

## **Attachment C:**

### **CBP Verification Steering Committee Review of the Revised Draft BMP Verification Principles**

#### Overarching Concerns Raised by Steering Committee Members

- 1) There does not seem to be a pervasive commitment to transparency and public accountability; this needs to be deliberately and consciously incorporated.
- 2) Need more time to work through each of the principles with the Steering Committee.
- 3) Want feedback from the various source sector workgroups to ensure these draft principles support/ don't conflict with their work on the verification protocols.

#### Review of Each Preliminary Draft Principle with Feedback to Date from Members

**Principle 1:** Practices, treatments, and technologies reported for credit through the Chesapeake Bay Program partnership must be:

- properly designed, installed, and maintained to ensure that they are achieving the expected nutrient and sediment reductions reviewed and approved to by the partnership;
- consistent with or functionally equivalent to established practice definitions and/or standards;
- not previously reported; and
- not expired or removed from the landscape.

#### **Feedback:**

- We have to provide credit for practices which are not functional equivalent to if we are truly committed to crediting non-cost shared practices.
- Not focusing on functional equivalency could be a slippery slope.
- Could consider giving credit for partial functionality, but would need the partnership to approve such a set of partially functional BMPs to prevent an arbitrary scale of efficiencies for such practices.

#### **Options:**

- A) Hold firm with the requirements for functionally equivalent to order to be a verifiable practice.
- B) Amend the partnership's BMP protocol to enable partners to seek partnership review and approval of BMPs and corresponding efficiencies (supported by documentation/data) which are less than functional equivalents of partnership approved BMPs. Edit the draft principle to reflect this approach.
- C) Empower each jurisdiction to establish its own efficiencies on a sliding scale for less than functional equivalent practices.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 2:** Verification of practices needs to be scientifically rigorous and defensible in this era of TMDL accountability, based on professionally established and accepted sampling, inspection, and certification protocols.

**Feedback:**

- No feedback on this principle received to date.

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 3:** Verification needs to be carried out consistently across funding source (cost share versus non-cost share), source sector (agriculture, urban, etc.), and jurisdiction (state, local), yet allow for adaptability.

**Feedback:**

- During the call developing a verification program that was consistent for all states was mentioned and some concerns were voiced about the degree of equitable resources to support consistency. As our committee continues to discuss this important component there may be opportunities to design a consistent state verification process that includes core accountability components and could also include different levels of program state/federal oversight.
- Need to working a clear definition for what's sufficient—achieving a certain level of comfort, confidence—in place of use of the term “consistent”.
- Concerned about the principle focused on ‘consistency across source sectors and jurisdictions.
- Consistency is needed across the whole reporting train in terms of documentation and rigor.
- Strive for as much consistency as possible.

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle to address expressed concerns about the use of the “consistently” term using some alternative language—several Steering Committee members recommended use of the phrase “with consistent level of rigor” or something comparable.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 4:** Need to establish a solid, accurate baseline of practice implementation from which periodic confirmations can be performed to account for changes through time.

**Feedback:**

- No feedback on this principle received to date.

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 5:** Verification programs and protocols should build from the existing, well established verification, inspection and maintenance, and mitigation programs and infrastructure already in place and operating.

**Feedback:**

- Aside from my concern that there may be few or no such credible programs “already in place and operating,” don’t we want to specify at least a few examples of those which are, and what makes them so, in order to better articulate—and agree among ourselves—what we mean?
- In addition to the technical approaches that are needed to report for appropriate credit, the actual process that details how primarily state agriculture and water quality agencies will develop a step by step process needs to be included. All of the Bay states have adopted procedures that have been developed to support, to some degree, verifying that both structural and annual management practices have been installed and are being operated and maintained. For Ag BMPs, generally, each conservation district plays an important role in conducting either first time on-farm checks to provide documentation for cost share funds or on-farm randomly selected spot checks that address operation and maintenance per contractual agreements. The state process also includes reporting requirements and some annual audits. Some of the fundamental issues for our Verification committee will be to what extent are changes to the existing state process will be needed in order to satisfy a high degree of reasonable assurance confidence? What additional steps will need to be included in the state process to provide a high degree of accountability for the general public? To what extent does there need to be a greater degree of transparency for BMPs that are being properly implemented over the lifetime of the prescribed management practice?
- Maybe this is where the Steering Committee should start – are the current ag BMP verification programs being implemented by the states sufficient?
  - MD MACS validation process
  - VA BMP assessment (authorized by legislation)
  - DE WIP2
  - WV pilot program
  - PA pilot program – Lancaster, Bradford counties (noted in WIP2)

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle to address concerns expressed about the need to build off existing program but recognize we will need to fill identified gaps as well.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 6:** Recognize there is a difference in the level of rigor required for certifying individual credits from trading through established state and interstate programs and tracking, verifying, and reporting practices through the Chesapeake Bay Program partnership.

**Feedback:**

- Several Steering Committee members asked that we make it very clear that the verification protocols we are discussing for the partnership are not to be used to certify tradable credits.

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 7:** Need to strive for the right balance between the requirement for verification and the need to focus limited staff and funding on continued program implementation.

**Feedback:**

- Similarly, some of them sound only like nice words (sorry, Rich); for example, “Need to strive for the right balance between the requirement for verification and the need to focus limited staff and funding on continued program implementation.” (I would argue that we might want this principle to read “Need to recognize and address the need for sufficient staff and funding in order to accomplish both verification and continued program implementation.” Framing the principle in this way could lead the Steering Committee to a conclusion that one sector’s proposed protocols are unacceptable because the staffing and funding is insufficient.)
- Need to put focus on the principle addressing the need for a balance between resources for verification vs. implementation.

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle to address the concerns expressed.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

**Principle 8:** Use the verification process to encourage, even challenge land owners, municipalities, and implementing organizations to elevate their level of performance of practices, treatments, and technologies rather than attempt to define pollutant reduction efficiencies for less than functionally equivalent practices.

**Feedback:**

- Really like the last verification principle, particularly if it's tied to agricultural certainty.
- This principle raises red flags for us.

**Options:**

- A) Accept the draft principle as written.
- B) Edit the principle to address concerns expressed.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.

Identification of Other Principles Not Included on Original Preliminary Draft List

**Principle 9:** Working to verify that practices are properly designed, installed, and maintained over time is a critical and integral component of transparent, cost efficient, and effective program implementation and ensuring the public of achievement of the expected nutrient and sediment load reductions over time.

**Feedback:**

- Need to include a principle describing how we can use verification to make better use of our existing resources in supporting local decision making, target better, make more efficient use of our resources.

**Options:**

- A) Accept the new draft principle as written.
- B) Edit the principle to better address the recommendation for an additional principle.
- C) Reframe the entire principle.
- D) Remove this principle as it does not meet the criteria for being a principle.