New York Riparian Forest Buffer Initiative State Task Force

DRAFT Interim Report

1. Executive Summary

New York is located at the top of the Chesapeake Bay watershed and is the Chesapeake Bay's northern headwaters. New York's portion of the Chesapeake Bay watershed includes the Upper Susquehanna River and Chemung River watersheds; it includes portions of 17 New York counties. New York State's Watershed Implementation Plan (WIP) describes the long-term level of effort and activities that the State will contribute toward restoring the Chesapeake Bay. New York's Phase II WIP was developed by the New York State Department of Environmental Conservation, New York State Department of Agriculture and Markets, and the Upper Susquehanna Coalition. Riparian forest buffer restoration is a key strategy in the NY Phase II WIP and New York has an ambitious goal of achieving 10,222 acres of riparian forest buffers by 2025. NY has about 4,300 acres now, leaving 5,900 acres to go. New York's Conservation Reserve Enhancement Program (CREP) is the primary tool for protecting existing RFBs and increasing enrollment in new RFBs. NRCS programs, such as EQIP, provide some increases in enrollment and ancillary benefits through in field practices.

Most of the RFB enrollments in New York's Chesapeake Bay watershed occur on marginal pastureland and are associated with livestock production. Many of the operations are relatively small and the land is owned and operated by many part-time producers. Producers often view the program as an opportunity to increase the value and usefulness of their operations by developing water, exclusion fencing of the stream, developing pipelines and water tanks, and developing stream crossings. The value of these capital enhancements far exceeds the value of annual rental payments and is the principle economic factor that causes producers to enroll. The enhanced property value associated with the capital improvements and the benefits associated with improved grazing distribution and improved herd health must offset the income loss, operation and maintenance cost/issues associated with participating in the program in order for a producer to enroll. Producers' opportunities to participate are also impacted by outreach activities, producers' preconceived thoughts on the positive and negative impacts of enrollment and the ability to provide timely and professional service to the producer.

The following are the New York Riparian Forest Buffer Initiative State Task Force's primary initial findings regarding the challenges and barriers to riparian forest buffer enrollment and initial recommendations to boost enrollment:

<u>A strong commitment of Federal, State, and local leadership is needed to support the program efforts and provide adequate resources in New York and throughout the Bay watershed</u>. A piece-meal approach without adequate resources will not address the issues associated with achieving desired program outcomes. Since RFBs are one of the most cost-effective means to achieve Nitrogen reductions, the failure to provide adequate resources could lead to higher

societal costs. Failure to achieve desired program goals may mandate more expensive nutrient reduction options such as enhanced nitrogen removal or urban storm water retrofits.

A new outreach campaign is needed to attract attention and boost RFB enrollment, and staffing increases are necessary to provide sufficient technical assistance and capacity to avoid bottlenecks in the enrollment process. A major rebranding/outreach effort is needed to attract producer and landowner attention and boost enrollment. CREP and EQIP are not new programs, but new attention and excitement can be generated around the suggested revisions in incentives, expansion of the CREP target area, and increase in CREP acreage cap. The program complexities and significant perceived risks associated with the program require extensive one-on-one discussions with producers. In addition prior to the launch of a media program there must be sufficient resources to timely and professionally address the increased demand for services. FSA staffing has dropped by 23% since 2002. FSA has recently been able to hire some staff, but that was still only 9-10 Program Technicians across the state. Fundamental tasks such as practice certification, compliance reviews, and outreach are not being completed now. Current agency staffing levels (FSA, NRCS, Ag & Mkts, SWCDs) are inadequate to address the dramatic increase in workload needed during the next 7 years to achieve the WIP goals.

Establishment of two specialized, interagency RFB teams (circuit riders) would help fill this gap. This will require 4-6 additional staff years (FSA, NRCS and the SWCDs) to provide resources to implement an outreach program, oversee contracts, reduce contract maintenance issues, and ensure Federal resources are spent in an efficient and accountable manner. For FSA that would be an average of $54,000 per staff year added. In addition, $10,000-20,000/year is needed for increased funding for FSA and NRCS for media materials.

New York will coordinate with other Bay states and work on sharing (where feasible) various media products (video, pamphlets, etc.). The agencies, consistent with privacy requirements, should develop and maintain a database on the ownership, land use, previous contacts etc. for potential participants in the watershed, and potentially develop a data sharing agreement with Upper Susquehanna Coalition. It will be necessary to develop funding for this, particularly for developing and maintaining the database and work out who the lead(s) will be for this.

Sufficient training is needed to ensure sufficient capacity to provide producers and landowners the assistance they need to enroll, establish, and maintain RFBs. Program complexity requires a well-trained staff. This will require additional trained staff. Staff needs to know issues related to livestock, grazing management, economics, weed control and forestry related issues. Staff training is essential and the staffs of all of the key agencies need to have a better understanding of the important role each plays in developing a contract. Provide $10,000 for staff development and training.

Greater flexibility is needed to provide partial practice incentive payments (PIPs) after cost is incurred and to provide cost share for true cost of components. The high capital costs of many of the fencing, stream crossing, etc. and delays associated with PIP processing due to current

procedure cause significant cash-flow issues. These issues disproportionately impact small and medium sized operations. Provide the State FSA officials the flexibility to issue PIP payments at the time the cost is incurred rather then after the entire practice is completed. There is also a need to adjust the payment cap issues associated with fencing, water development, pipeline, stream crossing, and other components. The average Cost-share payments in the New York City Watershed for stream crossings since 1999 is $6011/livestock crossing (not per contract). Some contract sites require multiple crossings on the tract. Average livestock crossings outside the NY City CREP Watershed in Delaware County average cost-shares of $4929/contract. New York is proposing national policy that mirrors the NY City Watershed CREP agreement where there is a 3 tiered approach to approval of waivers of the livestock crossings and water facilities, pipeline and water development cost-share rates.

Marginal pastureland rental rates have not been updated since 2005 and must be updated to be economically competitive. Prices for milk (2005 price, $16.00/hundred weight – 2014 price, $23.79/hundred weight) (and for livestock (2005 price, $.90/lb – 2014 price, $1.70/lb) have respectively increased by 50 and 90% since 2005. In many NY counties, MPL rates are too low. RFB enrollment rates in NY are directly correlated with more economically competitive MPL rates. Highest RFB enrollment is in the counties that have fairly good rates. Increasing MPL rental rates by $50.00/acre approximately 40-60% would increase program participation, fairly compensate producers for income foregone and generate "buzz" that will help sell the program. This would increase program cost by about $30 million (27,000 acres (acres available in NYS CREP) x $50/acre x 1.45(145% incentive) x 15years = approximately $30 million).

Many acres of marginal pastureland are being determined to be ineligible to participate in CREP. Generally the ineligible lands are pastures where there is currently no grazing or livestock activity. Part of the eligibility requirements for program participation is that the practice has to needed and feasible to address a resource concern. Resource concerns are generally: erosion reduction, water quality improvements, wildlife benefits, and air quality improvements. Restoration of RFBs on marginal pastureland addresses a number of these resource concerns. RFBs protect stream bank erosion, reduce floodwater impacts, lower stream water temperature, help restore aquatic ecosystems, reduce nitrogen concentration in shallow groundwater systems, and provide critical habitat for many riparian dependant species. These acres should be made eligible to participate. This effort will take clear direction from both the FSA State Director and the NRCS State Conservationist that marginal pastureland that does not have grazing is eligible to participate. This item needs to be discussed during interagency training and State Office officials should do periodic spot checks to ensure compliance with this policy change.

Annual maintenance payments should be increased by $5/acre to $10/acre. Maintenance issues associated with flooding, noxious weed infestation, low tree survival, and deer predation, etc. are significant determents to enrollment. High maintenance cost, lack of labor and/or equipment and lack of familiarity with technical standards are all issues that may adversely impact the enrollment. Increasing the maintenance rate by $5-10/acre would not match the out-of pocket costs for a producer. A $10/acre increase in maintenance cost would increase

Federal program costs by about $4 million (27,000 acres in NYS CREP available X $10/acreX 15 years) (life-of contract).

A longer establishment period is needed for RFBs and cost share for spraying to control invasive plants is needed. Failure to conduct necessary maintenance, particularly in the first few years of the RFB, can lead to expensive failures and low tree survival rates. It is much more cost effective to expand the RFB establishment period from 2 to 3-4 years, and provide cost share for spraying to control invasive plants, as is currently done in PA.

Additional program and environmental synergies could be provided by allowing simultaneous sign up of stream bank stabilization in EQIP and RFB in CREP and a working agreement between DEC and US Army Corps of Engineers and USDA. Simultaneous sign up of stream bank stabilization in EQIP and RFB signup in CREP would provide enhanced water quality benefits, protect investment in RFBs and provide important local benefits in flood-prone NY. Program flexibility is needed to allow for simultaneous sign up in CREP and EQIP, with an extended timeframe to install the RFB after the stream bank stabilization is complete (this was the purpose of the Chief's initiative – but did not happen this way in 2014. EQIP funds were used for forestry practices but none were RFB). DEC and U.S. Army Corps of Engineers have developed a joint permitting process for streambank stabilization and restoration project. Although this process is fairly efficient and streamlined, it does require more Conservation District staff time and adds time to the design and implementation process. Considering that it takes nearly one year to plan, design, permit and implement a stream stabilization project in order for that given stream reach to be eligible for CRP/CREP, the DEC/US ACOE permitting process needs to work in sync with the CREP program. A working agreement between DEC, USDA and US ACOE provide the appropriate protocols.

Improve economic competitiveness of CREP RFBs on cropland. Enrolling RFBs on cropland is very difficult for a variety of factors, including rates are not economically competitive, farmers are reluctant to give up any cropland, and concerns over shading, attracting wildlife, etc. Seek increased incentives for first 50 ft of forested riparian buffer. This is critical to address the challenge of farmers farming all the way to the stream. For example, in Delaware County, active stream bank erosion and farming to all the way to the stream is a significant issue, but enrollment of cropland acres in CREP accounts for less than 10% of total contracts and an even lower percentage of total acres enrolled.

2. Current Baseline and Goals

Riparian buffers are a cost-effective means to reduce nutrient (nitrogen/phosphorus loading) into the Chesapeake Bay and are an integral element of New York's Watershed Implementation Plan (WIP). Approximately xx%(I don't know that number)of our State's riparian areas within our portion of the Chesapeake Bay watershed are forested. Our State WIP goal is to increase the amount of riparian forest buffers to 10,222 acres by 2025 (at an estimated rate of 475 acres/year).

Currently there are about 5954 acres of RFB (approximately 4000 acres of which are in New York's Chesapeake Bay watershed) enrolled in the NY CREP program. The NY CREP provides cost-share payments, annual rental payments (10-15 years) and other financial and technical assistance incentives to those who enroll land into riparian forest buffers (CP22). During the next 5 years, 4956acres of existing riparian forest buffer (CP22) CRP contracts will expire, particularly in the latter years. Enrollment trends have been slowing in the program over the past 5 years for various reasons.

3. Agencies and Groups Participating in the Strategy

Numerous federal and state agencies as well as non-governmental organizations are actively involved in promoting riparian forest buffers in New York, and, as such, have participated in New York's Riparian Forest Buffer Initiative State Task Force process. The list of participants, including specific roles, responsibilities, and resources that played a key role in this effort consists of:

USDA Farm Service Agency: FSA is the lead agency for administration of the voluntary Conservation Reserve Program (CRP) and Conservation Reserve Enhancement Program (CREP). The New York CREP has been the leading program in New York's portion of Chesapeake Bay watershed for implementation of riparian forest buffers (RFBs) since it was launched in 2003. The FSA County office system with its local, farmer elected committee is specially designed and has responsibilities to oversee and administer various programs, including conservation, disaster, price support, farm credit, and other services for the public sector. Although FSA staffing is limited due to recent budget cuts and constraints, FSA has an office in nearly every county in New York's portion of the Chesapeake Bay watershed.

USDA Natural Resources Conservation Service: NRCS is the lead technical agency for assistance with CRP and CREP and is a partner in the New York CREP. NRCS is also the lead agency for programs, such as the Environmental Quality Incentives Program (EQIP), the Conservation Stewardship Program (CSP), the Agricultural Conservation Easement Program (ACEP), and Regional Conservation Partnership Program (RCPP), which include riparian forest buffers and/or practices that enhance RFB performance.

US Fish & Wildlife Service: US FWS works to conserve, protect, and enhance fish, wildlife, and plants, including their habitats. They also partner with private landowners in their mission to preserve and protect natural habitats and wildlife resources. US FWS is a CREP partner.

New York Department of Agriculture & Markets: Ag & Markets is the lead state agency for the NY CREP.

New York State Department of Environmental Conservation (DEC): DEC Division of Lands and Forests (L&F) provides forestry expertise (i.e., technical assistance) including some planning of forested riparian buffers for NRCS EQIP (L&F is not currently a TA partner with FSA and NY CREP), but it is rare to see RFB practice in EQIP Forestry applications. Most of DEC's forestry technical assistance in the Susquehanna goes towards upland forestry practices, not RFBs.

DEC's Division of Water is the lead agency for water quality programs, including the Chesapeake Bay TMDL and New York's WIP.

In addition, DEC issues permits for streambank stabilization and restoration projects often in conjunction with the U.S. Army Corps of Engineers through their joint permitting process.

The Upper Susquehanna Coalition (USC): USC is a coalition of 19 Soil and Water Conservation Districts (16 of the NY Soil and Water Conservation Districts in the Chesapeake Bay watershed as well as 3 PA Soil and Water Conservation Districts). USC recently obtained funding from NRCS to hire a circuit rider to provide outreach on CREP RFBs. USC is in the process of hiring a buffer coordinator/outreach specialist. USC recently was awarded a NFWF grant that provides funding for RFB outreach, conduct buffer workshops for landowners and agency staff (FSA, NRCS, SWCDs, USC and DEC), research and develop new tools for buffer implementation, coordinate ad hoc Stream Buffer workgroup (first convened in 2012), track and document riparian forest buffer implementation in the watershed, reporting acres to Chesapeake Bay Program, and coordinate the installation and implementation of two forested riparian buffer pilot projects for trainings, work sessions and outreach efforts.

Soil and Water Conservation Districts: SWCDs have local ties to farmers and possess proven ability to piece together funding packages from multiple sources, including state AgNPS, EQIP and CREP. Expanding the use of cooperative agreements with, as applicable, SWCDs and/or USC

Chesapeake Bay Foundation (CBF): The Chesapeake Bay Foundation is an independent conservation organization dedicated solely to saving the Bay. They serve as a watchdog and fight for effective, science-based solutions to the pollution degrading the Chesapeake Bay and its rivers and streams.

US Forest Service – USFS is another agency of the USDA and administers the nation's 155 national forests and 20 national grasslands. Major divisions of the agency include the National Forest System, State and Private Forestry, and the Research and Development branch. Although not an official CREP partner agency in NY, USFS has actively participated in various activities associated with improving the Chesapeake Bay as well as supporting other Federal and State agencies through their various conservation and natural resource programs and activities. USFS provided funding for 2 new positions in the watershed. One to the DEC for forestry T/A in two counties, and one to USC for a circuit rider to provide outreach on CREP.

Cornell Cooperative Extension Service – *are they involved? not in most counties – maybe Delaware.*

Trout Unlimited (TU): TU works in NY to protect and restore coldwater fisheries and provides assistance in NY with stream crossings and fish passage in some areas. TU has a special arrangement with the USFWS Partners for Fish and Wildlife Program. TU also is a partner in the USC Susquehanna Watershed Riparian Buffer Enhancements project recently funded by NFWF.

Alliance for the Chesapeake Bay: The Alliance is not a CREP partner, but the Alliance and its consultants are playing a role in helping to facilitate the Riparian Forest Buffer state task force process.

Not sure what you want me to put here – no response from these groups.

The Nature Conservancy: ?

National Wild Turkey Federation:

Pheasants Forever?

Others?

4. Current Programs and Gaps

The New York CREP was launched in 2003. The NY CREP targets multiple high priority watersheds within the State, but originally included only part of the NY Chesapeake Bay watershed. The NY CREP was amended in 2012 to include the missing parts of the NY Chesapeake Bay watershed. FSA wanted to do a kick-off re-launch of the CREP after it was amended in 2012, but it was impossible because CRP shut down due to Congressional difficulties in passing the farm bill. Now, we have a farm bill again and it's a good time to re-launch the CREP.

Currently NY CREP provides enrollment authority of up to XXXX acres of highly erodible cropland or marginal pastureland along eligible streams, rivers, or waterbodies. Currently there are about 12,000 acres (4000 acres of which are in New York's Chesapeake Bay watershed) enrolled in the program that provides cost-share payments, annual rental payments (10-15 years) and other financial and technical assistance incentives to enroll. During the next 5 years, 4,956 acres of existing riparian forest buffer (CP22) CREP contracts will expire, particularly in the latter years, and are a priority for reenrollment. CP22 enrollment has been declining the past 5 years. To meet WIP goals, it is necessary to increase financial incentives, program flexibility, and increase staffing and outreach capacity.

Environmental Quality Incentives Program (EQIP) – NRCS administers EQIP. Eligible program participants receive financial and technical assistance to implement conservation practices (inclusive of riparian buffers), or activities such as conservation planning, that address natural resource concerns on their land. Payments are made to participants after conservation practices and activities identified in an EQIP plan of operations are implemented. Contracts can last up to ten years in duration. EQIP has been used in New York to create some riparian forest buffers and, more commonly, for exclusionary livestock fencing from riparian areas.

Conservation Stewardship Program (CSP) – Helps agricultural producers maintain and improve their existing conservation systems and adopt additional conservation activities and adopt additional conservation activities to address priority resource concerns. Participants earn CSP

payments for conservation performance – the higher the performance, the higher the payment. CSP enhancements include extending riparian forest buffers (ANM05).

Agricultural Conservation Easement Program (ACEP) – provides financial and technical assistance to help conserve agricultural lands and wetlands and their related benefits. Newly created by the 2014 farm bill, ACEP consolidates three former programs: the Wetlands Reserve Program, the Grassland Reserve Program and the Farm and Ranchland Protection Program. Riparian forest buffers could potentially be protected under the agricultural land easements, as part of the working farm, or under a wetland easement, as associated buffer. Under the 2014 Farm Bill, there are increased opportunities for CREP participants to transition enrollments under expiring CRP contracts to NRCS ACEP easement programs; further discussion is needed to provide guidance on how interested landowners could transition some RFBs from CREP to NRCS easement programs.

Newly funded Regional Conservation Partnership Program Projects (RCPP) through EQIP, CSP, and/or ACEP.

Chesapeake Bay Watershed Initiative Funding – NY NRCS still has at least $700,000 in Chesapeake Bay Watershed Initiative funding for RFBs remaining that can be rolled into FY15. Typically, NRCS has provided a 1-month signup for these, but may be able to do a longer signup in FY15 (in FY14 received the funding so late, there was little time for a signup). Plan to advertise this signup way in advance. These funds can be used for: forests, stream stabilization and forested riparian buffers.

New York Ag Nonpoint Source Grant Program (AgNPS) – AgNPS is the $12,000,000/year program that provides state cost share for conservation practice systems. These are all in accordance with NRCS standards. These practice systems cost-share funds can be combined with the cost-share payments received from CREP as long as the contract holder does not receive more than 100% of out of pocket expenses. The CREP buffers also provide bonus points to applications for other conservation practices. SWCD's can package the buffers and other conservation practices needed on a farm into a grant proposal. The challenge with this process is that the CREP contract signup is on a FY basis and the announcement of grant proposals and awards is not on a specific timetable annually so SWCD's find it difficult to time the CREP offers and grant process effectively on the same farm or farms.

New York Agricultural Environmental Management Program (AEM) – AEM works as a framework for conservation planning and guiding farmers to access various pots of cost share assistance. AEM is a voluntary, incentive based program that helps farmers make common sense, cost-effective, and science-based decisions to help meet business objectives while protecting and conserving the State's natural resources. AEM provides "one stop shopping" service to farmers in terms of finding out about, applying for and melding together various local, state and federal assistance and incentive programs.

“Trees for Tribs” program – "Trees for Tribs" program - This fairly new and still small-scale program is administered by DEC. This program typically pays for the trees for riparian planting, but on a case-by-case basis may also provide technical assistance and site prep. Trees for Tribs can be used to fill in the gaps in the CREP because it can put trees on any type of land, regardless of whether it is public or private. Projects require a simple application and are filled based on program priorities and available supply. The program is expected to be able to expand to meet demonstrated needs. There is currently one staff person covering the state, but the program is working to establish a coordinator in the Chesapeake Bay watershed. The program does not provide labor for planting and maintenance, and has typically relied upon volunteers to install bare root seedlings, but is building capacity to provide larger plant stock. (More information is available at http://www.dec.ny.gov/animals/77710.html)

Chesapeake Bay Implementation Grant (CBIG) – New York Governor Andrew Cuomo signed the 2014 Chesapeake Bay Watershed Agreement, making NY eligible for a Chesapeake Bay Implementation Grant. DEC’s Division of Water will administer the CBIG funding and is in the early stages of planning its use. RFBs are expected to be an important use of the CBIG funding. The Conservation Innovation Grant program is administered by NRCS and intended to stimulate the development and adoption of innovative conservation approaches and technologies while leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production.

Section 319 USEPA NPS Funding within targeted watersheds- *applicable?*

Joint Chief’s Susquehanna RFB Project – NRCS partnership with USFS, NYDEC, USFWS, USC, Trout Unlimited and FSA to implement riparian forested buffers along the waterways within the Chesapeake Bay Watershed. The project was part of a larger effort by the Forest Service to protect waterways by adding 900 miles of riparian forested buffers in the Chesapeake Bay watershed annually. The purpose of this project is to tie different funding sources toegether on the same farm to accomplish the goals of the Forest Riparian Buffer Initiative. Example: A farm is interested in installing a CP-22 Riparian Forest Buffer under NYS CREP on their land howver the site needs stream bank stabilization before the buffer can be offered into CREP. EQIP funding would be used to repair the stream and then the land can be enrolled in CREP. In addition, USFWS and Trouts unlimited may provide funding for some in stream habitat enhancements as well. There were some applications for this special funding in 2014, but few of them had RFB planting practices involved; most were for upland forestry practices, not RFBs.

5. Factors Influencing Ability to Meet Goal

CREP challenges/constraints on enrollment: The NY CREP was amended in 2012 to completely include the New York portion of the Chesapeake Bay watershed within the CREP target area. Shortly after the CREP was amended, CRP shut-down for prolonged periods in FY 2013 and 2014 due to Congressional delay in reauthorizing the farm bill.

Enrollment trends have been slowing in the program over the past 5 years for various reasons, including economic competitiveness issues. Almost all of the acreage that has been enrolled in NY's CREP in the Chesapeake Bay watershed has been marginal pastureland. Economic competitiveness of the program for livestock/dairy producers is vitally important. Marginal pastureland rental rates are out of date and are estimated to be 50-80% below market rates. They need to be increased. In addition, having to wait extended periods of time for practice incentive payments (PIPs) can have a chilling effect on enrollment, especially given the significant upfront investments participants need to make in items like fencing, water development, and stream crossing. Providing greater flexibility for partial-PIPs as components are installed would help. In addition, cost share caps on many components, such as stream crossings, are too low and do not reflect prices participants are actually paying. Increasing cost share caps will increase economic competitiveness and attractiveness of RFB enrollment. State and county FSA offices need to update the cost-share rates for all cost-shared components. Rates need to be updated at least annually and need to reflect the local market rates for such components.

Although soil rental rates are not universally low throughout the State, they are too low in NY's Chesapeake Bay watershed to make enrollment of RFBs on acres with cropping history economically competitive. This problem is exacerbated by the scarcity of good, level cropland for corn and corn silage. Producers are reluctant to give up any of this land, especially near the streams. NY does not get any credit in the Bay model for RFBs that are less than 35 ft wide. If soil rental rates are not increased then the incentive rate for the CREP needs to be significantly increased.

Flooding is an important concern in NY. In some cases, landowners avoid restoration of RFBs due to concern that trees may fall into streams in flood prone areas. However, trees can help provide streambank stability and CREP RFBs could potentially be paired with EQIP stream stabilization. Outreach efforts will be developed to further producer knowledge of the benefit of RFBs for flood protection.

Staffing cuts & impact on TA/program delivery: Since 2002 staffing for FSA, NRCS, Ag & Mkts, the Conservation Districts have been adversely impacted by budgetary constraints. Many FSA counties have been closed or consolidated and county office staffing has dropped from about 139employees statewide to about 107 employees currently. In addition, new Farm bill programs have further increased workload. NRCS also faces similar challenges with decreasing staffing while increased demands for services.

The NY Division of Forestry has 5 foresters servicing the project area which will soon be raised to 6 foresters. These foresters are working in support of the Joint Chiefs Susquehanna RFB project, but, as discussed above, these foresters do not provide TA for CREP RFBs and will likely provide little RFB assistance.

The increased workload associated with the necessary increase in RFB enrollment along with re-enrollment of expiring CRP contracts for RFBs during the next five years will provide a significant challenge to a greatly reduced staff for all of the agencies.

There is also a need for greater interagency coordination, more staff training and a stronger signal that RFB enrollment is a high priority. This would help provide better and more consistent customer service (at present CRP/CREP is administered differently from county to county). In addition, greater coordination is needed to successfully partner CREP RFB enrollments with the Ag & Mkt's AgNPS cost share program timing requirements.

Technical assistance is the key element for outreach, customer service, practice success, and accountability. At the current staffing levels, program enrollment, conservation planning activities, ongoing maintenance, compliance of contracts and practices, and the potential to achieve WIP goals are all challenged.

Upper Susquehanna Coalition provides critical outreach support and has recently obtained grant funding to help provide additional cost share and to help fill program gaps. New York is interested in exploring additional partnering with NGOs, through, for example, contribution agreements.

Outreach: Riparian forest buffer establishment is a practice that typically requires working one-on-one with a farmer/landowner as this is a more complex practice than, for example, grass filter strips. We have seen strong examples of how dramatically the work of highly motivated, highly credible, local outreach providers can make in boosting RFB enrollments. NY is currently challenged by insufficient resources for outreach and we believe a coordinated RFB outreach strategy is needed to maximize and leverage existing resources and impact, enlist new resources, and inform farmers/landowners of new incentives and opportunities we hope to achieve (such as expanding the CREP target area, raising total authorized enrollment and providing stronger financial incentives). During 2013, NY FSA was challenged to have funding for any outreach activities (including postage for notification letters of expiring contracts and updating and printing NY CREP brochures).

Maintenance/Establishment: Low survival rates of trees can a disincentive to signing up for RFBs or reenrolling RFBs. Adequately maintaining RFBs, particularly in the early years when they are just getting established is a high priority for long-term RFB success. A significant challenge is that annual maintenance payments are too low and since they are rolled into the annual CRP rental rate, many participants are unaware that they are being compensated (at least in part) to conduct maintenance. Spraying herbicides is particularly needed in the early years and is often something participants cannot do themselves. Lengthening the establishment period from 2 years to at least 3 years and providing cost share for spraying is needed. Increased opportunity for third party maintenance could boost performance, both in terms of ensuring maintenance is conducted and that it is properly carried out. Low current incentives ($5/acre/year maintenance or less) are an impediment to hiring third parties to conduct maintenance.

6. Management Approach

Leadership, Coordination and Administration of Programs

New York seeks to develop a coordinated, riparian forest buffer (RFB) strategy to boost riparian forest buffer (RFB) enrollment/reenrollment through 1) seeking policy/guidance adjustments

(including a CREP amendment) to address barriers to enrollment; 2) sending a strong leadership message from the highest levels of the relevant local, state and federal agencies that RFB enrollment/reenrollment is a high priority and promoting interagency cooperation; 3) developing and seeking funding for a coordinated, multi-partner RFB outreach strategy that addresses the appropriate targeted audiences (landowners, farmers, absentee landowners), includes messaging on stewardship and environmental benefits of RFBs, incentives, RFB maintenance, employs leveraging and cross-selling between programs, and addresses both opportunities to reenroll expiring CRP as well as enrollment of new acres; and 4) identifying staffing needs for outreach and technical assistance and seeking funding to fill them.

A key part of this strategy is to identify opportunities for better interagency cooperation and to provide the farmer/landowner with a smoother, quicker, more pleasant enrollment experience. How do we get CREP to the top of the to-do list time-wise with all partners?

This also is an important opportunity to send a more consistent message across the board, letting producers/landowners know the importance of RFBs and about enrollment opportunities in CREP, EQIP, and other RFB programs. It will be important to rollout the RFB strategy and RFB outreach campaign concurrent with approval of the requested policy changes/CREP amendment. “Piece-mealing” policy changes should be avoided to the maximum extent possible because it detracts from increased RFB enrollment momentum and unfairly penalizes early adopters.

New York also seeks to promote, coordinate and recognize partnering with NGOs on RFBs. As discussed above, Upper Susquehanna Coalition (USC) provides critical outreach support and has recently obtained grant funding to help provide additional cost share and to help fill program gaps. In addition, as a result of this RFB state task force initiative process, NY is now exploring the potential to launch the Chesapeake Bay Foundation’s voucher/buffer bonus program (which provides CREP RFB participants with vouchers that can be used towards EQIP practices) in NY. This may be done in conjunction with USC. Increased use of cooperative agreements can provide further support at the local level to conservation districts.

Are there additional possible synergies across USDA programs, such as pairing streambank stabilization and stream restoration through EQIP with CREP RFB enrollments?

<u>Need for Policy or Guidance Adjustments</u>

1. Flexibility to provide partial practice incentive payments (PIPs) as costs are incurred.

Provide either the FSA State Committee or FSA County Committee the flexibility to provide partial payment for Practice Incentive Payment (PIP). The high cost for fencing, water development, pipelines, etc. along with the relatively long establishment period (2 to 3 years) of RFBs can cause cash-flow issues for some producers. This is a particularly critical issue in New York given the hilly terrain, the high up-front capital costs, and the small-scale, low-profit margin nature of farming here. This delay in payment process is impacting the producers and contractors as they work on a calendar year basis for funding and the delay of PIP payments causes administration issues for them. It is recommended that producers be paid within 30

days after the completion of a stand alone component. For example: A producer initially installs a fence and completes the site preparation for tree planting. The producer would be paid within 30 days after each of the components (fencing, site preparation) have been completed and certified by the TSP for compliance with the technical specifications. If the trees are planted 3 months later the TSP would certify compliance with the technical specification and the tree planting portion of the RFB would be paid. Partial payments will increase the workload (site visits for certification) for both the TSP, FSA (payment processing), and the producer (providing receipts and certifying completion of the practice. The agencies should seek out methods that will reduce impacts to the producer.

2. Flexibility to raise cost share caps.

The NY CREP should be amended to provide a 3-tiered waiver process, like the New York City CREP waiver process. This should allow that waivers for up to $5,000 can be waived at the local level by the FSA county committee; waivers from $5,000 – 20,000 could be waived at the state level by the FSA state committee; and waivers that exceed $20,000 could be waived by FSA HQ. This is crucial flexibility needed to meet New York's WIP goals. Given the hilly terrain, it is common for stream crossings to cost $20,000 which far exceeds the current cap of $3,600. Providing a tiered waiver system will improve efficiency in program administration, rather than requiring all waivers to go through FSA HQ which can add months to the process and jeopardize carefully planned timing to integrate EQIP, CREP and AgNPS.

Cost share for invasive spraying is also needed and should be included in the NY CREP. Currently, the PA CREP provides cost share for herbicide spraying to establish a 6 x 6 ft grass free zone around newly planted trees to promote better growth and survival; providing cost share for invasives control is being considered.

FSA should set cost caps for a water supply system rather than the individual system components. Depending on the site, there may be more cost associated with water distribution than for development of the water supply or vice versa. Providing a cap for the entire system rather than the system components would reduce the need to request additional funding, provide incentive for greater efficiencies within the complete water supply system, and improve turn-around times. This is particularly important in New York where terrain is highly variable and we are challenged to integrate timing of CREP and AgNPS.

3. Expand the establishment period for RFBs from 2 years to 3-4 years and include cost share for spraying during the establishment period.

Survival rates of trees can be enhanced by adequate maintenance during the early years of the contract. Spraying herbicides is particularly needed in the early years and is often something participants cannot do themselves. Lengthening the establishment period from 2 years to at least 3 years and providing cost share for spraying is needed.

4. Flexibility re Marginal Pastureland Eligibility.

There are important opportunities to enroll additional RFBs in NY by allowing greater enrollment of fallow ag land into CREP. This may not require a policy change, but, rather, additional training at the county office level.

5. Flexibility to allow simultaneous enrollment of RFB in CREP and streambank stability in EQIP.

Simultaneous sign up of stream bank stabilization in EQIP and RFB signup in CREP would provide enhanced water quality benefits, protect investment in RFBs and provide important local benefits in flood-prone NY. Program flexibility is needed to allow for simultaneous sign up in CREP and EQIP, with an extended timeframe to install the RFB after the stream bank stabilization is complete.

6. Develop a working agreement between NYS DEC, USDA, and US Army Corps of Engineers Stream Permitting Administrators.

DEC and U.S. Army Corps of Engineers have developed a joint permitting process for streambank stabilization and restoration project. The DEC/US ACOE permitting process needs to work in sync with the CREP program. A working agreement between DEC, USDA and US ACOE provide the appropriate protocols.

Landowner Outreach and Customer Service Strategy

Almost all of the acreage that has been enrolled in NY's CREP has been marginal pastureland. One of the key selling points of the program has been the high level of financial assistance provided for fencing, stream crossings, water developments and water facilities that the federal government provides along with the substantial annual rental payment. Enrollment history in NY CREP and New York City CREP show the difference highly trained and motivated local staff can make through concentrated outreach effort and sufficient one-on-one discussions with farmers in the community to promote CREP.

New York seeks to develop a coordinated approach among the multiple partners with-in the project area. As discussed above, greater leadership and coordination is needed among the agency partners. The agencies are short-staffed. Staffing increases are needed to provide outreach and to provide sufficient capacity to allow timely enrollment of RFBs and sufficient technical service. Two specialized, interagency RFB teams should be established for NY's Chesapeake Bay watershed. These teams could would be focused on RFBs and driven to get them done.

A contribution agreement with USC could be an efficient way to increase staffing at the conservation district level. This would provide the simplicity of having one entity to contract with, but would reach 16 NY SWCDs. NY is considering a pilot contribution agreement in the Chesapeake Bay watershed. In addition, contribution agreements with individual SWCDs would also be encouraged.

Establishment, Maintenance, Compliance and Reenrollment

During the next 5 years, 4,956 acres of existing riparian forest buffer (CP22) CREP contracts will expire, particularly in the latter years, and are a priority for reenrollment. Encouraging CREP participants to reenroll (or, in some cases, to transition to ACEP easements) is a high priority. This will require specific and timely outreach to participants with expiring CRP contracts and, in some cases, technical assistance to help participants to resolve compliance issues that may otherwise preclude eligibility for reenrollment.

Establishment issues and low survival rates of trees can be an issue. Adequately maintaining RFBs, particularly in the early years when they are just getting established is a high priority for long-term RFB success. A significant challenge is that annual maintenance payments are too low and since they are rolled into the annual CRP rental rate, many participants are unaware that they are being compensated (at least in part) to conduct maintenance. Spraying herbicides is particularly needed in the early years and is often something participants cannot do themselves. Lengthening the establishment period from 2 years to at least 3 years and providing cost share for spraying is needed. Increased opportunity for third party maintenance could boost performance, both in terms of ensuring maintenance is conducted and that it is properly carried out. Low current incentives ($5/acre/year maintenance or less) are an impediment to hiring third parties to conduct maintenance.

Recommendations:

1. Promote RFB reenrollment in CREP:

    a. Provide targeted outreach to CREP participants in the last 1-2 years of their CRP contracts

    b. Provide participants with information and TA regarding any potential upgrades (e.g., expansion of acres or cost share for alternate water & stream fencing)

    c. Provide TA to help participants resolve compliance issues

    d. Encourage participants with reenrolling RFBs to include upgrades, such as increased acres and/or alternative water and stream fencing.

2. NRCS/FSA cooperation with outreach providers to inform CREP participants with expiring contracts of options to protect RFBs under ACEP easements.

3. Ensure that NRCS/SWCD certify practice/component compliance for all CREP contracts.

4. Ensure that NRCS/SWCD conduct annual status reviews or periodic site visits during the life of the CREP contract and provide such data to FSA (CED/County FSA Committee). This will help reduce non-compliance issues and assist with producer awareness of planned items and contract requirements, as well as assist with Chesapeake Bay reporting of New York's progress toward implementation of WIP goals.

5. Seek to improve establishment success by lengthening the establishment period from 2 to 3-4 years and by providing cost share for spraying (see above policy flexibility).

6. Seek to improve participant compliance with maintenance obligations through increased landowner/farmer education and through providing increased annual maintenance payments (see need for financial incentives).

7. Complete a thorough evaluation of tree planting success/mortality for three consecutive years after the initial planting. When necessary, secure addition planting stock to correct planting failures.

8. Complete a comprehensive status review every three years after the first three years of tree establishment. Perform this status review between the months of June and September so that you can properly evaluation tree condition and also inspect vegetation to confirm the exclusion of livestock. All BMPs should be walked and visually inspected. Maintenance needs (ex. fence maintenance/ tree tube removal) should be identified and reviewed with the participants. Receipt of annual rental payments could be linked with maintenance to inspire compliance. Contract conditions should be reviewed and initialed by participants to serve as a reminder of contract requirements and deter potential contract violations.

Technical Assistance Delivery

As discussed above, since 2002 staffing for FSA, NRCS, and USC/SWCDs have been adversely impacted by budgetary constraints and, new farm bill programs have further increased workload.

Increased staffing will permit:

- Greater opportunity for one-on-one contacts
- Improved customer service/customer experience (e.g., quicker turn-around times)
- Reduction in out-year maintenance contract compliance issues through better follow up with RFB participants
- Ability to develop targeted marketing, conservation buffer tours, education tools, etc.
- Ability to carry out necessary and required technical servicing actions (see Technical Assistance section)

Recommendations:

1. Seek funding for 2 RFB Circuit rider teams: The Commodity Credit Corporation (USDA) or State funding should provide funding to create two teams comprised of a FSA program technician, NRCS soil conservationist, and a forester primarily dedicated to development of outreach and program implementation. The estimated cost for the team is estimated at $287,000/year based on the following: 2 FSA program technicians – (based on GS-6 step 6 level with 25% for benefits) - $51,400/staff year; 2 NRCS soil conservationists – (based on GS-9 step 6

level with 25% for benefits) - $70,000/staff year; and 1-2 NY Conservation Agency or local Conservation Districts RFB specialists ($45,000/year for 1) to assist the producers with the actual, on ground implementation of various conservation practices. Note: unlike some states, this number does not currently include 2 state foresters (based on $70,000/year) because in NY DEC foresters do not provide TA for CREP RFBs. If add 2 State Foresters, Circuit rider team budget would be: $427,000/year. In some cases, producers choose to perform their own work on scheduled practices and this agency individual may assist with "on ground" work to ensure practices meet timely completion as well as planned/prescribed standards and specifications. *Should circuit rider team include state foresters? If so, need an MOU or contribution agreement with FSA. DEC would be happy to pursue with FSA.*

2. Seek to establish cooperative agreements with USC or qualified NGOs. They provide a full range of services (construct fences, develop water, construct water facilities, plant trees, etc.) for riparian buffer establishment. Many producers do not have the equipment, labor, expertise, etc. to develop the buffers. This one stop shopping/turnkey work that also meets FSA/NRCS standards is a popular way to implement the practice.

3. Seek to provide/restore cash awards for agency employees for extra work.

Need for Additional Financial Incentives

The NY CREP provides a producer both cost-share funding and multiple financial incentives to enroll in CP22 for riparian forest buffers. The producer receives from the federal government an annual rental payment which consists of a base rental rate, a 100% rental rate incentive plus an annual maintenance rate of $2 to $5 /acre (depending on the practice selected). In addition, the producer receives a one-time signing incentive payment of $100-$150 acre. The producer also receives cost-share assistance for 50% of the eligible establishment costs once the practice has been certified that it has been completed to the specifications and receives an additional Practice Incentive Payment, equal to 40% of the eligible establishment costs for the practice, after all planned practices are completed. The State provides a one-time lump sum payment equal to the base rental rate multiplied by the number of acres enrolled.

Almost all of the land enrolled in the NY CREP is marginal pastureland (MPL). The rates for marginal pastureland have not been updated since 2005. Typical NY MPL rental rates are low: about $ 40/acre. MPL rental rates are probably 50 to 80% below the market rate. There is anecdotal evidence from field staff that some of the rates are insufficient to attract enrollment. Increasing the rental rates will develop "buzz" within the farm community and will assist in the marketing/outreach efforts. This change would not require a "pay-go" (Pay go is a policy of pay as you go, meaning that increases in USDA spending must be offset by spending cuts).

As discussed above, soil rental rates are not economically competitive in New York, and would need to be raised in order to attract RFB enrollments on land with cropping history.

Maintenance is critical to the long-term success and function of riparian forest buffers. At $5/acre/year, the annual maintenance payment does not cover the costs of paying a contractor to conduct maintenance. In addition, because the annual maintenance payment is rolled into the CRP rental payment, some participants are not fully aware that they are being compensated to conduct maintenance.

Recommendations:

1. Seek to update/increase MPL rental rates.

2. Seek to double annual maintenance payment and perhaps provide as a separate payment from annual CRP rental payment.

3. Seek to increase SRRs or bonus on SRR for RFB enrollments in NY CREP on lands with cropping history?

Other Recommendations

1. Improved program accounting of RFBs for WIP goals

With the newly adopted BMP verification guidelines established under the Chesapeake Bay Program, New York is required to verify all best management practices to be reported in the Chesapeake Bay model. DEC has successfully advocated with the Chesapeake Bay Program in the past to ensure that NY is receiving full credit for its RFBs. *Are there things not currently getting credit for, like other forested CRP enrollments along streams, that are functioning as RFBs?*

7. Work Plan

Leadership, Coordination and Administration of Programs

1. Promote, coordinate and recognize partnering with NGOs

Next steps include:

a. Seek to include more CREP partners through revised CREP Agreement??

b. Coordinate outreach efforts with RCPP partners to “cross-sell” RFBs

c. Explore partnering possibilities, such as Chesapeake Bay Foundation voucher/buffer bonus funded by NFWF and potentially state or grant funding (match)

d. USC NFWF grant

2. Send strong signal that RFBs are a priority/interagency leadership

Next steps include:

a. Develop a CREP event in which possibly the Governor and/or High Ranking USDA official kick-off the new changes

b. High ranking officials present agency staff awards for RFB enrollments

c. Provide more interagency RFB training opportunities, such as the recent RFB training with Stroud at Big Flats, NY

Need for Policy or Guidance Adjustments

Next steps include:

1. Work with other Chesapeake Bay states to seek policy adjustment from FSA HQ or CREP amendment language allowing flexibility for partial PIP payment (case-by-case FSA County Committee or FSA State Committee).

2. Compile actual costs in NY for items, like stream crossings, to demonstrate need to increase or waive cost share caps on certain components. Draft proposed CREP amendment language to provide a 3-tiered waiver process, like the New York City CREP waiver process to waive cost share caps for practices like stream crossings, water troughs, etc.

3. Draft proposed CREP amendment language to provide cost share for invasive spraying as it is in the PA CREP.

4. Seek policy change to extend establishment period for RFBs from 2 years to 3-4 years.

5. Seek greater flexibility regarding MPL eligibility (this may not require anything more than further guidance to the county offices).

6. Seek policy change to allow simultaneous sign up in EQIP stream bank stabilization and CREP riparian forest buffer establishment.

7. FSA should set cost caps for a water supply system rather than the individual system components.

8. Develop a working agreement between NYS DEC, USDA and US Army Corps of Engineers regarding streambank stabilization and stream restoration project joint permitting process and CREP and EQIP.

Landowner Outreach and Customer Service Strategy

Next steps include:

1. Develop coordinated, joint NY RFB outreach plan that includes the following:

a. Assuming recommendations for increased financial incentives (updated MPL rental rates) and flexibility for partial PIP payments and higher cost share caps, focus outreach campaign on informing producers/landowners of these favorable developments that better meet their needs.

b. Outreach to CRP/CREP participants with expiring contracts, including post cards.

c. Strategy for outreach to absentee landowners. This includes seeking funding for mass mailing to absentee landowners for entire NY Bay watershed (identify using GIS data).

d. Update existing and create new media material, including a new NY CREP brochure. Update web-pages updated and develop informational material (video, success stories, diary & RFBs, etc.).

e. Develop signage so that neighbors and others know the field is serving a conservation purpose and just not "poor farming" due to greater amount of native plants.

f. Develop a CREP event in which possibly the Governor and/or High Ranking USDA official kick-off the new changes.

g. Amend CREP agreement to add partners and revise CREP budget to reflect this additional non-federal match.

h. Include agroforestry component in outreach message – e.g., include opportunities and education regarding fruit & nut trees, non-timber forest products, and timber opportunities in forested riparian buffers.

i. Increase training to county office staff on the benefits of riparian buffer and outreach efforts. The many contacts that producers have with local FSA, NRCS, and Conservation District office staffs provide an opportunity to sell the program. Develop a questions and answers information sheet to help the staff. Staff should have information on economics, tax impacts, and succession of contracts.

j. Coordinate on-the-ground outreach resources and seek funding for more outreach staff – experience shows the importance of one-on-one personal contact with producers by credible/knowledgeable/local outreach providers.

k. Cross reference stream layer with CLU layer and county records for RFB outreach (and data sharing agreement with USC).

l. Seek funding for a 1-800-CREP hot line.

Establishment, Maintenance, Compliance and Reenrollment

Next steps include:

1. Expand establishment period & provide cost share in year 3 if natural regeneration fails, but only if contract holder has performed proper/planned management activities to permit natural regeneration to occur.

2. Seek to double annual maintenance payment and perhaps provide as a separate payment from annual rental payment so participants are more aware that they are being compensated to conduct maintenance (combine with increased education for farmers/landowners on RFB maintenance).

Technical Assistance Delivery

Next steps include:

1. Seek $287,000-$332,000 a year for two circuit rider teams (2 FSA PTs, 2 NRCS conservationists and 1-2 USC/Conservation District RFB specialists). If State foresters have agreement with FSA to provide assistance on CREP RFBs, this number should rise to $427,000-472,000.

2. Request FSA HQ to seek through Office of Management and Budget (OMB) funding to ensure adequate resources for staffing and training.

3. Seek funding to provide turnkey service to include riparian forest buffers and other components (tree planting, installation of water facilities/systems, stream crossings, maintenance, invasive species control, etc.).

4. NY NRCS use CRP technical assistance dollars received from FSA to develop a contribution agreement with the USC to target these funds and work to expand the amount of TA funds received as enrollment increases. Similar agreements could be replicated in other watershed teams moving forward across the state.

5. Create an MOU and/or Contribution Agreement between FSA and DEC so State Foresters can provide TA and outreach for RFB CREP enrollments.

Need for Additional Financial Incentives

Next Steps include:

1. Ask FSA to update marginal pastureland (MPL) rental rates

    a. Document actual rental rates for livestock (current MPL rates are probably 50 to 80% below the market rate).

    b. Provide documentation and request MPL rental rate increase.

2. Seek modification to increase the annual maintenance rate for the practice from the current $2-$5 range to $4 to 10/acre range and provide as payment separate from rental rate. This

should include the allowance for re-enrolled contracts to maintain the approved maintenance rates as was approved on their original contract.

3. Conduct analysis that would form justification for a request for a higher bonus on soil rental rates. *How much would NY want to seek for higher bonus on SRR? Does NY want to seek higher SRR? I don't have a feel for what that number should be – I know that NYCity requested an incentive of 600% of SRR for cropland installed in Riparian Forested Buffers a few years back and was not received positively in WDC. Current incentive for all CREP is 145% of SRR.*

Other Recommendations

1. Improved program accounting of RFBs for WIP goals

Next steps include:

a. NRCS along with DEC will review current activities that may enhance riparian habitats and develop systems to provide an accounting of ongoing benefits.

b. FSA should use data, such as CRP shape files, and overlay with USGS GIS stream data files and any remote sensing data, such as Light Detection and Ranging (LiDAR) data to more fully account for linear miles of established and protected riparian buffers. In addition, FSA should review other CRP data files to identify acres adjacent to streams that may be enrolled in other CRP tree planting practices, such as CP3, CP3a, CP23, CP31, etc.

c. DEC should work with FSA, USC, NRCS and Chesapeake Bay Program to ensure NY gets full credit for RFBs and for forested CRP practices, such as CP3, CP3a, etc, in riparian areas within Chesapeake Bay watershed.

2. Further inquire into potential program gaps regarding lands that don't meet program eligibility requirements or farmers/landowners, such as Plain Sect farmers, who decline to participate in federal programs, and, to the extent there is a demonstrated need, seek grant funding to pay for RFB establishment on lands that don't meet program eligibility requirements.