

# Proposed Revisions to the BMP Expert Panel Protocols

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# Impetus for Revisions

- BMP Expert Panel Protocols last revised in 2015. Many updates and lessons learned since that time
- Questions and concerns have been raised about the process associated with convening and executing Expert Panels, as well as the application of the existing Protocols

# Timeline of Review/Comment Period

- December 13, 2021: Presentation of proposed revisions to the WQGIT
- January 11 – February 8, 2022: First round of review
- March 28, 2022: Presentation to the WQGIT of additional revisions and responses to comments from first round of review
- April 5 – May 13, 2022: Second round of review
- May 24, 2022: Presentation to the WQGIT of final revisions and responses to comments from second round of review
- May 25 – June 17, 2022: Final, fatal flaw review
- June 27, 2022: Seeking WQGIT approval of revisions

# Timeline of Review/Comment Period

- Proposed revisions available for review and comment since December 2021 (6 months)
- Three presentations to WQGIT on proposed revisions, as well as the timeline for the review periods and next steps
- Fatal flaw review: identification of any showstopper comments prior to decisional meeting
- Expectation is that any objections/fatal flaw comments on the protocols be registered in advance of June 27 WQGIT call with alternative proposal/language provided

# Highlights of Proposed Revisions

- Separation of the scientific findings of an Expert Panel report from the technical appendix, which explains how the BMP is to be tracked, verified, and reported for progress
  - Scientific findings would be reviewed by partnership, but only technical appendix and whether scientific findings are incorporated into CAST would require partnership approval
  - Development of scientific findings and technical appendices would occur concurrently
- Language added on independent review panel for scientific findings
- Any requests to revisit an existing Expert Panel report must include scientific justification for doing so

# Highlights of Proposed Revisions

- A suggested definition for “best professional judgement” was added
- The communication of the status of Expert Panels was consolidated and the website for Expert Panel reports and associated documentation was updated to reflect all CBP-partnership approved Expert Panel reports
- Language was added that “It is the responsibility of the hosting Workgroup, GIT, or the original requestor for the Expert Panel to identify and provide any required resources needed to convene and fully execute an Expert Panel,” following this Protocol and in consultation with the CBP partnership

# First Round of Comments

- Highlights of responses to comments and additional revisions based on first round of review presented on March 28 WQGIT call.
  - Presentation posted on March 28 WQGIT calendar page
- Detailed responses to comments are reflected in the document distributed to the WQGIT on April 5, 2022.

# Highlight of Responses to Comments: Second Round of WQGIT Review

- **Comment:** Concern about referencing the National Academy of Sciences for the independent review panel; need to consider the role and function of the independent review panel
- **Proposed Response:** Removed references to the National Academy of Sciences. Additional detail was added on the role of the independent review panel, including member selection by STAC and STAC serving as the independent editor (liaison between Expert Panel and the independent review panel)



# Highlight of Responses to Comments: Second Round of WQGIT Review

- **Comment:** Request that the Expert Panel identify any “backout” timeframe for applicable practices as part of credit duration in the technical appendix
- **Proposed Response:** Language added to section re: technical appendix—

Consideration of any “back-out” timeframe for applicable practices should also be included. It is anticipated that this analysis will likely be led by the Watershed Technical Workgroup, in coordination with the Expert Panel and the CBP modeling team

# Highlight of Responses to Comments: Second Round of WQGIT Review

- **Comment:** Ensure language is very clear on how an Expert Panel is to handle any dissenting opinions
- **Proposed Response:** Additional language was added on a consensus-based approach and how to address dissenting opinions
- **Comment:** Provide an Executive Summary at the beginning of the document
- **Proposed Response:** An Executive Summary will be drafted and included

# Next Steps

- May 23, 2022: Presentation of proposed responses to comments received during second review period
- May 25 – June 17, 2022: Final, fatal flaw review period
- June 27, 2022: Seeking WQGIT approval of revisions

# Questions?

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# Highlight of Responses to Comments: First Round of WQGIT Review

# Highlights of Comments and Proposed Responses *(not comprehensive)*

**First comment period ended on February 18, 2022.**

- **Comment:** Ensure Expert Panels function in a manner consistent with a peer review process (independent and diverse group of experts to review report once finalized by Expert Panel)
- **Proposed Response:** Language will be added to clearly define the independent review process once the expert panel finalizes the scientific report.
  - Suggest asking STAC members to serve in this role
  - Suggest independent review occurs prior to CBP partnership review

# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comments:** Questions about logistics and timing of developing the technical appendices, along with scientific findings
- **Proposed Response:** Language will be added to more clearly define the process flow between the development of the scientific findings and the technical appendix, including review and approval points
  - This will also be presented in a flow chart

# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** Flesh out definition and use of Best Professional Judgement in Expert Panel deliberations; perhaps subject to independent peer review
- **Proposed Response:** Language will be added that includes any use of Best Professional Judgement will be subject to independent peer review. Suggestions are welcome to expand upon current definition of Best Professional Judgement



# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** Concern that support for convening and executing expert panel falls to the requestor, workgroup, and/or GIT
- **Response:** Significant amounts of EPA/CBPO resources were dedicated to completing all expert panels to date, especially those conducted through the midpoint assessment. Due to other program priorities and no new requests for expert panels have been submitted, jurisdictions are encouraged to explore potential funding through state grants and/or GIT funding (as well as other sources)
  - The CBPO is available to provide technical support, as requested.
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# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** More clearly incorporate the role of the source sector workgroups in the development of the technical appendix (and not that of just the Watershed Technical Workgroup)
- **Proposed Response:** Language will be added to include the role of the source sector workgroups in the development of the technical appendix

# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** The information under the “Scientific Findings of BMP Performance” and “Technical Application of the Recommended BMP(s) within CAST” is duplicated
- **Proposed Response:** That information will be referenced towards the beginning of the document so as not to be duplicative of what is reflected later in the document (as part of the panel charge)

# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** Unclear who can request a new panel or request to revisit an existing panel report
- **Proposed Response:** Clarification will be provided so that requests for new panels or to revisit an existing report can come from any individual, but the requestor must work with the appropriate source sector workgroup and/or GIT to formally submit such a request

# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** Unclear whether a formal response to comments document will be developed with respect to the scientific findings
- **Proposed Response:** Language will be added that states a formal response to comments document will be developed as part of the scientific findings (as well as the technical appendix)

# Highlights of Comments and Proposed Responses *(not comprehensive)*

- **Comment:** Concern as to whether the review timelines are sufficient for both the scientific findings and the technical appendix
- **Proposed Response:** Language will be added that proposes an expanded review timeframe