



Chesapeake Bay Program

Chesapeake Bay Program  
Watershed Technical Workgroup (WTWG)  
Meeting Minutes  
Thursday December 5<sup>th</sup>, 2019  
Calendar Page: [Link](#)

## Summary of Actions and Decisions

### Agenda

#### 10:00 AM – **Introductions and Announcements** – Jeff Sweeney, EPA

- October and November meeting minutes will be posted for review soon
- Continuing request for data related to the benefits of the Volkswagen Settlement
- The amended Shoreline Management Report is now [posted online](#).
  - **June 2019 Decision:** The WTWG approved adjusting the N, P, and TSS load reduction calculations for the Shoreline Management BMP, Protocol 1 (Prevented Sediment). This adjustment would remove coarse sand from the TSS pollutant load reduction calculations to ensure that TMDL “credit” applies to fine sediment that yields the water quality benefits.
- [The Interim Rule for Conservation Stewardship Program \(CSP\)](#) was posted on November 12<sup>th</sup>, 2019.
  - *Public comments are being accepted through January 13, 2020.*
- Update on 2019 Progress submissions – Jess Rigelman
- NEIEN update regarding changes to the schema to make unusable elements usable -Jess Rigelman
- Watershed Technical Workgroup Chair
- Other announcements, including those from members

#### Summary:

Progress and NEIEN: A progress run will occur every Friday, midday, and update the error reports for states. All point-source data has been submitted from all states except VA which has a different deadline.

WV stated that federal agencies were not formally prompted to provide BMP data this year. However, after the federal facilities meeting, more data was received. It may be worthwhile to reach out to agencies in other states / jurisdictions to get additional data before deadlines. DoD stated that they are creating a formal workplan to make sure federal data is included in NEIEN by the deadline.

#### 10:40 AM – **Accounting of compensatory mitigation wetlands toward TMDL reductions** - David Goerman, PA DEP (50 min)

Dave will describe Pennsylvania's case for counting mitigation wetlands toward TMDL and other partnership goals, which is not currently allowed under previous partnership decisions made prior to the TMDL and subsequent iterations of the Watershed Model. The WTWG is the starting point for discussion and other groups are invited to participate in this agenda item. *No decision or*

*recommendation from the workgroup will be sought at this time.*

### **Summary:**

Goerman presented Pennsylvania's reasons for counting mitigation wetlands for TMDL accounting and other partnership goals: "Historically, the decision not to account for compensatory mitigation actions had no real basis, and other programs with regulatory context are accounted for, such as, erosion control and stormwater management. Now that wetlands are being counted as a land cover class, there will be land cover conversions detected in the change analysis. Wetland and stream restoration efforts that occur under regulatory requirements may result in future forest lost change detection efforts without accounting of the restoration gains. This change detection stands to disincentivize wetland stream restoration. Non accounting of regulatory actions is now affecting state's ability to incentivize wetland / stream restoration banking industry deployment to address multiple programmatic needs."

### **Discussion:**

**MD:** In terms of wetlands, we report everything. The way I understand the modeling, is it wants to know everything that's on the ground so that we can accurately portray what reductions or actions are leading to reductions in the Chesapeake Bay, whether it's used for mitigation or any other kind of regulation is irrelevant in my opinion. We have very strict stormwater laws that require mitigation as well, as long as it's something that's traded and there's a monetary value associated with it, the model doesn't mind what it is it just wants to know what the practices are to get an accurate accounting of what's going into the Bay.

**WTWG:** I am really glad that you made that point, it was one of the first things I was going to ask the group. Does anyone know that these were not allowed in the model compensatory wetland mitigation and Dave you have documentation that says it's not allowed- could you send this to the group? I am not saying it should or should not be. I also want to remind people that it is not this groups decision at all of whether or not this should be counted in the model, that's not what our role. Our role is technical. If this was a BMP, how would we give it credit in the model, or is it already being credited in the model somehow? It would be good to hear from others on what they are doing for mitigation and whether they are reporting every year or not. There are many groups with us. One of these is the Wetlands Workgroup. I think it is more their role to decide whether this represents no net gain or loss, and maybe this is why this original decision was made to not credit compensatory mitigation in modeling. But that is a decision the Wetlands and Land Use WG will need to make, not us. Our role is to think how we would specifically "credit" practices in the model, including assessments of whether the practices are already being credited. In MD, it sounds like these mitigation projects are already being explicitly credited through NEIEN submission of new management actions on the ground. They could be submitting this as wetland restoration or some other relevant BMP.

**DOD:** We haven't included the mitigation piece simply because we didn't know whether we could report. We didn't think about it in the way that DEP presenting it. I agree that the Wetland and Land use Workgroups would be the better places to examine if crediting is warranted and how it would work.

**MD:** I have tried to have this conversation with our wetland folks who could be withholding the mitigation piece from reports. It would be good to understand what our modeling role is here. If practices aren't being reported completely, we are not getting a real representation of what is

happening on the ground and we can't plan better. Losses are being offset somewhere else. What we need to know for accounting for the model is the actual on-the-ground change. Losses of wetlands will be accounted for in the model, but if you are not adding in that additional mitigation for offsetting that loss you are going to lose credit and we aren't going to be able to plan well. That's why I try to encourage reporting of every practice. As long as we have good data, let's put it in the model and make sure it's being represented correctly.

**WV:** In the expert panel reports, there's language about not reporting mitigation actions. In WV, we don't have those pathways implemented yet to get the data. We've ignored the mitigation piece because that's a different department that has that data. We haven't asked them for it so we have ignored it all along. I thought that's what stream restoration guidelines said and what Wetlands expert panel said. I am looking through the BMP guide and even trees (planted for mitigation) can't be counted. Since that's what the BMP panel says and I have been following that guidance all along.

**Wetlands WG:** I am hearing a mixed conversation. There are two different issues. One is making sure we track the aerial extent of wetlands in the landscape. This is a status and trends accounting process and admittedly, if regulatory wetland losses are not accounted for – then regulatory wetland mitigation wouldn't need to be accounted for either. The first question is whether regulatory losses are actually changing the landscape of any particular land class. The second question is whether compensatory mitigation should count for load reductions – either change the loading of the land class or count the mitigation as a BMP? Those are two different questions and the former is more relevant than the second, given that compensatory mitigation is time lagged behind the wetland loss even though they are supposed to co-occur. It would be difficult to attribute load reductions to those; however, the land cover land change piece might be something we can look into.

**WTWG:** I believe that we would capture growth into a wetland pretty well with the high-resolution data that we now use, along with supporting information to do the back-cast and forecast. This is probably capturing growth into a wetland and loss of the wetland land use.

**PA:** I would disagree. It will capture the land use change because now you have the development of that land captured in the land use change, but the wetland gains won't be captured. The wetland offset somewhere else on the landscape will not show up. It might actually show as a loss.

**PA:** This has been a discussion we've had with forestry workgroup – why do we have to report forest buffers if they appear in the high-resolution land cover data? We won't be able to capture that trees have been planted until there is canopy cover so that's why the new acreage of planted trees with the project are submitted.

**WTWG:** I agree with you. Are we really able to capture with the land cover data and change in land cover mechanisms – the loss of wetlands? Does it reflect the degree to which we are losing wetlands? What does the land use workgroup think about this?

**Land Use WG:** We just had a joint meeting yesterday with forestry workgroup and I would say that yes, they can capture this. This won't be for loading rates, but a conversation with Peter would be beneficial.

**WTWG:** The way it works in our modeling, states can report tree planting and they get credited in the model as a land use conversion to a cover with a lower loading rate. However, that explicit load credit for tree planting is converted to more of an implicit credit when the new land cover data picks up the

change. We still credit the reported tree planting in the accounting of reported BMP changes.

**PA:** The land use workgroup takes whatever coverage they get for wetlands from the states and the national wetland inventory, but the land use group itself does not do any analysis of the wetland itself.

**WTWG:** The land use and wetland workgroups spent several years assessing how best to account for wetlands in the model. In the future, we should be able to better capture real change because of the quality of the data we can now acquire.

**PA:** You should be able to capture the loss, but there is no analysis being done on mapping new wetlands etc.

**Wetlands WG:** With our current workplan, that was just approved, we want to address some of these issues. We have a plan to put together a STAC workshop. We really need to have these conversations to figure how we are accounting for these things.

**WTWG:** For the no net loss indicator, what are we using for data to track that?

**Wetlands WG:** No net loss is tracked through regulatory programs.

**CBPO:** I think mitigation is tracked through numbers that aren't necessarily tied to geographic mapping.

**WTWG:** The data for wetland BMPs are coming from state agencies where they are being collected – but that's part of PA's concern. So, either it could be a loss in forest but a gain in wetland, or it would be accounted as something else. It's very complicated.

**DOEE:** One of the other questions we had is whether compensatory mitigation above 1:1 replacement would qualify.

**WTWG:** MD would report it as new, there may be some double counting in there, but we don't know if it would be double counting or not. MD is reporting what it can, but it is such a small BMP. On the urban side, we update the land classifications for the developed and forest/wetland sectors every two years for model purposes. These projections or interpolations use new data.

**WTWG:** Does anyone feel we wouldn't be able to devise a mechanism to capture these land use landcover changes in the model?

**CBPO:** Some of the language that Alana brought up because the understanding was to follow a decision that CBP made and so they copied it over, but the goal was to avoid counting something twice, but it's not the be all end all.

**CBPO:** Can someone provide documentation on this historic decision?

**Wetlands WG:** The historic decision is based on the wetland regulatory history 404 permitting (in essence, when wetland impacts occur you replace the existing wetland) that was made by EPA and Army Corp of Engineer headquarters. So, you won't find documentation since this occurred before the CBP existed.

### Zoom Chat:

**WV:** From the BMP guide p.107: Specifications or Key Qualifying Conditions: Trees planted for mitigation or as part of other BMPs are not eligible under these practices; also stream restoration is in this situation, I thought.

**WV:** If a decision is made that jurisdictions can/should start reporting activities that were done for mitigation, we'd have to figure out if we need to go back & report things in the recent past and even the longer "history."

**DC:** If we aren't reporting mitigation because it is just a replacement, does that change when mitigation is above and beyond replacement (greater than 1:1)?

### 11:30 AM – Using CAST to review Progress data - Olivia Devereux, Devereux Consulting (15 min)

Olivia showed how to view files in CAST that show your submitted progress data with the state unique identifier.

### Summary:

Olivia demonstrated how to view files in CAST that show your submitted progress with your state unique identifier. If you have any questions, feel free to reach out to Olivia Devereux.

### 11:45AM – Ongoing Reminders about Model Scenarios, Development of CAST 2019, and BMP Verification – Jeff Sweeney, EPA (15 min)

### Summary:

Model Related- Schedule:

- Final phase 3 WIPs will be finalized before end of December

2019 Progress:

- Upcoming dates:
  - January 15<sup>th</sup>, 2020: jurisdictions submit final progress for 2018-19 programmatic milestones to EPA
  - February 8<sup>th</sup>, 2020: CBPO finalizes 2019 progress model assessment. Jurisdictions finalize BMP Verification Program Plans. There will be two versions of CAST:
    - 2018-19
- 2020-2021 Milestone Period:
  - At 12/12/19 MB meeting they will talk about numeric milestones
- Verification:
  - For 2018 Progress scenario, EPA did several reviews of BMP and wastewater data, highlighting issues that need attention. The same will be done for future progress.
  - General procedures are available

### 12:00 AM – Adjourn

Call Participants

Jeff Sweeney, EPA  
Hilary Swartwood, CRC  
Cassandra Davis, NYSDEC  
Emily Dekar, USC  
Greg Sandi, MDE  
Alana Hartman, WV DEP  
Arianna Johns, VA DEQ  
Matt English, DOEE  
Emily French, EPA  
Danielle Algazi, EPA  
Jamie Davis, EPA  
Jill Whitcomb, PA DEP  
Dave Goerman, PA DEP  
Sarah Diebel, DOD  
Tracey Harmon, VDOT  
Jeremy Hanson, VT  
Ruth Cassilly, UMD  
Olivia Devereux, Devereux Consulting  
Jess Rigelman, J7, LLC.  
Megan Crunkleton, KCT Technologies  
Loretta Collins, UMD, AgWG  
Clint Gill, DNREC  
Pam Mason, VIMS, Wetland WG Chair  
KC Filipino, Hartford Roads Group, Co-chair of LUWG  
David Wood, CSN  
Kevin Du Bois, CRC, CBPO  
Brittany Sturgis, DNREC  
Elizabeth Hoffman, MDA