

A Chesapeake Bay Program Partnership Proposal for Ensuring Full Accountability of Best Practices and Technologies Implemented

Updated: March 21, 2012

Background

There is a growing demand for the tracking and reporting on practices and technologies to expand well beyond the sources the Bay watershed jurisdictions have traditionally relied upon—state agricultural departments and environmental agencies, USDA, and county conservation districts. Non-governmental organizations, private sector third party consultants, technical certified planners and businesses, agricultural producers, and even individual homeowners are now implementing and reporting on practices. This chorus of calls for expanded tracking and reporting of practices is often countered by expressions of the need for strengthened verification of the installation and maintenance of the array of pollution prevention and reduction practices. Given the ever increasing importance that accounting for implemented practices is taking on within the partnership—Bay TMDL reasonable assurance, two-year milestones, offsets, tradable credits—we must agree to a framework whereby we can have both expanded tracking and reporting of practices AND verifiable confidence in the outcome of those implemented practices.

Calls for/Commitments to Verification

The implementation, tracking, and reporting of these pollution reductions practices and technologies has been at the center of the Partnership's Bay restoration efforts for close to three decades. Within the past two years, there have been numerous requests for and now commitments to improving the accountability of actions taken to install technologies and implement practices which prevent or reduce the loads of nutrients and sediment to Chesapeake Bay and its tidal tributaries and embayments.

The **Citizens Advisory Committee** has repeatedly called on the Partnership to provide for transparent and open verification of cost shared as well as non-cost shared best management practices tracked and reported by the watershed's seven jurisdictions.

The President's **Chesapeake Bay Executive Order Strategy** committed the U.S. Department of Agricultural (USDA) and the U.S. Environmental Protection Agency to develop and implement “mechanisms for tracking and reporting of voluntary conservation practices and other best management practices installed on agricultural lands” by July 2012 (see Attachment A for complete language from the Executive Order).

Within its **Chesapeake Bay Independent Evaluation Report**, the National Research Council's (NRC) panel put forth a series of five specific science-based conclusions all focused on their key

finding that “accurate tracking of BMPs is of paramount importance because the CBP relies upon the resulting data to estimate current and future nutrient and sediment loads to the Bay.”

The 2010 **Chesapeake Bay TMDL’s** Appendix S outlines the common elements from which EPA expects the watershed jurisdictions to develop and implement offset programs.

In a series of correspondences with the jurisdictions, EPA provided a steady stream of signals of the need for: transparency and accountability (**September 11, 2008 letter**); reasonable assurance for achievement of nonpoint source load reductions (**November 4, 2009 letter**); a new accountability framework (**December 29, 2009 letter**); and clear expectations for the jurisdictions’ Watershed Implementation Plans (**April 2, 2010 Phase I WIP guide**).

BMP Verification Work Underway

The Partnership can immediately build upon numerous efforts underway to strengthen ongoing tracking, verification, and reporting of conservation and best management practices and pollution reduction technologies.

NEIEN

The seven watershed jurisdictions all successfully submitted their 2010 implementation process data through their respective National Environmental Information Exchange Network or NEIEN nodes this past year—a truly unprecedented accomplishment across the country. With the further enhancements now underway, this network node-based exchange of practice data will both streamline efforts by all data generating and tracking partners as well as further improve the consistency and confidence in the reported information.

NACD

The National Association of Conservation District recently completed a two year project, funded by the USDA’s Natural Resources Conservation Service, to coordinate development of data collection and verification protocols for non-cost shared agricultural conservation practices implemented in the Chesapeake Bay watershed.

USGS MOU’s with NRCS and FSA

With the recent signing of Memoranda of Understanding with both the USDA’s Natural Resources Conservation Service (NRCS) and the Farm Services Administration (FSA), the U.S. Geological Survey (USGS) is positioned to take on responsibility as the federal conservation practice cost share data provider for the partnership. USGS is working USDA and the six states to propose systems and guidance on improving access to federal cost-shared conservation practice data and addressing double counting of federal and state conservation practice data.

USDA Office of Environmental Markets

Through its recent publication entitled “Verification of Environmental Credits: Chesapeake Bay Environmental Markets Team Discussion Paper”, the USDA’s Office of Environmental Markets has synthesized the latest approaches to development of protocols for verification of environmental credits.

Response to NRC Chesapeake Bay Independent Evaluation Report

Through the collective effort of the Independent Evaluation Action Team, the Management Board, and the Principals’ Staff Committee (approval currently pending as of the January 9th WQGIT conference call), the Partnership has agreed on its responses to the NRC panel’s five BMP related science-based conclusions.

Proposal to the Partnership

Building on the strong foundation already established, bring forward through the Partnership an integrated set of recommendations for a comprehensive BMP tracking, verification, and reporting system for formal adoption and implementation by all the partners.

- Build and then work the integrated set of recommendations ‘up’ through the Chesapeake Bay Program (CBP) Partnership, starting with the source workgroups—agriculture, stormwater, wastewater/on-sites, and forestry—under the direction of the Water Quality Goal Implementation Team (WQGIT), then through the WQGIT onto the Management Board, and finally up to the Principals’ Staff Committee for final deliberations and formal partnership adoption for basinwide application.
- Address the full array of practices covering all land-based nutrient and sediment sources within the Chesapeake Bay watershed—agricultural lands and animal production areas, managed and harvested forest lands, developed lands’ stormwater runoff, on-site treatment systems, wastewater treatment and discharge facilities, stream corridors, and tidal shorelines.
- Actively factor in innovative approaches being taken by the watershed’s jurisdictions, local municipalities, and conservation districts recognizing unique circumstances and opportunities across the Partnership.

Verification Framework

- Partnership agreement on a set of **verification principles** to guide the jurisdictions’ development of verification programs.
 - Initial set of draft verification principles are outlined below as a starting point for Partnership discussions and decisions.

- Partnership agreement on overall set of **source sector-specific verification protocols** which can be tailored to each jurisdiction.
 - These protocols would be developed by the WQGIT’s source sector workgroups, approved by the Partnership, and used (tailored as needed) by the jurisdictions.
- Establishment of a **Verification Panel** charged by the Partnership to review and make recommendations back to the Partnership on whether each jurisdiction’s proposed verification program meets the agreed to principles and protocols.
 - The Verification Panel would operate like the Partnership’s BMP Panels—recognized verification experts providing the Partnership with their reviews and recommendations for final decisions by the Partnership.

Verification Principles

The following are the recommended draft principles which each jurisdiction, following further review, modification, and formal adoption by the Partnership, would follow in developing and adopting their comprehensive tracking, verifying, reporting and accounting system for implemented practices.

Partnership Support: Full support by the Partnership for a comprehensive system for accurate accounting of verified nutrient and sediment reduction and prevention practices, technologies and activities implemented in the watershed.

Clear Definition of Verification: Practices tracked, verified, and reported for credit by the Partnership must be:

- properly designed, installed, and maintained to ensure that they are achieving the expected nutrient and sediment reductions agreed to through the Partnership’s BMP protocol;
- consistent with model practice definitions and effectiveness estimates;
- not previously reported (ensure no double counting);
- not expired or removed from the landscape (ensure regular clean up of reported data); and
- practices not installed as a result of an offset or mitigation requirement.

Credible/Defensible: Verification of practices needs to be scientifically rigorous and defensible in this era of TMDL accountability and to be viable credits within the jurisdictions’ offset and trading programs.

Consistent Application across Source Sectors: The rigor of verification (not necessarily the methodology) should be consistent regardless of funding source (cost share versus non-cost share) and pollutant source sector (agriculture, urban, etc.).

Build off Cost-Share Models: Verification protocols for cost-share practices, while not always perfect, can serve as an example of the level of rigor we need for the non-cost share practices.

No Lowest Common Denominator: Verification protocols from one state should not undermine or “water down” rigorous verification protocols from another state.

Additional Verification Program Components

In addition the verification principles, protocols and panel, the CBP Partnership’s Verification Program will include the following components.

Full accounting of federal cost shared practices: Through a combination of USGS’s MOUs with NRCS and FSA and all six watershed jurisdictions entering into data sharing agreements with NRCS, the six states and the partnership as a whole will have full access and accounting of all federal cost shared agricultural conservation practices within the Bay watershed.

Preventing doubling counting: As part of its MOUs with NRCS and FSA, USGS is working with the six states to reach agreement on protocols and procedures for preventing double counting of individual agricultural conservation practices funded by two or more agencies and/or non-governmental organizations.

Clean-up of historical data: All seven jurisdictions are expected to work to clean-up their historical records (1985-present) of tracked and reported BMPs and pollution reducing technologies to remove practices beyond their intended life spans and reflect more accurate tracking and reporting methods. EPA grant funds and contractual resources are being made available to support this important work.

Application of life spans for reported practices: Partnership will reach agreement on practice - specific life spans and information management protocols for enforcing those life spans within each jurisdiction’s NEIEN-based BMP tracking, verification and reporting system.

Towards Partnership Approval

Here’s the partnership’s agreed to process for building and then working the integrated set of recommendations ‘up’ through the CBP Partnership, starting with the source sector workgroups and finishing with adoption by the Principals’ Staff Committee.

- 1) Building from ongoing efforts described above and the work completed to date, the CBPO's source sector teams will compile a narrative synthesis of the array of BMP tracking, verification, and reporting ideas, options and recommendations relevant to each source sector.
- 2) Those narrative syntheses, along with the draft verification principles and verification framework articulated within this proposal, as modified by the WQGIT, will be presented to each respective source workgroup as the starting point for further discussion and development of source sector-specific BMP verification protocols.
- 3) In parallel, the WQGIT's Watershed Technical Workgroup, NEIEN Team and Bay TAS Team will collectively consider all the source sector narrative syntheses in light of the implications for the existing and future BMP model simulation (Watershed Technical), tracking and reporting (NEIEN), and accountability systems (BayTAS). Also, the WQGIT's Offset and Trading Workgroup will evaluate the draft BMP verification principles and protocols for consistency with state and interstate guidelines and requirements tradable credits.
- 4) The outcome of each source workgroup's deliberations, along with feedback from the Watershed Technical Workgroup, NEIEN Team and Bay TAS Team will be woven together by CBPO's source sector coordinators into an initial draft set of BMP verification principles, protocols, and program recommendations for presentation to the WQGIT.
- 5) Following further consideration and modification by the WQGIT, including necessary follow-ups with its respective source workgroups, the WQGIT will present its integrated set of draft BMP verification principles, protocols, and program options/recommendations to the Management Board.
- 6) In parallel, the draft principles, protocols and program recommendations will be shared with other the Goal Implementation Teams for review. The Partnership's advisory committees—Citizens Advisory Committee, Scientific and Technical Advisory Committee, and Local Governments Advisory Committee—will all be briefed and asked for their input.
- 7) The Management Board will evaluate the draft options/recommendations, factoring in feedback from the full array of GITs and advisory committees, and present its integrated set of BMP verification principles, protocols, and program recommendations to the Principals' Staff Committee.

- 8) The Principals' Staff Committee will reach final agreement on the BMP verification principles, protocols, and program on behalf of the partnership.
- 9) The Principals' Staff Committee will communicate its decisions on the Partnership's BMP Verification Program through some formal agreement to the many effected parties.
- 10) BMP Verification Panel reviews the jurisdictions' proposed BMP verification programs.

Summary of Partnership Decisions and Directions on the BMP Verification Program to Date

During its January 9, 2012 conference call, the **Water Quality Goal Implementation Team** reviewed and approved an earlier version of the proposal with the following specific modifications:

- Review and verification of the extensive sets of data used within the suite of Chesapeake Bay Program Partnership's models and supporting tools will be a component of the larger verification program;
- A 'steering committee' will be convened under the WQGIT to help guide the verification program development process all the way up to presentation to the Principals' Staff Committee for final decisions on behalf of the Partnership;
- The proposed BMP Verification Panel will be convened in the spring time (as opposed to the fall as described in the original proposal) in order to work directly with the source sector workgroups during the development of the verification protocols;
- The Partnership retained the option of modifying the proposed schedule as needed to ensure there is sufficient time for development, review and approval of the verification program; and
- The involved Goal Implementation Teams and their respective source sector and habitat workgroups will be asked to nominate members for the BMP Verification Panel.

At its February 7th conference call, the **Management Board** decided the following:

- Move forward with the Water Quality Goal Implementation Team's proposal for developing a comprehensive BMP tracking, verification and reporting system, recognizing the aggressive timeline and the possible need for the CBP partnership to revise the timeline later.

- Add regular updates and requests for review/decisions on the BMP verification system development process as a standing issue on upcoming MB meeting and conference call agendas for the next six months. The MB requested to be consulted on key decision points as the proposal moves forward through the outlined process.
- The Management Board would be responsible for making decisions on the BMP verification panel's membership, elevating to the Principals' Staff Committee for decisions only if necessary.

At its February 16th meeting, the **Principals' Staff Committee** decided the following:

- Proceed with the framework, schedule and process for developing a comprehensive BMP tracking, verification and reporting system on behalf of the Partnership. The Partnership will communicate its work on this initiative widely with stakeholders and will track its development, review progress, and modify the framework and schedule, as needed, throughout its development.
- The Principals' Staff Committee will take on the responsibility reviewing, modifying, and adopting the BMP verification framework on behalf of the partnership when proposed by the Management Board and to communicate the adoption of the BMP verification framework widely with stakeholders.

At its March 6th meeting and upon receiving its requested monthly update, the **Management Board** decided the following:

- Move forward with the activities and next steps proposed for March and April (see below for details).
- Continue to work up through the workgroups, the WQGIT's Steering Committee and then the WQGIT itself continuing to get their collective input and feedback along the way, but start to bring forward initial drafts of the BMP principles, protocols, and framework of the basinwide verification program to the Management Board for early review, reaction and direction back to the workgroups, Steering Committee and WQGIT.
- Work to share a more detailed description of the draft charge, role, and type of members for the BMP panel (after working this through the Steering Committee) with the Management Board and the partnership's advisory committees so they all can be better positioned to recommend actual members for the panel.

- Move forward now to fully engage the other ‘source’ workgroups—wetlands and stream restoration—in the BMP verification protocol development process so that these two workgroups are fully engaged to the degree that the agricultural, stormwater, wastewater, forestry and offsets and trading workgroups currently are.

Current Schedule¹

See Attachment B for listing of the CBP partnerships’ committees, teams, and workgroups briefed and consulted with to date.

January 9, 2012: Brief the WQGIT on Proposed Schedule/Process for Seeking Partnership Decisions on BMP Verification

- Walk the WQGIT through proposed schedule and process leading up to up to final decisions by PSC in the summer of 2012.
- Request modifications to proposed schedule and process and approval to engage the WQGIT’s source sector workgroups.

February 9, 2012: Seek Management Board’s approval to proceed forward with proposed process and schedule as modified and agreed to by the WQGIT

February 16, 2012: Brief the Principals’ Staff Committee and seek approval to proceed forward with proposed process and schedule as modified and agreed to by the Management Board, leading up to their final decisions on a Partnership-wide BMP Verification Program this summer

January-March 2012: Present Narrative Syntheses of BMP Tracking, Verification, and Reporting Ideas, Options and Recommendations to the WQGIT’s Source Sector Workgroups and the Vital Habitats GIT’s Habitat Workgroups

- Agricultural Workgroup
- Urban Stormwater Workgroup
- Wastewater Treatment Workgroup
- Forestry Workgroup
- Stream Habitat Workgroup
- Wetlands Evaluation Workgroup

January-March 2012: Present the Collective Set of Source Sector Narrative Syntheses to the Workgroups with Model Simulation, Tracking, Reporting and Accountability Responsibilities

- Trading and Offsets Workgroup
- Watershed Technical Workgroup
- NEIEN Workgroup
- Bay TAS Team

¹ This schedule is subject to change based on partnership decisions by the Principals’ Staff Committee and/or the Management Board.

April 2012: Present draft BMP Verification Framework, Principles, and Protocols Options/Recommendations to the WQGIT

- Advance distribution of comprehensive briefing package spelling out specific decisions being requested
- Presentation to WQGIT and request approval to proceed to Management Board

Spring 2012: Present BMP Verification Framework to the other Goal Implementation Teams

- Present to Sustainable Fish GIT
- Present to Vital Habitats GIT
- Present to Healthy Watersheds GIT
- Present to Foster Stewardship GIT
- Present to Partnership, Leadership and Management GIT

Spring 2012: Present BMP Verification Framework to the Citizens Advisory Committee, Local Governments Advisory Committee, and Scientific and Technical Advisory Committee

- Present to CAC
- Present to LGAC
- Present to STAC

May-June 2012: Present Draft BMP Verification Principles, Protocols and Program to the Management Board

- Advance distribution of comprehensive briefing package spelling out specific decisions being requested
- Presentation to MB and request for series of decisions

Summer 2012: Present the Proposed BMP Verification Principles, Protocols and Program to the Principals' Staff Committee

- Advance distribution of comprehensive briefing package spelling out specific decisions being requested
- Presentation to PSC and request final decisions

Fall 2012: Start BMP Verification Panel Review of Jurisdictions' Programs

- Jurisdictions present their proposed BMP verification programs to the panel for review

Attachment A.

Restore Clean Water/Agricultural Conservation Outcome commitment within the Executive Order 13508 Strategy for Protecting and Restoring the Chesapeake Bay Watershed, May 12, 2010.

Develop a system of accountability for tracking and reporting conservation practices. Full accounting of conservation practices applied to the land is a necessary data input for improving the quality of information and ensuring that the practices are properly credited in the Bay model. In development of this system, USDA will uphold all privacy requirements as called for in Section 1619 of the 2008 Farm Bill.

By December 2011, USDA and EPA will work with state and local partners to expand existing tracking and reporting systems for conservation practices, best management practices and treatment technologies to ensure reporting and tracking at local scales of implementation – counties, conservation districts and/or small watersheds.

By July 2012, mechanisms for tracking and reporting of voluntary conservation practices and other best management practices installed on agricultural lands will be developed and implemented.

Attachment B.

Chesapeake Bay Program's BMP Verification Program Related Meetings

Updated March 21, 2012

Working Up Through the Partnership

Briefings on and discussions of the partnership's BMP verification program have been held to date with the following workgroups, teams, and committees.

Policy Committees

- **Principals' Staff Committee:** February 16
- **Management Board:** February 8, March 6

CBP Advisory Committees

- **Citizens Advisory Committee:** March 1
- **Local Governments Advisory Committee:** March 1
- **Scientific and Technical Advisory Committee:** March 27 (scheduled)

Goal Implementation Teams

- **Water Quality Goal Implementation Team:** January 9, February 13, March 12
 - **Agricultural Workgroup:** January 12, March 8
 - **Forestry Workgroup:** February 1, February 27, March 6
 - **Trading and Offsets Workgroup:** January 18, February 22
 - **Stormwater Workgroup:** February 8, March 20
 - **Wastewater Treatment Workgroup:** February 7
- **Vital Habitats Goal Implementation Team** (being scheduled)

Working with Partnership Agencies and Stakeholder Organizations

- World Resources Institute, Hope Impacts, Inc.: January 31
- Keith Campbell Foundation: February 2
- USDA Six Chesapeake Bay NRCS state conservationists: March 15