



**Chesapeake Bay Program
Watershed Technical Workgroup (WTWG)
Conference call**
Thursday, July 16, 2015
10:00 AM to 12:00 PM

MINUTES

Summary or Action and Decision Items

ACTION: WTWG members should review the Phase 5.3.2 Nutrient Management Panel report and provide feedback to the panel chair, Chris Brosch (cc Emma Giese and Mark Dubin), in track-changes format by July 29.

ACTION: Matt Johnston will edit the ESC memo with the following changes:

- Add a footnote to explain that the ESC panel did not consider extractive lands
- Expand on introduction to provide more context
- Edit the second part of the recommendation to describe an asterisk approach rather than complete removal of ESC on extractive.
- Include language that this is a recommendation but because of the lack of consensus, the decision is being elevated to the WQGIT.

ACTION: Matt Johnston will send out an email to the WTWG with a reminder of the August 31 deadline for reporting harvested forest acres, construction acres and AFO/CAFO splits.

Welcome and Introduction – Workgroup Chairs

Nutrient Management Panel Report – Chris Brosch, VT/VA DCR, and Chairs

- AgWG Chairs provided an update on the July 1 webinar and will review the revised schedule for Partnership review.
- Chris Brosch provided an overview presentation on the draft panel report, including how comments and questions provided on the draft report in 2014 have been addressed in the new report.
- The WTWG will be asked to provide approval of the report at their September 3 conference call. Comment period is closed on July 29.

Discussion:

- Bill Keeling (VA DEQ): If we are planning on the early September approval, then all revisions to NEIEN will be in place already and we basically will just approve it on the 3rd?
 - Matt Johnston (UMD, CBPO): In August, 2015, I will put draft statuses in the codes list of the NEIEN appendix. Once the report is approved, I will switch the draft status over to release.
- Johnston: Just because you see Tier 1, 2 and 3 going into place in a particular year doesn't mean all of the acres were covered in those years, correct?
 - Chris Brosch (VT, VADCR): Correct. This is just the beginning of the periods for which the states can begin to take credit.
- Keeling: If we do field level planning on pasture, why can't we receive credit for Tier 2 nitrogen?
 - Brosch: The panel couldn't identify any clear benefit to pasture from the literature.
 - Keeling: Some acres receive commercial fertilizer and some have manure applied.
 - Brosch: That is correct, but direct deposition confuses the matter and it made it imprudent for us to include that recommendation based on the literature available.

- Johnston: When a state is trying to decide what acres to submit in NEIEN, how many options would there be?
 - Brosch: There are five BMPs that can submit acres on: Tier 1, Tier 2 N, Tier 2 P, Tier 2 N and P, Tier 3 N.
 - Johnston: We will have to give five separate definitions then, even though there are only 3 Tiers.
- Ted Tesler (PA DEP): Do we really know whether or not the plans are being carried out on some of those land uses? Would we have the land use information to know the application differential between alfalfa and hay with nutrients for instance?
 - Brosch: Virginia certainly collects land use information, though I can't speak for Pennsylvania.
 - Johnston: This is a problem across all BMPs. In the NEIEN appendix, we list a default land use for if you don't provide land use data. I think we use row crops.
- Keeling: We don't always see all of the information that would need to be reported to qualify for Tier 2 P. What defaults would we have?
 - Brosch: The Virginia plans would qualify for Tier 2 P.
 - Keeling: The soil test P is not a reportable element.
 - Brosch: But every plan written would have a soil test and rating.
 - Keeling: If that isn't passed on to me, how do I code the NEIEN submittal?
 - John Rhoderick (AgWG Co-Chair): That is a good question. At the time the data was collected, the states didn't know about this hierarchical system. How are states going to flip this data over?
- Keeling: Can we have the Modeling team make any comments they have by July 29th.
 - Kristen Saacke Blunk (AgWG Co-Chair): Rich Batiuk (EPA) has been encouraging that communication with the modeling team from the beginning of this process, but we will be sure to circle back on that.

Extractive Land Uses and BMPs – Matt Johnston, UMD/CBPO

- Matt reviewed a list of pros and cons related to proposed changes for simulating nutrient and sediment reductions from extractive land uses in the Phase 5 Model. The workgroup was asked to review the list and propose possible additions/changes that can be forwarded to the Water Quality GIT.

Discussion:

- Johnston: We are Looking for comments on this ESC memo by July 31. We can then take the first week of August to revise the memo as-needed. After the last call we could not reach consensus, so I have drafted this recommendation.
- Tesler: Maybe we should take a step back to make sure that we don't have consensus. I don't know that anything has changed, but we should just make sure that we are of different minds on this.
 - Pennsylvania is in favor of option 3
 - Virginia is in favor of option 2
 - West Virginia is in favor of either option 1 or 2
 - New York is in favor of option 3
 - EPA is in favor of option 1
- Tesler: Ok, so we clearly do not have consensus.
- Dave Montali (WV DEP): Please explain what you mean by recommending that EPA not evaluate programmatic progress related to this practice.
 - Johnston: Say a state put a goal in their milestones based on this practice in the hope that a panel would come up with a reduction value. If that panel was never formed, there is no need to hit them on their programmatic milestones since there is no BMP available.

- Lucinda Power (EPA): Typically in EPA's assessment of milestones progress, we don't include interim BMPs in our programmatic evaluations.
- Johnston: So there would be no change to the status quo with regards to the first part of this recommendation.
 - Power: Correct. EPA does have concerns about point 2, due to transparency. Rather than wiping it this practice from the record, EPA would suggest marking all records with an asterisk.
 - Keeling: The problem is that it would show we had a goal, but that we didn't report anything. Public entities then challenge us for not doing what we said we would do, regardless of the asterisk.
 - Power: We have been in communications with those groups, but that is the risk one takes when putting interim BMPs in their milestones. We just are concerned about the perception that we are hiding things from the public. We just want it to be clear there are actions happening on the ground, but that there are a modeling issues.
 - Keeling: It needs to be clearly documented or else EPA and others should not be evaluating the progress states are making because of this modeling world situation. Whether that is the elimination of the line item in the BMP summary or otherwise, it needs to be clear that EPA will not score states based on nonattainment of a particular item.
 - Power: Fair enough. We can work on that language.
- Keeling: Also, my GIT representative would like to point out that a lack of consensus does not result in maintenance of the status quo, it results in the issue being raised to the WQGIT for decision.
 - Johnston: That's correct, and the WQGIT has all the prevue to change this recommendation. Lucinda and I can add language to this memo on that concern.
- Pennsylvania: We have the most extractive lands here, while others have very little. Although these extractive areas might not be significant, option 3 can't be overestimating reductions as much as option 2. With the idea that we would like to show progress, what option do you suggest for Pennsylvania so that we are not held against the perception that we can't do anything about these loads.
 - Johnston: We have heard from the modeling workgroup about rules that can't be violating. How do we track progress in Pennsylvania? Pennsylvania has an aggressive program to go after and reclaim mines and that is definitely tracked.
- Pennsylvania: In PA, it is required that every 3 years all active mines must renew their permits. We know that this is on the ground.
 - Johnston: The purpose of model and milestones is to review progress since implementation of the Bay TMDL in 2009, and lands in PA have had similar effluent limits since 2009. We don't want to say there have been major management changes, since there haven't been.
- Norm Goulet (NVRC): I think the ESC memo needs a footnote that points out that the ESC expert panel explicitly said that they didn't look at extractive lands.
- Pennsylvania: There needs to be a statement that Pennsylvania loads have been overestimated. And that this is a measurement of progress.
- Keeling: Since this recommendation wouldn't represent a change to the way things are currently done, this doesn't really fix anything.
- Montali: Where do we stand on Phase 6?
 - Keeling: I haven't heard of any change other than a recommendation to not include it.
 - Johnston: That's where we stand, but we aren't taking it up today. Maryland asked other states to check if they have permit effluent limits. If you have that going back in time, we could include it as an industrial point source and the assumed load from this sector would get rolled into another sector.

- Keeling: VA DEQ provided that information as an industrial discharge for all of the facilities.
- Johnston: I checked with Jeff Sweeney (EPA, CBPO), and it is in the TMDL documentation, but it was never rolled into industrial point sources in the model. That's all I know.
- Keeling: It was supplied as a point source input deck, so it is either in wastewater or industrial wastewater.
- Montali: That is scary to me because in general, this is a stormwater load. Do mining permits have controls for N and P?
 - Keeling: No, it has a TSS limit that is permit enforceable.

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- Johnston: I would think that when you are creating 2017 milestone input decks you consider the potential consequences of including interim BMPs. In my opinion, it can only help you if you don't include interim BMPs in your milestone input decks.
 - Keeling: I think that is a BMP by BMP decision. As long as EPA says we can use interim BMPs in our WIPs and milestones, it shouldn't be a surprise that states use them.
 - Johnston: Obviously it is entirely up to you all.

Historical BMP Cleanup Update – Matt Johnston

- Matt provided an update on this task and described interim steps that jurisdictions and the CBPO will take between now and the September 30th final submission deadline.

Discussion:

- Johnston: On the CBP-end, a lot of work needed to be done after initial submissions because we are revising the Phase 6 appendix. That was supposed to have all BMPs that could be reported, but some people carried Phase 5 BMP names over. We hope to get reports back to jurisdictions by COB July 17. If we will not make that deadline, I will email you all and let you know that we are targeting the following week. We will review draft submissions and troubleshoot through September 30. There is no requirement to resubmit on September 30, but it could help. Because of changes in the Phase 6 appendix, we are going to repost a new appendix on the web services website. The codes list will have a Phase 5 BMPs table and a Phase 6 BMPs table to avoid confusion. When you go through re-submissions, go to the Phase 6 appendix and check if the practice names you are submitting are in there. If not, call me and tell me. That will allow us to avoid scrambling to make changes after submittal. Questions?
- Montali: Will Phase 6 Nutrient Management be entered just as "Nutrient Management" or with the tiered approach?
 - Johnston: We have no idea. We are getting data from states on Nutrient Management and it is being placed in NEIEN. We don't know when the Phase 6 expert panel will tell us what the practice should look like in Phase 6. There will need to be a decision about what to do with that data before October 1.
 - Keeling: I don't think the Phase 6 expert panel can radically change how we track and report things because we will have been reporting under the Phase 5.3.2 rules.
 - Montali: That is where I am struggling. I think West Virginia has just been calling everything "Nutrient Management" without separating out by tiers. If we can parse the

acres between Tier 1 and Tier 2 for calibration, states will need time to do that before October 1 or we will need to take it up in the 2016 version of the new model.

- Johnston: We will set up NEIEN so that states can report in Tiers, but we just don't know how it will be treated in Phase 6.
- Keeling: I recommend you not spend a lot of time reviewing the historic data we submitted. I have already found errors that will change. I only went up to a certain year for some agriculture practices, for instance. We will overwrite that file completely to include a whole lot more info for the final submission.
 - Johnston: Great point. The purpose of the review that we are doing now is to make sure that the changes we made were reflected in the submissions and to see if the reports are being filled out correctly. We are not looking much at the actual data.
- Johnston: If you have event status code of inspection, you need to report whether it passed or failed.

2015 Progress Reminder – Matt Johnston

Discussion:

- Johnston: Harvested acres, construction, and AFO/CAFO splits are due by August 31 according to the grant guidance. If we get historic data on those three as best you have it on August 31, that will allow us to build those land uses for the Phase 6 model. We are taking info from the states on their permits. Send a spreadsheet with years, counties and the numbers, and it will be applicable for 2015 progress and the calibration.
- Montali: When we tell you how many permitted forest acres there are, the modeling universe will be equal to that?
 - Johnston: Correct. Some states multiplied by 0.95, assuming 5% aren't reported. I encourage that approach but that isn't required.
- Keeling: I sent harvested acres through 2014, can I send you 2015 acres by county?
 - Johnston: Yes.
- Alana Hartman (WV DEP): Can you send out the August 31 deadline via email?

ACTION: Matt Johnston will send out an email to the WTWG with a reminder of the August 31 deadline for reporting harvested forest acres, construction acres and AFO/CAFO splits.

Adjourn