

## SUMMARY OF DISCUSSIONS AND FOLLOWUP ACTIONS

### Chesapeake Bay Program Partnership's

### BMP Verification Review Panel

Friday, November 1<sup>st</sup>, 2013

[www.chesapeakebay.net/calendar/event/21024/](http://www.chesapeakebay.net/calendar/event/21024/)

#### Welcome and Objectives of Today's Conference Call

- Dana York (Green Earth Connection LLC; Chair, BMP Verification Review Panel) verified the conference call participants and outlined the [agenda](#).

#### CBP BMP Verification Program Design Matrix

- Dana York explained the Panel will discuss what should be provided to the states so they can develop their verification program and documentation for submittal to the partnership.
- Rebecca Hanmer: There may be a conflict between the draft general guidance and the matrix. We should make sure that they agree. We want our general ideas to agree before ironing out the details.
- Mike Gerel reviewed the [draft BMP verification design matrix](#). He explained the color coordination. The first ten rows (yellow) are aspects of BMP verification that deal with review of the actual BMP site. The next four rows (blue) deal with validation of the BMP data. The last two rows (green) deal with performance and outcome evaluation of the practices. For example, if a practice is implemented under a regulatory program with strict verification requirements in place, then the data validation (blue) can be more "basic." If something is voluntary and there is less rigor in the first ten rows, then additional validation ("advanced") would be needed in the blue rows.
- Mike Gerel: The green rows are in response to the ultimate goal that we want more practices on the ground that work. There would be a level of data that would need to be collected to prove they are working. How this relates to the verification and validation steps still has to be determined.
- Mike Gerel: If unable to meet the rigor defined in the right column, then additional validation, spot checks, etc. would be required.
- Mike Gerel: Statistical sampling could also work, and this table does not preclude that. However, we do want to have floors and minimum expectations to prevent a race to the lowest common denominator.
- Richard Klein: Think the Panel not only needs to help ensure the Bay Watershed Model's accuracy, but also build incentives into the process to ensure that each BMP is visited and landowners are educated. Urban BMP performance is best in the areas where they visit the practices every 3 years and meet with the practice owners.
- Mike Gerel: Struggled with the balance of setting minimums while providing flexibility. We want some bounds, or would we need another column or want to be more prescriptive?
- Rebecca Hanmer: The people in the best position to make recommendations on verification are the people who are experts in that type of activity. Not all BMPs need to be inspected at the same level. We agreed to look the Urban Stormwater Workgroup's protocol as the model, because they provide different levels of detail depending on the practice and regulatory category. Instead of providing a prescription we want to craft

some direction to the technical sector workgroups so they can make recommendations and modify inspection frequency based on practicability and priority.

- Mike Gerel: This group should decide if we want to set a minimum level or floor. We will need to determine how prescriptive we want to be.
- Richard Klein: Agree with Rebecca. We should not stipulate how often the practices are inspected. Should leave that recommendation up to the sector workgroups.
- Gordon Smith: Strongly agree with Rebecca. The use of the information and nature of BMP should determine how it's measured.
- Mike Gerel: Completely concur that the sector and BMP specific decisions should be determined by the technical experts in the workgroups.
- Rebecca Hanmer: Summarized the recommended approach as follows. Step 1: technical workgroup guidance provides advice on how often a BMP should be inspected. Step 2: the state comes back with its protocol and if it can't meet the "recommended level" because it is impractical, it will do this for its highest priority BMPs. Then it will outline what it will do for non-priority BMPs.
- Rebecca Hanmer: Preference would be that statistical surveys are useful for two things: First, for program evaluations (blue rows). Second, statistical sampling will also be useful when it is not possible to do sampling up to the same level as priority BMPs.
- Gordon Smith: Statistical sampling is good when there is large population and you want to extrapolate rather than visit every site. Site visits are better in cases where you are checking for compliance. If trying to change behavior, then site visits are better.
- Mike Gerel asked the group to review the table and suggest specific edits. Like the point that the statistical sample can tell us that it's there. But if we want to know more about the performance, then something else is needed.
  - Dana York: Perhaps the more prescriptive concept should be in the guidance.
- Richard Klein: Regarding item 10, would ideally like to see it worded so that we ask for most site specific data possible. We want the individual practice data when possible, given legal constraints.
- Robert Traver: We need to keep some flexibility. Do not need to see every BMP every year, some practices are more robust. Think we should add language that practices are visited on a rotating basis so that different practices are visited each year.
- Rebecca Hanmer: None of the protocols call for inspection of every practice every year. Did not see any protocols calling for visits more often than once every five years, with an inspection to ensure installation. Do not think we need right hand column. If we want to tie together verification, validation, etc., then you don't need the right column. If there are general points we agree on, then we can include that in the guidance narrative.
- Dana York asked the panelists to provide any suggestions or revisions so the panel could consider alternatives.
- Dianna Hogan: In the support document we should clarify when to follow basic or advanced validation in the blue rows.
- Tim Gieseke: The program elements seem to create a reverse taxonomy. The complexity that develops from this could be quite extensive and cumbersome.
  - Mike Gerel noted this would be for designing a program, it would not define what will be done or followed on an individual farm. The states are the audience here.
- Tim Gieseke: the questions are great because they lay out what needs to be considered.

- Mike Gerel: There may be some diversity of requirements on a given farm.
- Rebecca Hanmer: Personally, I work better with narratives. Think we need to agree on the concepts we want to pursue and illustrate in the matrix and then have a more detailed narrative in a supporting document.
- Dana York noted this will eventually go up to the PSC. So it helps to have a one-page picture to complement the narrative.

### **General Guidance to the CBP Source Sector Workgroups**

- Rich Batiuk walked through the draft [guidance to be shared with the sector workgroups](#). He asked for the panelists' feedback on the first page: Verification Guidance, Structuring Verification Guidance, and Verification Protocol Design.
  - Dana York: we will have to review the protocols so it will help to have some consistency.
  - Robert Traver: would recommend grouping BMPs by function. Not just grouping them by title, but how they work.
  - Rebecca Hanmer: Important that we consider priority BMPs. See the last bullet of first page and first bullet of second page. Think these points should be emphasized, since other points seem to push towards uniformity. We have already said they should aim high and not be weighed down by practicality.
  - Dana York: How would the priorities issue play out?
    - Rebecca Hanmer: Step 1: technical workgroup guidance provides advice on how often a BMP should be inspected. Step 2: the state comes back with its protocol and if it can't meet the "recommended level" because it is impractical, it will do this for its highest priority BMPs. Then it will outline what it will do for non-priority BMPs.
    - Rebecca Hanmer: Inspections cost money. So if they are going to spend more money, they should first spend it on the practices or programs that account for the largest reductions in their WIPs.
    - Mike Gerel: I do not want everybody to think about this issue for only the top practices in their WIP if they cannot meet requirements for practicality. They should all think about their priorities and try to innovate.
  - Mike Gerel: We want them to also assess what is really out there and working, not just statistically evaluate the practices.
- Rich Batiuk asked for the panelists' thoughts on BMP Life Spans and Expiration Dates, Double Counting, Standards/Practices Specifications and CBP BMP Definitions, and Non-Cost Shared Practices/Functional Equivalents.
  - Robert Traver pointed out that we are still learning about how long these practices can last. Would like some flexibility in case a practice is found to be functioning better or worse than expected. For example, some rain gardens are lasting 12 years, no problem, whereas we originally thought it would only function for 5 years. In some cases we are finding that the vegetative systems are more robust than first thought.
  - Rebecca Hanmer noted there are not many non-cost share practices in forestry. We should be flexible on practices that are not high priorities. Who will provide specific guidance? Us? The workgroups?

- Dana York: It would have to be the workgroups because it may need to be practice by practice. The workgroups have the technical expertise.
  - Rebecca Hanmer: It would be a problem to have rigorous regimes for non-cost share practices because they are lower priority. This is not limited to the agriculture or forestry sector. It would also apply for voluntary urban practices.
- Rich Batiuk asked for panelists' thoughts on Certification and Training.
  - Dianna Hogan: We can eliminate the first bullet, which is taken care of in second bullet. Think the 3<sup>rd</sup> and 4<sup>th</sup> bullets can be combined.
- Rich Batiuk asked for panelists' input on Outcomes. He noted this was also covered in the matrix discussion.
  - Rebecca Hanmer felt the language can be improved.
  - Dianna Hogan: not really talking about adaptive management here. Adaptive management is learning by doing. What we are saying is that it will take time to get verification in place. We look to improve some of the processes while it is getting started, but that is not adaptive management.
    - Rebecca Hanmer: perhaps we can get some ideas from Mike Gerel's matrix.
    - Mike Gerel: As explained earlier, the thought was for people to strive for that right column. We want people to strive toward the gold standard. The goals are consistent.
  - Robert Traver: Are we talking about the quality of the program or the quality of the BMP inspections here?
    - Mike Gerel and Rebecca Hanmer: Program.
  - Tim Gieseke noted that adaptive management is one of the BMP verification principles. So if talking about the verification process, need to be sure we address it as a principle.
  - Dianna Hogan: Adaptive management is to assess and learn about how the BMPs are working. The statement in the document seems more oriented towards assessing the verification program.
  - Rebecca Hanmer: Maybe the word 'outcomes' is wrong in this context if we are talking about adaptive management to assess BMP performance. If unable to meet gold standard for verification as laid out by the workgroups, then there should be a built in review process to achieve that level of verification over time. So this is not necessarily about outcomes, but evaluating program effectiveness to ensure practices are there and functioning. If states cannot meet gold standard right away, then they lay out a plan to expand/improve toward that standard.

### **Panel Review of Proposed Checklists**

- Dana York directed the panelists' attention to the [draft verification component checklist](#).
- Mike Gerel: should consider what else we want them to take a look at and do with this. Whether it is a checklist, the stormwater workgroup's protocol, or an enhanced version of the general guidance. Open to discussion of this.
- Rebecca Hanmer: The guidance from the workgroups is more general in that it discusses what should be verified, how frequently, how to verify it, etc. This looks more like a checklist that a state would need to develop for an inspector or someone doing

verification in the field. Had thought that maybe the Bay Program already had something like this available, but maybe that has not been done before.

- Rebecca Hanmer: the Forestry Workgroup has data elements like number four on the checklist.
- Richard Klein: the other workgroups will provide a similar narrative like the urban stormwater workgroups, correct?
- Rich Batiuk: the USWG narrative is not perfect, but would serve as a narrative template for the other workgroups.
  - Richard Klein: We would need that kind of information from all the workgroups.
- Rebecca Hanmer: think the checklist has a lot more specific information in it than the narrative document, which is more programmatic. Item 4 seems to outline NEIEN elements. For item 8, seems the third party would be looking at the program or the inspector, not the practice itself.
- Gordon Smith: It is a challenge to provide appropriate guidance when there are huge differences between the sectors or BMPs.
- Tim Gieseke: It is difficult and probably cannot compare the sectors as we would like. Think the checklist is a great starting point, or table of contents. Mike's checklist provides some of the questions that fill in the details.
- Rebecca Hanmer: Have been thinking about this from the workgroup perspective; have been asking, would the Forestry Workgroup be able to write up all of this information? There are different potential audiences here.
- Rich Batiuk: We could give this feedback to the workgroups, along with information about the panel's expectations for the states. If the panel presents the same set of information to the workgroups in a slightly different way, think it works for both audiences.
- Dana York: Field offices will want to know what documentation they need to provide. There are a lot of options available for farmer self-certification, depending on their training. We do not want to preclude those options.
- Tim Gieseke: Perhaps we could ask the stormwater workgroup to fit into these categories. That might help us identify gaps and build some consistency or uniformity.
- Rich Batiuk: We can certainly work on that. If the workgroups' narratives are more uniform, it would help partners know where to look to find specific information.
- Rebecca Hanmer: It would be a huge amount of work for the urban workgroup to fit into this checklist. They set up their protocol based on regulatory categories. There is not a way to tell that story in this format.
- Dana York: We need the panelists' ideas if this "table of contents" or checklist moves forward. She noted the time and asked Rich to discuss the timeline.

### **Next Steps and Schedule Ahead for the Panel**

- Rich Batiuk reviewed the [proposed next steps document](#) with the panel. The goal would be to receive the revised protocols/guidance from the sector workgroups in February.
  - Richard Klein recalled yesterday's follow-up action for Rich Batiuk to talk with CBPO staff about ensuring public access to BMP data through the Chesapeake Stat website.

- Mike Gerel suggested the panelists should have a conference call with the workgroup chairs and coordinators. Presume there will be some questions after we provide our feedback to them.
  - Rich Batiuk: Had planned to schedule a call with Dana to speak with the chairs and coordinators. It would be great if there are other panelists that would like to join, so we will extend the invitation to the panel.
- Rebecca Hanmer: Would like the workgroups to outline best level and types of inspections or review from a professional standpoint for specific BMPs or types of BMPs. This is not currently in the guidance, so I plan to write it up. Also reiterate that if a state cannot meet the gold standard for practices, then it should strive to meet that standard at least for their priority practices. Will provide some text via email to the panel.
- Dana York asked panelists to send any further comments out via email to the full panel. She asked for input on any or all of the documents discussed over the past two days.

**ACTION:** Panelists should provide feedback or suggestions on the meeting documents (checklist, matrix, general guidance, etc) by Friday, November 8.

- Dana York: What happens if the BMP Verification Committee and this Panel disagree on specific recommendations or certain elements of the verification framework?
  - Rich Batiuk: If this occurs, then we would proceed with both sets of recommendations as the framework works its way up through the Partnership management structure. That way both groups have their opinion heard by the full Partnership.

## Adjourned

### Teleconference Participants

<u>Name</u>	<u>Affiliation</u>
<i>Panelists</i>	
Dana York, Chair	Green Earth Connection LLC
Curtis Dell	U.S. Department of Agriculture, Agricultural Research Service
Mike Gerel	Sustainable Northwest
Tim Gieseke	Ag Resource Strategies
Rebecca Hanmer	Retired, CBP Citizens' Advisory Committee
Dianna Hogan	USGS, Eastern Geographic Science Center
Richard Klein	Community and Environmental Defense Services
Andrew Sharpley	University of Arkansas
Gordon Smith	Wildlife Works Carbon LLC
Robert Traver	Villanova University, Dept. of Civil & Environmental Engineering
<i>Panel Staff</i>	
Rich Batiuk, Coordinator	U.S. EPA, Chesapeake Bay Program Office (CBPO)
Jeremy Hanson, Staff	Chesapeake Research Consortium/CBPO
<i>Other Participants</i>	
Karl Blankenship	Bay Journal