

Recommendation from the September 2021 Wetland Workgroup Ad-Hoc Meeting to Extend the Credit Duration of Select Wetland BMP Practices

September 28, 2021, 1:00 PM – 3:00 PM

Participants

Megan Ossmann, CRC, *WWG Staffer*

Pam Mason, VIMS, *WWG Co-chair*

Denise Clearwater, MDE

Dave Goerman, PA DEP

Megan Fitzgerald, EPA

Rachel Peabody, VMRC

Bill Jenkins, EPA

Steve Strano, USDA NRCS

Vanessa Van Note, EPA, *BMPVAHAT Coordinator*

Purpose of this Meeting

The purpose of this meeting was to gather subject matter experts into one place determine if the credit duration of select wetland BMPs should be extended and the BMPs to which this recommendation would apply. This meeting was brought about to address the January 2020 Management Board charge to the BMP Verification Ad-Hoc Action Team (BMPVAHAT): *Issue VI, Revisiting Credit Duration*.

Background on how Credit Durations were Originally Established for Wetland Practices

Credit Durations are a system for flagging BMPs in the National Environmental Information Exchange Network (NEIEN) that have not been reinspected. In other words, credit durations are an expiration date for best management practices in the model – the maximum amount of time a practice can remain in the model without an inspection date being reported to the Bay Program. Across the source sectors, credit durations were developed primarily based on regulatory, permit and/or contract lifespans.

The task of developing the credit duration concept was originally charged to the Watershed Technical Workgroup, per page 12 of the Basinwide Verification Framework, “The Watershed Technical Workgroup needs to develop specific guidance that ensures the Bay Program’s National Environmental Information Exchange Network (NEIEN)-based BMP reporting system specifically addresses the issue of practice life span. This includes building in a system for flagging reported practices which are past their established life spans, and confirmation there was follow up re-verification of their continued presence and functionality or removal from the data submitted for crediting.” Once the concept of credit duration was established in NEIEN, each source sector (agriculture, wastewater, wetlands, urban stormwater, stream restoration, and forestry) then assigned appropriate numerical values for credit durations to each Bay Program BMP.

The Wetlands Workgroup was charged with developing principles and guidance for verifying wetland BMP projects. This verification guidance can be found [here](#). When establishing the credit durations for each Wetland practice, the wetland workgroup considered contract durations tied to existing regulatory programs which implement wetland practices across the watershed. A summary of these programs is seen below:

Program/Contract Type	Contract Duration
NRCS Wetland Reserve Easements (WRE)	30-year easement or maintained in perpetuity
FSA Conservation Reserve Program (CRP)	10-15 years
FSA Conservation Research Enhancement Program (CREP)	10- 15 years
Environmental Quality Incentives Program (EQIP)	Maximum 10 years
VA Agricultural Cost-Share Program	10 years

Maryland Agricultural Water Quality Cost-Share (MACS)	Minimum 15 years
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Similar to how the Urban Stormwater Workgroup (whose guidance was chosen by the BMP Verification Committee as an example to other source sectors) established credit durations based on permit durations, the wetland workgroup considered the contract durations listed above as a basis for credit duration of wetland BMPs, which range from 1,3,10 and 15 years depending on the practice.

BMPs to Which this Recommendation Applies

The CBP definitions for Wetland Restoration, Wetland Rehabilitation, and Wetland Creation ([per the Quick Reference Guide for Best Management Practices](#)) are provided below:

- **Wetland Restoration (or wetland re-establishment):** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former wetland.
- **Wetland Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded wetland.
- **Wetland Creation (wetland establishment):** The manipulation of the physical, chemical, or biological characteristics present to develop a wetland that did not previously exist at a site.

The final BMP to which this recommendation applies is the Wetland Buffer BMP, which falls under the Conservation Reserve Program (CRP). The CRP [defines a wetland buffer as follows:](#)

- **Wetland Buffers (or conservation practice, CP-30):** Converts marginal pastureland that is adjacent and parallel to a permanent waterbody, perennial stream, sinkhole, seasonally flooded area or wetlands to a naturally regenerative habitat buffer that is between 20' and 120' in width.

Each BMP in this section has a **current credit duration of 15 years**, which was officially established by the WTWG through the Verification Framework.

Recommendation to Extend the Credit Duration of Select Wetland Practices

The subject matter experts at the Ad-Hoc meeting recommend the credit for Wetland Restoration, Wetland Rehabilitation, Wetland Creation, and Wetland Buffers be extended into perpetuity. Verification requirements on these practices should be removed.

According to the subject matter experts on the meeting, these practices should not have a credit duration in the model. However, if these practices are established under an NRCS easement, then the credit duration of those practices should remain in line with the easement.

This recommendation may be reevaluated at the STAC workshop in March 2022.

Rationale for Extending the Credit Duration of these BMPs

In the original Wetland Verification Guidance, the wetlands subject matter experts stated that, in most cases, a wetland continues to exist past its contract period (specifically the 15-year contract period for CRP/CREP). In addition, the authors mentioned that wetland project enrolled in WRE must be maintained for the duration of the easement, either 30 years or into perpetuity.

In the Bay Watershed, the majority of wetland restoration projects enrolled with NRCS, are implemented through the Agricultural Conservation Easement Program, which has opportunities for 30-year or permanent easements.

The Ad-Hoc group took the facts above into consideration, but also added that state regulatory programs within the watershed should protect wetland restoration and creation projects from being developed. They stated that natural, restored, or created wetlands are a natural resource on the landscape, not a structural practice; therefore, they should not be treated with limitations on their lifespans. As a natural resource, wetlands are expected to last into perpetuity.

It is important to note that the BMPs covered in this paper are different than constructed BMPs and wetlands that serve a treatment purpose where maintenance is required. BMPs which require maintenance, like replacing vegetation on a recurring frequency, are not considered for credit duration extension in this paper.

Transcript from the 09/28/21 Discussion:

- **Rachel:** With SLR we hope that what we design now will be different in 15 years - how will that fit into the verification? If we are verifying a lot of private properties, is there capacity?
 - **Pam:** A lot of verification can be done remotely. For SLR, will the wetland have the capacity to persist?
- **Steve:** Aren't there two types of credits in the model?
 - **Pam:** We are talking about the BMP efficiency credit.
- **Chris Spaur:** The literature states that wetlands have a finite capacity for phosphorus. If there is a landscape where they are absorbing phosphorus, then there should be some sort of timeline.
- **Pam:** Suggest we talk about all wetlands, and not separate any out at this time.
- **Vanessa:** Is there a concern with development and wetlands being removed for development?
 - **Dave Goerman:** That is probably a non-issue because every state has a regulatory program so those losses are picked up by compensatory mitigation requirements.
 - Wetlands are different and should not be treated the same as other BMPs because they are a natural resource on the landscape.
 - I support that there shouldn't be a limitation - unless it is a constructed BMP for treatment purposes. A natural resource shouldn't have a limitation placed on it since it will function indefinitely.
- **Denise:** Differences vary by wetland type as well. I'm leaning towards the viewpoint that as long as it is still there it should continue to count. For wetlands replaced in an ag setting, they may be picked up by the land use change maps over time.
 - Even if the loads change over time, it is still an improved aquatic system, which is the point of restoring wetlands.
- **Steve Strano:** If you have a wastewater treatment wetland you have to harvest the vegetation every once in a while - downstream of high nutrient loads.
 - **Pam:** Right now we don't even count those as wetlands - we are trying to address counting wet ponds as wetlands. If there is maintenance required then it will have to be verified. This conversation is focusing on wetlands created and restored in the landscape - projects for duck habitat and ag landscapes.

- **Dave:** Once the wetland is restored or created, there shouldn't be an expiration date, except for the NRCS easement ones, because after 15 years landowners can remove it.
 - **Pam:** I concur with Dave and Denise that wetlands always function once they are on the ground.
- **Vanessa:** Buffers got extended from 10 to 15 years recently. They are not as protected as wetlands and can be removed easily.
- **Rachel:** I agree with Pam and Dave that once they are there they are protected and functioning. If we have a way to do a desktop analysis, then I agree with all these points.
 - **Vanessa:** Verification does not have to be on the ground, it can be done with remote imagery.
 - **Pam:** Maybe verification should be based on the timeline of new aerial imagery.
 - **Megan Fitzgerald:** MD is developing a rapid assessment method - may be helpful when it's finalized to take a look at it and see if that can be helpful in the wetland verification process.
- **Bill:** Agree with Dave and Mark Biddle - why should the credit end?
- **Vanessa:** how wetlands can be reported to the CAST model: wetland creation, constructed wetland, wetland restoration, floating treatment wetland, wetland gains, wet ponds and wetlands, wetland buffer, wetland functional gains, wetland rehabilitation, wetland wildlife habitat management. Constructed wetlands and wet ponds have a credit duration of 10 years currently. Wetland restoration, wetland buffers, wetland creation, wetland rehabilitation, wetland gains (and functional gains) have credit duration of 15 years
- **Steve:** The part that matters is is it going to be maintained? If it requires maintenance then it becomes a structural BMP and it should go through a verification process. If it is not intended to be maintained according to design then it is a natural resource and will last forever.
 - **Dave:** I agree, that is how we think about things here as well - does it require maintenance?
- **Pam:** For the BMPs with a credit duration of 10 years, should we leave those alone?
 - **Denise:** Those are more under the urban purview.
 - **Pam:** So we are focusing on the list of practices with a 15 year duration.

- **Recommendation:** Remove verification requirements for practices that currently have a 15 year timeline. Also need to fix how functional gain is considered - if it is enhancement then it is not getting credited as a BMP.
- **Action:** Vanessa will provide a write-up of these decisions that the WWG can provide comments on and can vote on by the October WWG meeting.
- Note that changes can be made further down the road after the STAC workshop in March.