

EPA INTERIM EVALUATION OF NEW YORK'S 2014-2015 MILESTONES

The U.S. Environmental Protection Agency (EPA) is providing this interim evaluation of New York'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 New York 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 progress on 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 reductions necessary to meet water quality standards in the Bay (water quality planning targets) compared to 2009. EPA is also considering the nutrient targets for 2017 that New York committed to in its Phase II WIP, which are approximately 3% higher than the Phase II WIP planning targets and largely due to increasing wastewater loads between the Phase I and Phase II WIP. EPA assumes that New York will close the gap in its Phase III WIP and future milestones. Unless otherwise noted, New York is either on or off track for both sets of targets.

For all sources combined, New York is on track to meet its phosphorus targets, slightly off track for achieving its sediment targets, and significantly off track for achieving its nitrogen targets. New York's phosphorus loads from wastewater are not on track to meet the water quality planning targets, but are on track to meet New York's Phase II WIP target for 2017. All other sectors are on track to meet both sets of phosphorus targets. The urban sector is on track to meet sediment reductions, but all other sectors' sediment loads are off track. All source sectors are also off track to meet New York's nitrogen targets.

While New York did increase its implementation of best management practices (BMPs) during the 2014 reporting period, additional BMP implementation beyond what was anticipated when the 2014-2015 milestones were developed may be necessary. New information that the CBP partnership approved for use in its tools to track progress indicate that since 2007, New York has experienced changes in agricultural production beyond what was anticipated when the 2014-2015 milestones were developed. These changes in agricultural production have resulted in increases in the estimates of nitrogen and sediment loads delivered to the Chesapeake Bay. EPA expects these changes and other new information as appropriate will be used to develop future milestones consistent with the adaptive management framework.

2014-2015 Milestone Achievements

Agriculture – Ongoing Oversight

- The Dairy Acceleration program received \$700,000 in 2014 to support voluntary Comprehensive Nutrient Management Plan development, and similar funding is expected in 2015.
- New York started a pilot program in 2014 that it will continue in 2015 to formalize a method to report on annual BMPs such as cover crops.
- New York achieved strong implementation increases for commodity cover crops in 2014 and is also ahead of its 2017 target for Animal Waste Management Systems. However, implementation levels for cover crops will still need to more than triple to meet New York's 2025 WIP targets.

Urban/Suburban Stormwater – Ongoing Oversight

- New York has drafted a guidance document to identify and encourage the use of low-cost green infrastructure by municipalities. EPA encourages New York to coordinate with its MS4 community before releasing this document.
- In 2014, New York completed 12 MS4 compliance inspections and 33 construction stormwater inspections, leading to issuance of four Stormwater Notices of Violation in the watershed.

Wastewater Treatment Plants and Onsite Systems –Enhanced Oversight

- EPA commends New York for issuing final permits with nutrient limits to 29 of the 30 significant dischargers in New York.
- EPA commends New York for submitting a plan in April 2015 to monitor and modify non-significant dischargers' permits . EPA recommends that this plan address prioritization of dischargers based on expected load and location.

Offsets and Trading – Ongoing Oversight

- None

Improvements to Meet the 2014-2015 Milestones and Maintain WIP Progress

Agriculture – Ongoing Oversight

- EPA expects New York to release amended drafts of the Federal and State Concentrated Animal Feeding Operation (CAFO) General Permits for notice and public comment in 2015.
- EPA expects New York to continue outreach to individual farmers to verify past practices and document quantities of manure and fertilizer applied in order to meet the definition of coverage by enhanced nutrient management plans.

Urban/Suburban Stormwater – Ongoing Oversight

- EPA expects NYSDEC to work with EPA in 2015 to ensure that the next update of the MS4 General permit includes provisions that address reductions in the urban stormwater sector in New York's portion Chesapeake Bay watershed consistent with the Chesapeake Bay Total Maximum Daily Load (Bay TMDL).

- EPA expects New York to report urban/suburban stormwater BMPs beyond erosion and sediment control in its annual implementation progress submissions to the Chesapeake Bay Program Office (CBPO).
- EPA recommends that New York 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.

Offsets and Trading – Ongoing Oversight

- The changes in loads resulting from agricultural production, land use and population data incorporated into the 2014 progress run challenge New York's previous assumption that any small increases in urban load would be more than offset by steady reductions in the agriculture sector. These data illustrate the volatility of the agriculture sector and the need to have a plan in place to offset loads in this sector.

Tracking, Reporting and Verification

- EPA expects all Chesapeake Bay watershed jurisdictions, including New York, to submit a draft best management practice (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 New York 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.
- Continue developing a new system for tracking new or increased loads that will be operational by December 31, 2015.
- EPA also expects New York 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 the 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

Load Reductions

- EPA recommends that New York review its programs to offset additional nitrogen and sediment loads and set milestones to ensure Bay TMDL goals are met in light of the new information incorporated into the CBP partnership's tools for tracking progress. This new information indicates increases in the estimates of nitrogen and sediment loads to the Chesapeake Bay since 2007 beyond what was previously anticipated.

Agriculture

- EPA expects New York's 2016-2017 milestones to describe new plans for funding and implementing an updated suite of BMPs or an explanation of how implementation of the current suite of BMPs will be accelerated by additional funding and/or new programs in order to get back on track with New York's Phase II WIP targets.

Urban/Suburban Stormwater

- None

Wastewater Treatment Plants and Onsite Systems

- EPA recommends that New York incorporate monitoring data where possible in its tracking and reporting of nonsignificant wastewater treatment plants starting in the 2016 progress run. For all nonsignificant facilities, New York relies upon default nutrient and sediment concentration values or one-time estimates. Additional monitoring data would allow New York to verify that nonsignificant facilities are achieving their aggregate Bay TMDL wasteload allocations.
- EPA recommends that New York begin to evaluate and prioritize the potential for low-cost nitrogen optimization technologies at its significant dischargers.

Offsets and Trading

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

Next Steps

- EPA will provide an analysis of 2013 sector load growth demonstration to New York by June 30, 2015. EPA expects New York to update the sector load growth demonstration with new information including EPA's findings during the 2016-2017 milestone period. EPA also expects New York to develop offset regulations and policies if the demonstration shows that new loads are generated and need to be offset.
- EPA can provide technical assistance to support New York's evaluation of low-cost nitrogen optimization at significant wastewater treatment plants. This information could help New York to meet its Phase II WIP targets and inform New York's Phase III WIP, in which EPA expects New York to commit to load reductions that will achieve water quality standards in the Chesapeake Bay.
- 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.