**Chesapeake Bay Program Water Quality Goal Implementation Team
BMP Verification Committee's February 21, 2013 Meeting**

Attachment G

**Workgroup Verification Protocol Issues Raised by the Review Panel,
Advisory Committee and BMP Verification Committee Members**

The following issues were extracted from the past year's written summaries of the BMP
Verification Committee's conference calls and meetings, the BMP Verification Review Panel's
October conference call and December meeting, and the recent correspondence with the
Citizen's Advisory Committee. The source of the issue being raised is provided in brackets at
the end of each issue. During the February 21, 2013 Committee meeting, the Workgroup Chairs
and Coordinators are being asked to address each issue and confirm that their draft verification
protocol has fully addressed the issue being raised.

<u>Agricultural Workgroup</u>

- Reliance on use of the existing state verification protocols, the status quo, is not
  acceptable although it appears that many on the Agriculture workgroup support this
  approach. [Citizens Advisory Committee (CAC)]

- Different levels of credit should be given in the model for different levels of verification.
  As it is inevitable that achievement of a high level of certainty will prove difficult when
  applied to certain BMPs, the workgroup should endorse the concept of providing
  different levels of credit based on different levels of certainty. A sliding scale
  certainty/credit ratio system would allow for greater flexibility and greater accuracy.
  [CAC]

- It is not possible to pass the test of public credibility or the legal scrutiny of "reasonable
  assurance" by adoption of a procedure that allows BMPs verified by "self-certification"
  to be given the same credit in the model for pollution reduction as the same practice that
  has been verified by more stringent measures. [CAC]

- The new protocols must solve the problem of accounting for expired practices. How to
  remedy the existing situation where reductions from a BMP are included in the model
  after a contract period (for federal/state payment for implementation) has expired. [CAC]

- The verification concept under discussion by the Agriculture Workgroup involves a
  complex and not-yet transparent approach relating to "certainty"; the process for selecting
  any numerical certainty level must be transparent, clearly defined, and based on
  technically defensible information. [CAC]

- A lot of clarification needed in documenting the 80 percent threshold and its application—examples include: Are minimum credits awarded for meeting the threshold, and greater credits for exceeding the threshold? Is there an award for exceeding the threshold? To clarify, is this about data quality, or achievement? So when you meet the establish threshold, you get X credit; when you exceed the threshold, do you get same X credit? [Review Panel]

- The greatest concern is over verification for nonpoint source BMPs. The Stormwater Workgroup has been very transparent about its limitations. Do not see same level of introspection in the agriculture narrative. The 80% confidence level sounds great to achieve, but hard to believe that there are methods to achieve that confidence for all practices and verification approaches. [Review Panel]

- Afraid that 80% confidence level may not be as reliable as expected or may be too contingent on best professional judgment. To get verification/performance data, consider what kinds of tools are needed. [Review Panel]

- Comfortable with 80% confidence level. Leaves it up to jurisdictions to set the level of rigor or sampling that they want or are able to do for earning credit. [Review Panel]

Forestry Workgroup
- How exactly do the states verify and report these forestry BMPs? [Review Panel]

- Almost impossible to say with confidence that forest land is not lost from year to year; easier to determine this over a longer set of years. [Review Panel]

- Any buffer would be beneficial, even if it does not meet the minimum 35-or 45-foot width. Even a 15-foot buffer provides some benefits. [Review Panel]

- The Forestry Workgroup should consider using different methods to develop the different levels of confidence in the level of increased tree cover/canopy. [Verification Committee]

- Need to more clearly differentiate the differences between Protocol 1 Urban Forestry programmatic support and Protocol 3 Monitoring under urban forestry cover. [Verification Committee]

- Clearly there is overlap between both urban sector and agricultural sector in terms of address BMPs they have in common—riparian forest buffers, increasing tree cover. We cannot have two different verification protocols from two different workgroups (Forestry, Urban Stormwater) for the same practice (urban forestry). [Verification Committee]

Stormwater Workgroup
- It is not possible to pass the test of public credibility or the legal scrutiny of "reasonable assurance" by adoption of a procedure that allows BMPs verified by "self-certification" to be given the same credit in the model for pollution reduction as the same practice that has been verified by more stringent measures.[CAC]

- The new protocols must solve the problem of accounting for expired practices. How to remedy the existing situation where reductions from a BMP are included in the model after a contract period (for federal/state payment for implementation) has expired.[CAC]

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- Outside of MS4 areas, stormwater practices cannot be verified? [Review Panel]

- How to address non MS4 areas? [Verification Committee]

- Visual inspections rather than performance sampling? [Review Panel]

- Is there a distinction between private- and public-owned stormwater facilities? [Review Panel]

- I like the suite of options because it allows localities to choose. If professional judgment and skill is needed to make judgments or reports, may be skeptical of who's making the judgment and their ability to not be biased. [Review Panel]

- For option four, five years might be a long time to accept reported data unconditionally. Many rural areas will likely default into option 4. [Review Panel]

- Important to transmit or track these verification records with an online tool. Difficult for individuals to appreciate the benefits provided by these practices and the effort by the locality unless there is a public record. This helps provide buy-in from residents to support stormwater programs. [Review Panel]

- Phase I MS4 jurisdictions publish detailed annual reports, but those are not always readily available online. Perhaps the Panel could recommend having all those reports, and appendices, publicly available online. Currently can be difficult to obtain these from the counties. [Review Panel]

Wastewater Treatment Workgroup
- Are non-sigs required to monitor N and P? [Review Panel]

- The Workgroup needs to specifically address verification of actions taken to address SSOs and illicit discharges. [Verification Committee]

- The Workgroup needs to provide more details on their proposed on-site treatment systems verification approach which builds off of taking the best of all jurisdictions. [Verification Committee]

Streams Workgroup

- How does stream restoration get counted in the Bay watershed model now? All projects involve permits that typically require monitoring for about 3-4 years. Even with a few years of monitoring, one never knows what status of project is 10 years or later down the road. [Review Panel]

- Is monitoring data typically available for these project sites? [Review Panel]

- Do jurisdictions ever lose credit when a project fails? [Review Panel]

- A member expressed the concern expressed that the protocol being recommended by the Stream Workgroup takes BMP verification to a different level. Taking the next step of monitoring creates a higher standard is being applied to this BMP than to any other BMP in the list. [Verification Committee]

- In response to the question "what are the states reporting now and how does this fit into ongoing state programs?", states are only reporting miles of stream restoration with minimal to none of elements within the proposed pyramid. [Verification Committee]

- But there's a big concern that up till now, most of stream restoration has been done in the stream restoration context, so a good swath of what's being reported is mitigating prior damage to stream banks. [Verification Committee]
- We need some option to punt on some issues given the evolving state of the science behind stream restoration. We may need to look further down the road to firm up these verification protocols. [Verification Committee]

Wetlands Workgroup

- Seems there is an intersection between trees, stream buffers, wetlands, and stream restoration. Could potentially use same tools to get same level of resolution, etc. [Review Panel]

- Urban constructed stormwater wetlands are not the same as U.S. Army Corps of Engineer's regulated wetlands for mitigation. Urban wetlands have different requirements for invasive species, etc. [Review Panel]

- It's really important in crediting both stream and wetland restoration that we're not double counting. If the mitigation site was significantly larger than what was required under the permit, then the jurisdiction would get that added benefit as credit. Crediting for the entire restoration acreage would result in double counting. [Verification Committee]

- How significant is the acreages of wetlands to be restored in watershed based on the jurisdictions' Phase II Watershed Implementation Plans? [Verification Committee]

- Addressing the possible duplication in development of wetland restoration verification protocols across multiple workgroups (Agricultural, Urban Stormwater, and Wetlands). [Verification Committee]

- Addressing concerns expressed about verification for water quality vs. habitat/living resources benefits. [Verification Committee]