ATTACHMENT A

Comments on the May 12, 2014 Revised Draft BMP Verification Framework Document Organized By Report Section

Note: Direct edits or other comments provided as "track changes" in the draft report are not listed here. Comments or excerpts of comments are verbatim [with occasional insertions for clarification] and are organized by the report's section or sub-section to which they apply.

General, Overarching Comments

James Davis-Martin, VA DEQ

What is needed is a much shorter, nuts and bolts, basic guidance document that tells us [the jurisdictions] all what needs to be done, when, and by whom. I have taken the liberty of rearranging and editing your original behemoth into such a guidance document….Less than 50 pages. All of the sector/habitat specific guidance is in an appendix.

Dave Montali, WV DEP

Overall, the document was very difficult to read, with many concepts repeated multiple times that caused us to repeatedly reread to determine if there were issues missed the first time. It needs to be more concise with some type of alpha-numerical organization for paragraphs within Sections. Ideally it would discuss a concept once and then indicate the various applications in which it would be considered.

Shelia Noll, Local Government Advisory Committee Chair

Additionally, it is critical that local governments understand whether adequate progress is being made towards meeting regulatory obligations associated with the Chesapeake Bay TMDL. Nevertheless, **one of our biggest concerns is the amount of effort that will be required to collect, report, track and verify the implementation of programs and practices.** It is imperative that efficient systems be developed to support BMP Verification **and that the cost of BMP Verification is commensurate with the benefits gained.**

Russ Baxter, VA DEQ

- If it ain't broke….(you know the rest)

Chris Hartley, USDA OCE

> **<u>MAJOR CONCERN:</u> The document almost completely ignores the need to develop cost effective verification programs. Cost effectiveness should be a primary concern for all verification programs, and should play a larger role in each of the sections of this document.**
>
> The word "*cost"* is used 137 times in the main document, only four refer to cost effectiveness of verification programs, a similar number to the cost-effectiveness of BMPs, and more than 125 refer to cost shared and non-cost shared practices.

- Table 1. Chesapeake Bay BMP Verification Principles adopted in December 2012, "*that verification shall allow for varying methods of data collection that balance scientific rigor with cost-effectiveness.*"; page 6.
- Forestry committee (forest buffers); page 59.
- Forestry committee (use of aerial imagery); page 63.
- Table 20. Jurisdictional BMP Verification Program Development Decision Steps for Implementation, "Are the practices you plan to collect worth the cost of collection?"; page 138.

In addition, the issue of verification cost is recognized in the BMP Verification Review Panel recommendations (Aim High or Explain Why), "funding issues may impede the levels of BMP verification"; pages 131-132.

Cost effectiveness was substantially discussed in Appendix I, *NRC 2011 Report Chapter on BMP Tracking and Accounting*:

"Because of staffing and financial limitations, adequate state or federal funding to visit every participating landowner to verify recordkeeping and other implementation related data, seems unlikely. …. Ultimately, a reasonable balance of implementation and verification is necessary to optimize resources while maintaining the CBP's credibility."

And then,

"Additional guidance from the EPA on the optimal extent of field verification of practices in relation to expected benefits would improve tracking and accounting of both cost-shared and voluntary practices. Field verification is costly, and several states have questioned its value given the resource constraints that limit BMP implementation. Although independent random or probabilistic verification programs increase public confidence that reported data are accurate and reliable, attention should be given to developing ways to optimize field verification efforts that enhance the reliability of the BMP data sets, perhaps through the combined use of remote sensing data, written surveys, phone calls, and in-person visits."

RECOMMENDATION: Explicitly include a discussion of importance of developing cost-effective verification, and include it in the consideration of verification strategies in each of the sections.

Dave Montali, WV DEP

States should not be expected to individually get verification procedures from federal partners. The federal partners should be required to develop, file with the Partnership, and execute an acceptably rigorous common set of procedures such that there is an expectation of universal application. Similarly, we would prefer an approach of common, universal, consistent 1619 agreements for all Partnership jurisdictions rather than expecting each State to negotiate with State USDA agencies. It is not reasonable to expect individual states to accomplish things that are not able to be agreed upon at the federal level.

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Executive Summary

No comments received by 6/30/2014, though comments made elsewhere may also apply to this section

Foreword/Acknowledgements

Chris Hartley, USDA OCE

Page 2: Correction / Verify. Verify and update membership and affiliation. "Evan Branosky, World Resources Institute" change to "Evan Branosky, District of Columbia Department of Environment."

Section 1. Background

Shelia Noll, CBP Local Government Advisory Committee Chair

1. One page 15, under the heading "Importance of BMP Verification to the Partnership," the Report currently states that "the Partnership must view verification as the means to strengthen our confidence in local implementation efforts to ensure they are designed to help land owners, municipalities, and facility managers take the actions necessary to protect their properties, lands, riparian habitats, local streams, and sources of drinking water. Practices which are not properly installed and functioning as designed *don't* prevent local flooding, protect sources of drinking water, ensure against the collapse of stream banks, support local economies through the return of clean water and viable habitats suitable for recreational activities. The Partners must have confidence that these reported practices are actually being implemented, are functioning, and are preventing and reducing pollutant loads to local streams, groundwater, and Chesapeake Bay."

   This is a very altruistic purpose but we do not believe that it is an accurate portrayal of the need for BMP Verification, nor does it justify the expense. We suggest that the Partnership must view verification as a means for ensuring that investments made are represented accurately in the model and when the model accurately reflects implementation, and monitoring shows improvement in water quality it increases confidence that collectively we are headed in the right direction. The results seen through monitoring should support the actions taken.

2. On page 15, under the heading "Direct Benefits to Local Decision Making," the report states that having better data … better informs local decision-making …" Unfortunately reporting, verification and tracking do not benefit local decision-making unless supported by local water quality monitoring data. Local governments can't base decisions about BMP implementation at the local level on Chesapeake Bay water quality monitoring trends. **Therefore, we suggest this statement be removed.**

3. On page 15 under the heading "Consistency Across Pollutant Source Sectors," the Report states that there should be consistency across pollutant sources when it comes to BMP Verification but encourages jurisdictions to focus verification efforts on those BMPs being relied on the most to achieve nutrient and sediment reduction as called for in

Watershed Implementation Plans (WIPs). While this makes sense on the surface, it fails to acknowledge the potential inconsistency between a jurisdiction's priorities as identified in the WIP and a local government's priorities as contained within a permit such as the MS4**. Local government's need for a reliable, efficient and cost effective reporting system must not be overlooked if they are to be held accountable for achieving pollutant reductions in accordance with the state WIPs**.

Section 2. Source sector/habitat specific BMP Verification Guidance

Shelia Noll, CBP Local Government Advisory Committee Chair

5. On page 18 under Role of Workgroups' Guidance it states that "At the heart of the basinwide BMP verification framework has been the development of the source sector and habitat specific BMP verification guidance by the Partnership's six technical workgroups. These six sets of guidance outline the Partnership's recommended guidance for consideration by local, state and federal agency partners …" This statement implies that this is guidance for local government. If that is the case, what is the strategy for getting this information into the hands of local government?

Agriculture

Chris Hartley, USDA OCE

Pages 33 -51 [sic, page numbers may vary]: Formatting. Tables split across pages are difficult to follow. Suggest column headers on each page or other improved formatting.

Tim Gieseke, CBP BMP Verification Review Panel Member

It is certainly a significant challenge to corral and align the jurisdictions, perspectives and objectives to achieve the desired and varied outcomes for the Chesapeake Bay Watershed. Also, accounting for individual BMPs across the landscape increases the complexity of the task. Within the sectors with less variable and dynamic land use activities, this strategy appears to be sufficient and doable. In other sectors, particularly agriculture, the strategy for accounting for individual BMPs within the context of a variety of other land management practices that vary both spatially and temporally, it becomes unwieldy.

In review of the two documents:

- Chesapeake Bay Program Partnership Agriculture Workgroup's Agricultural BMP Verification Guidance
- Strengthening Verification of Best Management Practices Implemented in the Chesapeake Bay Watershed: A Basinwide Framework,

and within the context of the above paragraph and adopted strategy, I think the definitions, methods, protocols and guidance in the documents adequately describe the extent of the tasks at hand.

Determining if the tasks are doable within the Ag Sector will depend on the ability of the jurisdictions to address Part 7 of the Ag Guidance document and the bullet points noted.

Part 7: Guidance for Development of an Agricultural Practice Verification Protocol

- Jurisdictions will select methods of documentation that provide adequate information about the BMP to enable independent spot-checks by appropriately trained individuals.
- Independent verification of BMP reporting programs and BMP implementation data will be addressed in state verification protocols.
- All reported BMPs, whether non-cost shared, cost shared, regulatory or permit-required, should have distinct, CBP-approved definitions, appropriate design standards and/or indicators to enable accurate, reliable reporting of the BMP to receive the commensurate credit.
- Jurisdictions will develop a method to review data reported to the NEIEN submission system to ensure that it was accurately entered and submitted according to CBP guidance documents.
- Jurisdictions will develop a methodology to determine when and how to remove data from their BMP reporting system.

Greg Sandi, MDE

The Maryland Department of Agriculture has already commented on agricultural practices including, but not limited to, comments involving the need to inspect CAFO operations annually for credit. The state simply does not have the resources to perform this level of verification.

USDA NRCS

Agricultural conservation systems, or best management practices (BMPs), are critical to Chesapeake Bay restoration efforts. NRCS recognizes the importance of BMP verification protocols in adequately and reliably crediting the contributions of the agricultural sector to these restoration efforts. These comments to the draft Chesapeake Bay Program Partnership Agriculture Workgroup's Agricultural BMP Verification Guidance (Guidance) seek to improve that product so that it properly reflects the policy and mission of NRCS as well as agency experience in assessing conservation practice effectiveness.

General Comments

As an agency with the mission to support voluntary conservation, NRCS does not have a mandate for direct verification activities beyond ensuring that agricultural producers are in compliance with the terms of the financial assistance contracts.

NRCS does have an interest in sharing information regarding agricultural BMPs, to extent that that information is shared in a manner consistent with the data privacy provisions of our authorities. We agree that collecting statistically accurate data for non-cost share practices, collecting a more comprehensive picture of environmental improvements, and performing quality control to eliminate double reporting are needed and worthwhile endeavors. NRCS can, and has, cooperated with our state partners for

reporting of conservation practices as called for in sections 204 and 206 of the Executive Order.

We make the following recommendations:

- Data on non-cost shared practices that are reported via Toolkit into the National Conservation Planning Database are a valuable resource for jurisdiction efforts to account for BMPs. These practices are field verified and part of the NRCS Quality Assurance process.
- Jurisdictions should track and verify that farming operations still exist via agricultural survey information, county records, or aerial photo interpretation and GIS.
- Have landowners self-certify management or annual practices.
- Practices that will likely function beyond their lifespan such as riparian forested buffers, wildlife plantings and tree plantings should be verified using aerial photography and remote sensing technologies.
- Develop a method to eliminate land that has been converted from agriculture to another land use along with its associated conservation practices.

Specific comments to sections of the document are provided below:

The Agricultural BMP Verification Guidance Matrix V 4.1 (page 16-22) is unclear and needs to be explained. For example, what does it mean for something to be "potentially eligible?" Also the table headers should carry through to each page to make it easier to read.

Chesapeake Bay Program Partnership Agriculture Workgroup's Agricultural BMP Verification Guidance (page 3-4) states, **"***From Visual assessment for single year BMPs, such as tillage practices, can be statistically sub-sampled utilizing scientifically accepted procedures. During the course of the identified physical lifespan period of multi-year BMPs, a reoccurring annual verification that the BMPs are being maintained and operated as per the appropriate practice standards at a minimum expectation for follow-up sub-sampling of 10% for BMPs achieving greater than 5% of the jurisdiction's WIP agricultural sector goal."*

Comment: This will require significant manpower and funds to complete. Ten percent review on all cost shared and regulated practices is very high. The NRCS spot check requirement is 5% of all practices applied in a given year to ensure quality on the practice application and is used to ensure the quality of the work of field staff. The recommended level of spot checking, double the samples from all practices rather than those applied in a given year would be divert significant resources that could otherwise be devoted to the planning and application of conservation practices.

For verification, it would be more efficient to use photo interpretation or remote sensing whenever possible to avoid physically driving to farms to look for practices on 10%. Recommend using landowner self-certification for annual practices.

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NRCS is willing to share our national policy which requires a quality assurance plan in all states and requires specific spot checking.

From Pages 3 and 10

- *"Resource Improvement BMPs are practices* ***which provide an identical annual environmental benefit for water quality but which may not fully meet all design criteria*** *of existing governmental standards such as designed lifespan." (page 3)*

- *"Resource Improvement (non-specification) – Those practices which do not fully meet the applicable federal or state design specifications, and may have a shortened physical effective lifespan,* ***but will provide equivalent environmental benefits on an annual basis****." (page 10)*

NRCS follows science-based standards and specifications, and resource improvement BMPS are, by definition, not part of our standards and specifications. The BMP verification guidance may use any approach they desire, NRCS asks not to be associated with any method of verification that does not reflect our standards and specifications.

From Page 4, "*The minimum expectation of verification for cost-shared BMPs is recommended to be 100 percent of the initial physical installation of annual or multi-year BMPs and plan implementation by trained and certified technical field staff or engineers with supporting documentation that it meets the governmental and/or CBP practice standards. During the course of the contractual oversight period involving multi-year BMPs, a reoccurring annual verification that the BMPs are being maintained and operated in accordance with the funding agency standards at a minimum expectation for follow-up sub-sampling of 10% for BMPs achieving greater than 5% of the jurisdiction's WIP agricultural sector goals*."

Comment: NRCS field offices verify 100 % of practices to ensure they meet NRCS standards and specification when USDA financial assistance is obligated.

NRCS state office or area personnel spot check a percentage of each type of practice within a year of installation according to state specific quality assurance plans this process meets NRCS contract oversight responsibilities.

In the chart, *Draft Agricultural BMP Verification Guidance Matrix: Version 4.1* (page 16-22) It is unclear why the verification protocols such as remote sensing and farmer surveys would be not eligible to verify that practices already confirmed through the verification protocols as being implemented. Many practices that can be physically verified will remain in place and actively be used by participants as long as their farming operation doesn't change significantly. Also, most physical practices can be verified via aerial photographs and remote sensing. Verification based on a scale related to the environmental impact the practice offers makes sense. In addition, practices that require regular maintenance to function properly may need to be verified.

From *May 14th draft Strengthening Verification (larger) document* page 137, BMP Performance**:**

Comment: We have concerns about regulatory agencies pulling soil samples or doing the infield collection on projects where NRCS was the field contact. We have always been a voluntary organization working with landowners because we were invited to assist them by providing technical and financial assistance. Landowners must give permission to the people doing the data collection for BMP performance and be made aware the activities are being conducted by a different agency.

Dave Montali, WV DEP

In our recent comments on the guidance proposed by the Agriculture Workgroup, we expressed concern regarding the follow-up inspection rate of 10% for federally cost shared BMPs. We remained concerned about our ability to do more than is expected of, or deemed necessary by, the federal partners. We endorse the following concept, identified in the Wetlands guidance, to be applied universally to USDA cost shared practices, at least as the expectation for initial programs:

> *Inspection and maintenance frameworks routinely performed as part of state and federal agricultural financial assistance programs in the Bay watershed should serve as the foundation of each of the jurisdictions' wetland restoration verification protocols. If a state designs its wetland BMP verification protocols around existing inspection and monitoring frameworks associated with a financial assistance program, then those protocols or procedures are fully consistent with this guidance.*

Shelia Noll, CBP Local Government Advisory Committee Chair

6. On page 22 under the heading 3.c Regulatory Programs the Report states that "BMPs tied to offsets, mitigation, and trading programs typically have their own specified verification protocols to achieve their intended programmatic environmental objectives." **Jurisdictions should make sure that participants in these programs, particularly local governments, understand their obligations related to verification**.

7. On page 24 under Part 5: Agricultural BMP Verification Priorities, the Agricultural defines qualifies as high priority in terms of verification. The other workgroups should seek to provide the same level of transparency by making similar recommendations. At a minimum the jurisdictions should set priorities within each sector and make the information public.

8. On page 26 the Report states that "If BMP implementation information reported by states comes from external entities it will be subject to appropriate validation as required by the CBP." Does this refer to agencies such as Conservation Districts? If so, will they have to create QA plans?

Forestry

Greg Sandi, MDE

On page 60, bullet under 4, states that "CREP partners should establish a baseline" and "Every 10 years resample." It is important to remember at this time the model "Backs

out" any tree planting implementation (e.g riparian forest buffers) if it occurs prior to the new landuse data set creation because it is assumed that the landuse dataset already incorporates any existing tree planting. It is unclear if this will continue in the next phase of the model. If so it makes it unnecessary for any state or program to do this Baseline or resampling.

Also on page 60 under 5, states that "When voluntary riparian forest buffers account for only 10% or less of a state's reported buffer acreage, initial verification does not necessarily require a site-inspection." This is or maybe contrary to the Agricultural verification process and should be updates when it is finalized.

Anne Hairston-Strang, MD DNR Forest Service

p. 61, Section IV. 2. Omit restriction on time frame of 5 to 10 years for maintenance spot-checks, since this is well after the most critical maintenance needs (the reason that they are least often inspected then).

p. 62, Section IV. 4. Change first sentence to read something like:

"Implementation strategies should include approaches to conserve existing forest buffers so that newly planted buffers represent a net gain in overall buffers for a county or watershed segment". Keep examples for laws, monitoring, and sampling suugestions. In bullet starting with CREP partners, delete references to specific mechanisms (high-res aerial imagery, LIA) and requirement to do a 3-county approach every 10 years. Technology is changing very rapidly in this arena, other BMPs are requiring 5-year intervals, and guidance should state the goal (be able to track forest loss or gain in stream and shoreline buffers), not prescribe an approach.

p. 64, Section VI, Background on forestry practices on urban lands.

Under expanded tree canopy description, clarify trees to acre

conversion: Replace "If number of trees planted...." with "If trees are not planted in a contiguous area, such as for street trees, then number of trees can be converted to acres using the following conversion factor:"

p. 65, Section VII. Verification Guidance for Expanded Tree Canopy, 2.

To credit new acres reported voluntarily, allow states to develop a strategy appropriate to the practice, (e.g., a 20% spot check and pro-rate by a survival rate, by staff, partner, or pro-rated for self-reported.), similar to approaches for some other urban practices. Some programs have only one tree per location, are on private property, or in backyards; requiring site visits would be a strong disincentive for planting and for reporting.

p. 65 VII. 3., first bullet. Correct "succumbing to weed suppression" to read succumbing to weed competition.

p. 66, VII. 4. Clarify policy of checking for net gain, especially since losses may occur despite good policies and practices for urban tree planting with the expansion of invasive pests such as emerald ash borer, required tree trimming for electrical reliability standards,

and natural aging of trees. New trees planted may be on track to replace the tree canopy, but may not be visible on the remote sensing.

Second bullet could read, "If the tree canopy decreases, the acres of progress credited during the prior period (5 year max) will be reduced by the percentage of decrease. (50 new acres planted over 5 years, 5% decrease found, 47.5 acres remain credited)." or a similar example.

p. 69, IX. Harvesting BMPs

Top paragraph: If the forestry agency does not receive permission to access harvest sites and is not the authorized agency, request certification from the authorized agency. BMPs are widely implemented in practice and crediting should have every opportunity to be verified and credited.

p. 69, X. BMP Harvest inspections

1. Allow some greater time frame if states propose (e.g., Inspect within 12-18 months of harvest completion, or within 6 months of site preparation.) A 6-month time span for harvests may not allow evaluation of success of standard BMPs such as seeding landings, skid trails, or roads, depending on the season when the harvest is completed.

Dave Montali, WV DEP

The Forestry guidelines state that a minimum of 10% of USDA tree plantings/forested riparian buffers are spot checked. This may be incorrect as we were recently advised that follow-up spot checking for those practices is targeted at 5% nationally such that less than 5% may be the existing condition at a State scale.

Shelia Noll, CBP Local Government Advisory Committee Chair

9. The Forestry Verification Guidance (page 54) seems to rely heavily on local reporting and verification. We suggest the workgroup ground-truth this guidance with a sub-set of local governments throughout the watershed if that hasn't already been done.

10. On page 54 under the Introduction there is a reference to the riparian forest buffer goal set in 2007. Should this and other references to past commitments be replaced with goals and/or outcomes in the 2014 Chesapeake Bay Watershed Agreement? See also pages 61.

11. On page 62 under the heading Expanded Tree Canopy Description the Report states that "All tree planting data is aggregated and submitted to the state by a locality, for further aggregation to the CB model per land-river segment." Is the workgroup assuming that this is already happening or is this an ideal?

12. Will the recommendation to establish urban forestry partner and support mechanisms (page 63) be incorporated into the Management Strategy for the tree canopy outcome in the new Bay Agreement?

13. The first bullet under #3 on page 63 states that any tree that dies should be replaced or removed from the NEIEN database. Removing "any tree that dies" from the NEIEN database is unrealistic from a record keeping standpoint. A better approach may be to assume replacement and design reporting programs to take into consideration when a tree is being planted to replace a tree that has died versus when it is a new/additional tree.

Urban Stormwater

Shelia Noll, CBP Local Government Advisory Committee Chair

14. The first bullet on page 73 states that most non-MS4 localities have little experience in reporting BMP implementation. The qualifier "non-MS4" could be deleted as it is likely that most localities have little experience in reporting, particularly reporting with the degree of sophistication that will be required.

15. The second bullet on page 73 seems to imply that non-regulated localities (non-MS4s) will need to report BMP data. Under what authority will the jurisdictions require reporting? What will be the motivator for localities to report if they aren't regulated? This applies to the sixth bullet on this page as well.

16. BMP reporting and verification will be challenging in all communities.

17. One page 74 under #2 the report states that verification protocols are needed to define the process for BMP downgrades if maintenance is not performed. Is it realistic to think a BMP can be downgraded rather than simply removed from the system? We suggest that, as with #13 above, the assumption should be that the problem is corrected and the BMP remains in the system or the BMP is removed from the system.

18. On page 79 under Part 5: Guidance for Verifying Semi-Regulated BMPs, the Report states that "if a local government or federal facility fails to perform verification inspections, it will receive a gradual downgrade in BMP performance over time." On page 78 in the introduction to this section the Report states that "Some of these semi-regulated communities are not required to have an inspection program to enforce maintenance, or rely on the state to do it on their behalf. Therefore it is unclear under what authority the local government is responsible for performing verification inspections.

19. Resources should be made available to assist local governments in assembling an inventory of legacy BMPs.

Wastewater

No comments received by 6/30/2014

Wetlands

Chris Hartley, USDA OEM

Page 101: Suggested edit. Financial Assistance Programs (Voluntary), CREP. Cut *"and participation by land owners is voluntary."* Participation in all of the programs listed is voluntary.

Page 109: Correction. Inspection, Maintenance, Monitoring. *"Wetland projects enrolled in WRE must be maintained in perpetuity" change to ""Wetland projects enrolled in WRE must be maintained for the duration of the easement, either 30 years or in perpetuity."*

Stream Restoration

No comments received by 6/30/2014

Section 3. Basinwide Verification Framework Elements

No comments received by 6/30/2014, though comments on other sections may apply to this section

Section 4. Development of Documentation of the Jurisdictional BMP Verification Programs

Russ Baxter, VA DEQ

- How can we best build on existing methods and programs? We have previously suggested using the QAPP agreements as the foundation for verification.

Dave Montali, WV DEP

> We agree that jurisdictions should be aware of how there programs will be reviewed, a more detailed explanation of Table 21 is needed. This table is indicated as the primary format that will be used by the Panel to review programs and report results, but is not immediately clear as to how it will be implemented. We are assuming that a "present" check means we discussed/documented the component, but we cannot know upfront if our discussions will be acceptable. We also can't determine the BMP scale at which this will be completed.
>
> We appreciate the concept to target the robustness of protocols to WIP importance, but point out that the initial implementation of verification will occur near the time of transition of watershed models and new WIPs, and the relative importance of some practices may change. We could not determine if jurisdictions could vary verification robustness at the State scale or if this must be done within each sector, and how prioritization decisions will be viewed in relation to jurisdiction and sector equity.
>
> The document could also be improved by including a Gantt chart or similar graphic in Section 4, showing the time between PSC approval of the Framework through the credit cutoff date. Key items to display include the initial program development, the Panel reviews, meetings, and final recommendations, the initial QAP submission with verification considerations, subsequent QAP approvals and the first progress report year when credit cutoff for verification deficiencies might occur. Additionally, the timeframe for the history clean-up schedule for the Phase 6 watershed model development needs to be overlain or displayed separately.

Section 5. Partnership Processes for Evaluation and Oversight

Dave Montali, WV DEP

Our interpretation of the evaluation and oversight discussions is that EPA, not the Partnership, will be responsible for approving the individual jurisdiction programs and that their review will be constrained by the Panel recommendations. The Panel decisions may not necessarily be considered as Partnership decisions because the Panel is not constituted with jurisdiction representatives to allow implementation of governance procedures. Note that various discussions of Independent Review by Advisory Groups indicate (incorrectly?) that individual program approval will be made by the PSC.

In the discussions of "Independent Evaluations by the Partnership's Advisory Committees" the inclusion of *individual program* reviews every three years seems like overkill, since there will be an extensive initial review by the Panel, followed by annual QAP reviews.

Section 6. Basinwide BMP Verification Framework Implementation

Russ Baxter, VA DEQ

- Who is responsible party and how do we ensure they fully understand those responsibilities? We have been frustrated at times by the quality of federal agency data and wish to be sure about who is ultimately responsible for the quality of the data available to submit through NEIEN.

- How do we deal with cutoff, lifespan and other model issues that negate the submission of verified practices? This is a big issue and credit should be given to all truly verified practices.

- What's it going to cost? We need to place close attention to the fiscal impact of the guidelines. This is also related to the previous comment.

- What's the balance with implementation? Again, this speaks to the issue of best use of resources. Our implementation dollars are currently inadequate and additional costs should be carefully considered only if real value is added to implementation activities by verification requirements.

Greg Sandi, MDE

- **General Training:** We recommend EPA training for State and local partners on the overall process as soon as possible. This training would cover the general timeline, the assessment process and the documentation.

- **Sector Training:** We recommend EPA training for State and local partners for specific sectors as soon as possible. This training would cover the general timeline, the assessment process and the documentation.

The document stated that "An approvable jurisdictional BMP verification program must include clear commitments to and specific plans/schedules for cleaning up their historical BMP databases by a specific date, but not beyond July 2015, the deadline for providing a complete BMP implementation history for use in calibrating the Partnership's Phase 6 Chesapeake Bay Watershed Model." **The deadline for inputs to the Model has been related to MD previously as October 2015. The guidance should be updated to have the October date.**

Dave Montali, WV DEP

The training and certification expectations may not be immediately accomplishable. Although the staffs of the various agencies contributing to data tracking and reporting have extensive experience in their respective fields and have qualified themselves through experience with the Bay program reporting, we don't have written training protocols or certification requirements. We can work to develop training procedures in house for staff and or explore training available elsewhere. State certification protocols are only a longer-term possibility. Existing USDA certifications for providing technical assistance would certainly qualify verifiers, but may be more comprehensive than necessary for verification needs.

Dave Montali, WV DEP

The timeframe for history clean-up needed for calibration of the new watershed model would seem to precede substantive implementation of new verification programs. History decisions will have to be made more generally such that the robustness of verification may be lower than that which might be implemented in the future. The history clean-up discussions should be focused on new watershed model needs rather than verification program provisions. After the new model is calibrated, altering the history may not be scientifically defensible. The sun-setting provisions of the Framework should drive BMP crediting decisions post calibration. It may be prudent to accelerate the lifespan definition work of the sector workgroups.

BMP Verification Framework Implementation Timeline

Russ Baxter, VA DEQ

- How long do we have? The verification process is not necessarily aligned with state regulatory or budgetary processes and the program should take into account those elements.

Greg Sandi, MDE

Phase-in Period

- **Historical vs New BMPs:** We recommend different phase-in periods for historical versus new BMPs. Inventorying and verifying historical BMPs, particularly in the urban

stormwater sector, can be an immense workload challenge. We recommend the following schedule:

- Clock begins on stormwater BMPs loosing credit five-years from the adoption of the framework document (Approximately 2020)
- BMPs gradually loose credit over 5-years after the clock starts (Approximately 2025)

Dave Montali, WV DEP

The ramp-up concept identified in Section 6 suggests that initial programs might not fully achieve principles. In contrast, the process for EPA approval of individual State programs implies that the first effort must be "fully consistent" with principles and if not, grants won't be awarded. States need to know up front how much latitude will be afforded before grants are in jeopardy. The phrase "fully consistent with and supportive of the Partnership's adopted BMP verification principles" should be replaced with something like "consistent with or intended over time to be modified to achieve the Partnership's adopted BMP verification principles" throughout the document. The "Aim high or explain why" is only practical if acceptable minimums for initial programs are defined. Also, the expectation for States to opine on specific protocol adherence to principles is generally unnecessary because, in the end, it's the reviewers' recommendations that matter.

Shelia Noll, CBP Local Government Advisory Committee Chair

20. On pages 151 and 159, the Report indicates that LGAC will work with STAC and CAC to sponsor independent evaluations of the effectiveness of the basinwide BMP Verification Framework and the individual jurisdictions BMP Verification programs in achieving the five BMP verification principles adopted by the Partnership. This is outside the bounds of LGAC's current scope of work. Therefore, if the Partnership intends to request this of LGAC, the cooperative agreement and budget will need to be amended to include this task and deliverable.

21. On page 160, the Report states that jurisdictions should take full advantage of EPA funding available to support verification. The demands of BMP tracking, reporting and verification on local governments and other local entities must be considered by the jurisdictions as well. Funding and/or technical assistance should be provided to ease the burden on local governments.

Sections 7-8. References/Abbreviations

No comments received by 6/30/2014, though comments on other sections may apply to this section