

EPA EVALUATION OF VIRGINIA'S 2014-2015 and 2016-2017 MILESTONES

The U.S. Environmental Protection Agency (EPA) is providing this evaluation of Virginia's progress toward meeting its 2014-2015 two-year milestones and its sector-specific commitments for the 2016-2017 two-year milestone period.

Load Reduction Review

When evaluating the 2014-2015 milestone implementation and 2016-2017 commitments, 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 percent of necessary reductions compared to 2009.

According to the data provided by Virginia for the 2015 progress run¹, Virginia achieved its state-wide targets for nitrogen and phosphorus, but did not meet its state-wide target for sediment as a result of being off track for sediment in the agriculture and urban sectors. Reductions in the wastewater sector remain on track for all three pollutants.

Based on Virginia's anticipated reductions for nitrogen, phosphorus and sediment during the 2016-2017 milestone period, Virginia is on track to meet all its state-wide targets for 2017. However, Virginia is off track in the urban sector for all three pollutants. Virginia will need to place additional emphasis on increasing implementation in the urban sector to meet its target Watershed Implementation Plan (WIP) and Chesapeake Bay Total Maximum Daily Load (Bay TMDL) targets by 2025. In addition, data that is being gathered for the Bay TMDL midpoint assessment could show that changes in levels of effort may be necessary in order to achieve the 2025 targets for all three pollutants.

Agriculture – Maintain Ongoing Oversight

2014-2015 Milestone Achievements

- Continued to provide advanced funding for livestock exclusion through Fiscal Year 2015, and budgeted additional funding for stream exclusion in the Chesapeake Bay watershed from federal grants (\$3.5 million) and state funds (\$3 million) and will add \$17.5 million during fiscal years 2016 and 2017. An additional \$1.45 million of United States Department of Agriculture (USDA) Natural Resource Conservation Service Regional Conservation Partnership Program grant funds are available for livestock stream exclusion in targeted subwatersheds.
- Continued to develop the Resource Management Program (RMP), including certifying 12 RMP developers and developing 278 RMPs covering 48,000 acres in the Chesapeake Bay watershed.
- Although Virginia did not meet its 2015 milestone of evaluating all of its small Animal Feeding Operations (AFO) by the end of 2015, Virginia evaluated over 1,000 small AFOs. Virginia is continuing this effort for the remaining approximately 100 small AFOs for the 2016-2017 milestone period.

¹ Loads simulated using 5.3.2 version of the Chesapeake Bay Watershed Model and wastewater discharge data reported by the Bay jurisdictions.

2014-2015 Milestones Missed

- Did not make sufficient progress on its 2014-2015 milestone of increasing the number of Nutrient Management Plans (NMPs) on small dairies. Virginia is continuing this effort for the 2016-2017 milestone period.
- Did not submit the three draft Virginia Pollutant Discharge Elimination System (VPDES), Concentrated Animal Feeding Operations (CAFO) permits for poultry to EPA in 2015.

2016-2017 Milestones Strengths

- Committed to issue four VPDES permits in the Chesapeake Bay watershed.
- Committed to track and report the progress of the 100 percent-funded stream exclusion initiative, as well as advocating for funds to implement additional applications for this practice. Virginia allocated \$32.5 million over the next two years to support implementation of this program.
- Committed to promote more registrations for the RMP programs and to produce an annual RMP report that tabulates existing and scheduled Best Management Practices (BMPs), with a goal of getting RMPs on at least 10,000 agricultural acres per year.
- Committed to project the necessary pace of agricultural BMP implementation needed to meet 2025 targets.
- Committed to increase the number of NMPs on unpermitted beef operations and small dairies, with a goal of 15,000 new acres on small farms, including 20 new NMPs on small dairy farms per year.
- Committed to track new poultry house construction and evaluate impacts to WIP allocations based on site-specific factors.
- Committed to develop a spatial database to track Agricultural Stewardship Act complaints.
- Committed to complete the remaining approximately 100 small poultry evaluations as part of the Small AFO Strategy. Virginia also plans to follow-up with the farm owners that agreed to initiate remedies to address water quality concerns.

Key Areas to Address in 2016-2017 Milestone Period

- None identified.

Urban/Suburban Stormwater – Maintain Enhanced Oversight

2014-2015 Milestone Achievements

- Reviewed Chesapeake Bay TMDL Action Plans that Municipal Separate Storm Sewer System (MS4) permittees submitted in 2015. EPA commends Virginia for this achievement.
- Completed development of urban BMP tracking systems that allow communities and the Commonwealth to report information on permit modifications, inspections and implementation of both required and voluntary BMPs.
- Continued to evaluate proposals for awarding an additional \$8 million in Stormwater Local Assistance Funds. This is in addition to \$21.5 million previously awarded during the 2014-2015 milestone period.

2014-2015 Milestones Missed

- Did not issue the six remaining administratively continued Phase I MS4 permits for permittees in the Hampton Roads region, which are a major driver of implementation. Based on implementation data reported through 2015, Virginia urban/suburban loads remain off track for nitrogen, phosphorus and sediment.

2016-2017 Milestones Strengths

- Reissued the six remaining, administratively continued Phase I MS4 permits for the Hampton Roads region on June 1, 2016.
- Committed to review Phase I MS4 TMDL Action Plans.
- Committed to initiate reissuance of Phase II MS4, Construction and Industrial General Permits.

Key Areas to Address in 2016-2017 Milestone Period

- Virginia has stated in MS4 permit fact sheets that permittees will have three permit cycles to achieve the Bay TMDL goals, based upon Virginia's WIP strategy. Given that some permits were issued after 2010, EPA expects the Commonwealth to revisit this strategy during the 2016-2017 timeframe to determine how the Phase III WIP will ensure practices are in place by 2025.

Wastewater Treatment Plants and Onsite Systems –Maintain Ongoing Oversight

2014-2015 Milestone Achievements

- Completed the Notice of Intended Regulatory Action for the Watershed General Permit in March 2015 and proposed regulations released in December 2015.

2014-2015 Milestones Missed

- None identified.

2016-2017 Milestones Strengths

- Virginia Department of Health (VDH) and Virginia Department of Environmental Quality (DEQ) committed to solicit wastewater authorities for the connections to public sewers and develop a central spatial database of all sewered areas in Virginia.
- VDH committed to develop a policy to implement civil penalties and start tracking owners who fail to operate and maintain alternative onsite sewage system.

Key Areas to Address in 2016-2017 Milestone Period

- EPA expects Virginia to resolve the issues raised in EPA's objection and initiate the reissuance of the Watershed General Permit for wastewater facilities.
- EPA recommends that Virginia develop an inventory of wastewater treatment plants that have been upgraded and those scheduled for upgrades.

Offsets and Trading –Maintain Ongoing Oversight

2014-2015 Milestone Achievements

- Finalized the Nutrient Credit Trading Ratio Study Report in spring 2015.
- Completed initial study on the cost-effectiveness of nutrient credit use as an option for VDOT stormwater permitting requirements. Several VDOT projects purchased nutrient offset credits to comply with the state-issued MS4 permit.
- Virginia DEQ published the 2013 and 2014 Nutrient Loads Report and the 2013 and 2014 Nutrient Trades Report.

2014-2015 Milestones Missed

- Did not finalize the draft regulations that establish procedures governing the certification, verification and reporting of nonpoint source nutrient credits. This milestone is carried over to the 2016-2017 milestone period.

2016-2017 Milestones Strengths

- Committed to project the number of additional or expanded poultry houses and offset any increases in nutrient loads.
- Committed to continue the development of the online nutrient credit registry.

Key Areas to Address in 2016-2017 Milestone Period

- EPA expects Virginia to continue to work with EPA by commenting on EPA-prepared draft sector growth demonstrations and providing any requested additional information regarding sector growth.
- Did not finalize the draft regulations that establish procedures governing the certification, verification and reporting of nonpoint source nutrient program. The Technical Advisory Committee has been reformed and met on February 29, 2016 to resolve outstanding issues raised during the 2015 public comment period. EPA expects Virginia to add a milestone to track this activity.

Potential Federal Actions and Assistance

- EPA will maintain enhanced oversight for Virginia urban/suburban stormwater and will continue to monitor Virginia's progress in closing the nutrients and sediment gap in the 2016-2017 milestone period.