phosphorus and sediment reductions necessary to achieve water quality standards in the Bay compared to 2009.

### **Load Reduction Review**

When evaluating 2014-2015 milestone implementation, EPA is comparing progress to expected pollutant reduction targets to assess whether statewide and sector load reductions are on track to have practices in place by 2017 that will achieve 60% of necessary reductions compared to 2009.

According to the data provided by West Virginia for the 2014 progress run, West Virginia is on track to meet its 2017 targets for nitrogen, phosphorus, and sediment. Among the individual sources, agriculture, septic, and wastewater are all on track for meeting nitrogen targets by 2017, whereas the urban sector is off target. West Virginia expects to offset nitrogen increases in the urban sector through reductions in the wastewater sector. All source sectors are on track to meet phosphorus and sediment targets by 2017.

West Virginia increased its implementation of best management practices (BMPs) during the 2014 reporting period and is meeting its 2014-2015 targets for nitrogen, phosphorous and sediment load reductions. New information such as the U.S. Department of Agriculture agricultural census, population and land cover data that the CBP partnership approved for use in its tools to track progress indicates that since 2007, West Virginia has seen changes in agricultural production, urban growth and population served by onsite septic systems that have resulted in decreases in the estimates of phosphorus and sediment loads to the Chesapeake Bay. EPA expects these changes and other new information as appropriate will be used in the development of future milestones, which is consistent with the adaptive management framework.

### **2014-2015 Milestone Achievements**

#### **Agriculture – Enhanced Oversight**

- West Virginia reported over 2,800 acres of cover crops planted under their Agricultural Enhancement Program.
- West Virginia has made immediate changes to increase the amount of acres under nutrient management in order to meet its 2025 goal of 90,000 acres. Such changes include expanding the number of trained West Virginia Department of Agriculture and West Virginia Conservation Agency nutrient management planners working in the Potomac River watershed.
- West Virginia is ahead of schedule in implementing animal waste management systems and conservation tillage priority practices.

- West Virginia recently enhanced its tracking and reporting of BMPs on animal operations.

#### **Urban/Suburban Stormwater – Ongoing Oversight**

- West Virginia reissued its Municipal Separate Storm Sewer System (MS4) General Permit on June 11, 2014; that permit is now in effect.
- West Virginia continues to work with communities to adopt the model stormwater ordinance.
- West Virginia conducted Low Impact Development and post-construction stormwater BMP trainings for contractors, engineers, and designers.

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

- Four significant Wastewater Treatment Plant (WWTP) facilities—[Pilgrim's Pride Corporation (2), town of Moorefield and Charles Town]—have been upgraded or combined to comply with West Virginia's Chesapeake Bay Total Maximum Daily Load (Bay TMDL) wasteload allocations.
- All remaining significant WWTP facilities are expected to achieve their wasteload allocations by the 2017 deadline.

#### **Offsets and Trading**

- West Virginia has in place an operational tracking and accountability system for tracking new or increased loads.

#### **Improvements to Meet 2014-2015 Milestones and Maintain WIP Progress**

##### **Agriculture – Enhanced Oversight**

- Given the level of Chesapeake Bay Implementation Grant funds invested in these workshops and events, EPA appreciates West Virginia's commitment to provide additional information to demonstrate how, and to what extent, the educational workshops and outreach events contribute towards West Virginia achieving its BMP implementation goals in agriculture.
- It is currently unclear from the programmatic milestones how BMP implementation levels will continue to increase through time. Additional information is needed, such as staffing and funding resources dedicated toward specific BMPs as was provided for cover crops, to provide programmatic level assurance that these increasing BMP implementation levels can be sustained over time.

##### **Urban/Suburban Stormwater – Ongoing Oversight**

- Due to a February 2015 decision by the CBP partnership's Water Quality Goal Implementation Team, it is likely that practices on construction and mined lands will receive less credit in future progress runs than West Virginia relied on in its Phase II WIP to meet load reduction targets. Therefore, EPA expects West Virginia to target additional stormwater BMPs, such as filtration practices, or identify alternative strategies to keep West Virginia's urban/suburban loads on track with its 2017 and 2025 targets. EPA recognizes West Virginia's concerns with the Phase 5.3.2 Watershed Model recommendations from the Erosion and Sediment Control BMP Expert Panel and will continue to work with West Virginia to resolve those concerns for the Phase 6 Watershed Model.

- EPA recommends that West Virginia report its progress for implementing stormwater BMPs associated with new construction, redevelopment and retrofits in accordance with the performance standards and retrofits methods approved by the CBP partnership in 2012.

### **Tracking, Reporting and Verification**

- EPA expects all Chesapeake Bay watershed jurisdictions, including West Virginia, to submit a draft BMP verification program quality assurance project plan by June 30, 2015, consistent with the schedule and guidelines adopted by the CBP Principals' Staff Committee. EPA further expects West Virginia to begin implementing its BMP tracking, reporting and verification program in January 2016 based upon review and approval by EPA, with full implementation by 2018.
- EPA also expects West Virginia to review and improve its historical BMP record for all sectors, including wastewater discharge information. Jurisdictions should submit draft historical data, along with documentation of methods and assumptions, to CBPO by June 30, 2015, and final historical data by September 30, 2015, as part of the CBP's midpoint assessment of the Bay TMDL.

### **Expectations and Recommendations for Development of the 2016-2017 Milestones**

#### **Agriculture**

- EPA recognizes that West Virginia has remained on track towards and continues making good progress in meeting its agricultural commitments and targets, including the expansion of trained nutrient management planners. EPA expects West Virginia to continue to provide specific programmatic milestones or identify targeted implementation levels of key practices that describe how West Virginia will sustain the increasing levels of BMP implementation in the coming years.
- The 2012 Census of Agriculture indicates that West Virginia poultry industry has expanded since 2007. EPA recommends that West Virginia develop milestones for how to quantify and offset any increase of nutrient loads from this growth in the poultry industry.
- EPA expects West Virginia to include milestones for ensuring that West Virginia has the programs and funding in place to support farmers in properly managing phosphorus on agricultural lands based on the latest science to address manure nutrient imbalances in regions with dense animal agricultural operations.
- EPA expects West Virginia to develop specific milestones to address recommendations from EPA's Animal Agriculture Program Assessment (to be published this summer). EPA will work with West Virginia to review the Assessment's findings.

#### **Wastewater Treatment Plants and Onsite Systems**

- EPA recognizes that West Virginia has 151 non-significant wastewater treatment plants and that not all of these facilities may have the capacity to collect monitoring data. Therefore, EPA recommends that West Virginia incorporate monitoring data, where possible, in its tracking and reporting of those larger non-significant wastewater treatment plants starting in the 2016 progress run. For all non-significant facilities, West Virginia currently relies upon default nutrient and sediment concentration values or one-time load/concentration estimates. Additional monitoring data would allow West Virginia to verify its non-significant facilities are achieving their aggregate Bay TMDL wasteload allocations.

### **Offsets and Trading**

- EPA expects West Virginia to continue to identify new or increased sector loads and offset these within the appropriate timeframe and to continue to track and account for new or increased loads identified in sector growth demonstrations.

### **Next Steps**

- EPA will consider upgrading West Virginia agriculture to ongoing oversight in 2016 if West Virginia can demonstrate programs are in place to achieve the targeted BMP implementation levels for 2025 and if not, what programs or strategies will be in place that can deliver the BMP implementation levels necessary to meet future milestones and West Virginia's 2025 targets.
- EPA will provide an analysis of 2013 sector load growth demonstration to West Virginia by June 30, 2015. EPA expects West Virginia to update the sector load growth demonstration with new information including EPA's findings during the 2016-2017 milestone period. EPA also expects West Virginia to develop offset regulations and policies if the demonstration shows that new loads are generated and need to be offset.
- EPA will potentially downgrade West Virginia urban/suburban stormwater to enhanced oversight at the end of the 2015 milestone period unless:
  - Comprehensive assessment of new growth and nutrient loadings and EPA's sector growth demonstration analysis show that West Virginia can hold the line on urban/suburban stormwater loads; or
  - West Virginia adopts post-construction controls for new/redevelopment in their Construction General Permit or issues statewide stormwater regulations; and
  - West Virginia can accurately account for controls on construction and extractive lands.
- EPA will work with federal partners to provide leadership and coordinate with the jurisdictions on WIP and milestone implementation. EPA and jurisdictions are working with federal agencies in 2015 to set federal facility-specific pollution reduction targets for the 2016-2017 milestones and on methods for enhanced reporting of BMPs.