

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

The U.S. Environmental Protection Agency (EPA) is providing this interim assessment of Delaware’s progress towards meeting its 2012-2013 sector-specific milestones to assist Delaware 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 Delaware for the 2012 progress run, Delaware is surpassing their 2013 milestone target for nitrogen and is on track to meet the 2013 milestone target for phosphorus and sediment. From 2012 to 2013, Delaware will need to achieve an additional 7% for phosphorus and 12% for sediment to achieve the 2013 milestone targets. Delaware has already met its WIP 2025 sediment target. For future progress runs starting in 2013, EPA encourages Delaware 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 the Chesapeake Bay Program Office.

The following table contains a sample of BMPs that Delaware 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	195,033	191,694
	Cover Crops (All Forms)	Acres	49,830	36,809
	Poultry Phytase	% animal units @ % Total Phosphorus reduction	100% @ 16%	100% @ 32%
	Livestock and Poultry Waste Management Systems	Animal Units	25,174	34,055
Urban	Wet ponds and Wetlands	Acres	6,466	5,956
	Erosion and Sediment Control	Acres	686	723
Wastewater	Septic Connections	Systems	5	477
	Nitrogen Loads	Pounds delivered to Chesapeake Bay	28,193	217,046
	Phosphorus Loads	Pounds delivered to Chesapeake Bay	4,809	10,997
	Wastewater Facilities Meeting Water Quality Standards in Chesapeake Bay as of June 30, 2012 <sup>3</sup>	Facilities Meeting/Total Facilities (Percent of Facilities)	0 /4 (0%)	2 /4 (50%)

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 –Ongoing Oversight**

#### **Achievements**

- Delaware is exceeding their 2013 milestone for cover crops, and their policy for cover crops on public agricultural lands and the efforts to secure additional funding underscores this as a priority practice.
- The issuance of the first concentrated animal feeding operation (CAFO) permit in Delaware represents forward momentum in the implementation of their state CAFO program.
- Delaware drafted Agricultural Certainty legislation and is exploring agricultural community interest in such a program to accelerate agricultural conservation practice implementation.

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

- EPA expects continued progress in 2013 in submitting and issuing CAFO permits in a timely manner.
- In the case where Delaware moves reported acres from “standard” nutrient management to a higher efficiency form of nutrient management such as decision agriculture, EPA expects Delaware to document why this change is merited.
- EPA expects Delaware to keep EPA up-to-date on the project to collect poultry litter data, including timeframes and preliminary findings.
- EPA expects Delaware to focus implementation on priority practices with significant commitments for implementation increases. Delaware identified cover crops, manure management, and nutrient management as the top BMP implementation priorities for implementation.

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

#### **Achievements**

- Delaware anticipates promulgation of the sediment and stormwater regulations in July 2013.
- A draft BMP manual for industrial stormwater sites was completed in July 2012.
- Delaware is on track to meeting the programmatic milestones by the end of 2013.

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

- EPA expects Delaware to continue to track progress for the promulgation of the sediment and stormwater regulations and the industrial stormwater regulations, informing EPA of any changes in meeting these milestones.

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

#### **Achievements**

- Delaware revised and updated regulations for onsite wastewater and for spray irrigation.
- Delaware mapped large onsite wastewater systems.
- Bridgeville’s revised permit was public noticed in March 2013.

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

- The milestone date to reduce the permitted nitrogen load by 60% for the Invista permit has been revised by Delaware in the progress update from early 2012 to the end of 2013. EPA anticipates this permit revision by the end of the 2012-2013 milestone cycle.

- The milestone date for the revised permit for Seaford has been revised by Delaware in the progress update from 2012-2013 to 2013-2014. EPA expects permit issuance no later than late 2013 or early 2014.

### **Offsets and Trading –Ongoing Oversight**

#### **Achievements**

- Delaware has committed to reevaluate sector growth periodically and has submitted an initial sector growth demonstration in response to EPA's trading and offset assessment findings in February 2013.

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

- The original 2012-2013 milestone commitment for adoption of a statewide offset regulation (Section 8.2.2.2) was targeted for completion in 2013. Draft statewide regulations for an offset program are now scheduled to be proposed by December 31, 2013. Adoption of these regulations is scheduled for 2014. This offset program will apply to sediment and stormwater and includes the establishment of an in-lieu fee.
- 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.
- Delaware should supplement its initial sector growth submittal with additional information to support how Delaware has determined that the loads in each sector appear stable, as well as how this stability is tracked.

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

- Consider milestones to increase the pace of nitrogen load reduction. 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 milestones to develop funding solutions to support commitments outlined in the WIPs as this was a recurring theme in the gap analysis.
- Consider providing a list of priority practices and focus programmatic milestones on supporting the accelerated implementation of these priority practices as well as other BMPs in which Delaware's WIP and milestone input deck show increased implementation.
- Consider milestones for improving data tracking, verification, and reporting for practices that are in the field but not currently reported, such as Delaware's work with Tetra Tech to develop a data tracking and reporting tool.
- Consider milestones to track the completion of regulations scheduled for promulgation and any supporting guides or manuals.
- Consider milestones for issuing permits for agriculture, stormwater and wastewater in a timely manner.
- Consider milestones to reflect Delaware's verbal agreement to issue approximately 30 CAFO permits per quarter.
- Consider milestones regarding the development and implementation of an offset program for Delaware.

**Summary Points and Next Steps**

- EPA will continue to host quarterly calls with Delaware 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.