

**Chesapeake Bay Program Partnership's
BMP Verification Review Panel
October 12th, 2012
Conference Call**

Summary of Panel Discussions

Introductions

- Rich Batiuk welcomed the panelists and thanked them for serving on the Review Panel. He reviewed the afternoon's agenda and summarized the goals for the conference call.

Background on the Chesapeake Bay Program (CBP) Partnership and BMP Verification

- Overview of the CBP Partnership and its management structure ([Attachment A](#))
 - The Principals' Staff Committee (PSC), which consists of cabinet level secretaries of the state departments of environment, natural resources, and planning and their counterpart federal agency senior officials, will ultimately make decisions on the principles, protocols, and other elements of the overall BMP verification framework for the larger CBP Partnership.
 - The Management Board made the final decisions on the review panel membership and charge.
 - The various verification program roles played by the different committees, boards, teams and workgroups are outlined in the final two slides of Attachment A.

Panel members' questions about the management structure or roles

Tim Gieseke asked about the 'independent evaluator' listed on the CBP Partnership's management structure chart.

Response: The CBP Partnership has agreed to convening and using an independent evaluator to address specific issues or concerns raised within the partnership. Most recently, under the National Academy of Sciences, the National Research Council was contracted to conduct a comprehensive review of how the Chesapeake Bay Program Partnership's implementation efforts to obtain the nutrient and sediment reduction goals for water quality in order to accelerate reaching the overall goals to protect and restore the Chesapeake Bay. A review of the Partnership's BMP tracking, reporting and verification efforts was a central part of that independent review.

- Bay TMDL, Jurisdictions' Watershed Implementation Plans (WIPs), and Accountability System ([Attachment B](#))
 - Beyond monitoring data, BMPs are used to help track and monitor progress towards an interim 2017 target, the 2025 goal, and the intervening 2-year milestones all the way up to 2025.
 - Request to the Panel: help the CBP Partnership ensure that we have a high level of confidence in our implementation progress currency: BMPs.

Panel members' questions about the Bay TMDL, the jurisdictions' WIPs, and Accountability
Richard Klein asked if any of the sources of the reported BMP provided locational data on the implemented BMPs.

Response: Depends on the particular BMP and the scale it is reported at. New BMP implementation—post 2009—is reported by the watershed jurisdictions through their NEIEN (national environmental informational exchange network) nodes. The Partnership does have historical records of BMP implementation back to 1985, but these records have not always been accurate.

Andrew Sharpley stated that a lot of the agricultural conservation practice data is considered confidential.

Response: As part of the BMP verification framework, USGS has signed 1619 data sharing agreements with NRCS and FSA to gain access to the confidential information and then synthesize the BMP information at scales which address individual producer confidentiality issues.

- 2010-2012 National Academy of Science's NRC review of Chesapeake Bay Program's tracking and accountability systems ([Attachment C](#))

ACTION: Rich Batiuk will provide Panel members with the URL link to full NRC Chesapeake Bay report.

- Overview of the BMP verification framework ([Attachment D](#))

There were no questions from Panel members on the BMP verification framework.

Panel Charge, Operations and Schedule

- Review of the Panel's charge ([Attachment E](#))
 - During this conference call and following the call, the Partnership wants to hear feedback from the Panel members on the draft verification principles.

Mike Gerel asked as the Panel carries out its work, how much of the Panel's work is shared publically and how.

Rich Batiuk responded stating that notices of all the Panel's conference call and face to face meetings are posted on the CBP Partnership's web site (<http://www.chesapeakebay.net>) and all the advance briefing materials and presentations are accessible on-line through the site's calendar. All summaries of the Panel's conference call and meeting will be publically accessible as will all the Panel's reports and recommendations.

Mike Gerel recommended making everything fully accessible to public in language understandable to the public. The Partnership needs to move well beyond traditional partners and wonky language.

Rich Batiuk fully agreed given the Partnership's decisions on BMP verification will directly affect thousands of producers, owners and operators of small waste water treatment facilities, municipalities managing their stormwater, and more. With the Panel's concurrence, we could

bring in communications experts from the Partnership's Communications Workgroup to discuss this further. The Partnership welcomes further feedback from Panel members on how to best reach out to target audiences based on their experiences.

Rich Batiuk clarified that the Partnership is not asking the Panel members to conduct any new research or evaluations. Through this conference call, the Partnership is asking for the Panel's feedback on the draft BMP verification principles. We will take the Panel's feedback on principles and bring it forward to the Partnership's Management Board and then the Principals' Staff Committee for final review and approval. Once the principles have been approved, we will turn the Panel's attention to review of the draft BMP verification protocols drafted by the Partnership's source sector and habitat restoration workgroups.

Rebecca Hanmer pointed to the last point of the Panel's charge asking for the Panel to "evaluate whether the level of verification rigor is consistent across source sectors and across all seven watershed jurisdictions." She stated it will be tremendously difficult for the watershed states to find the resources to implement consistent verification across sectors. Can the Chesapeake Bay Program Office provide any results of past sensitivity analyses identifying sub-set of priority BMPs which provide the vast majority of the load reductions.

Jeff Sweeney responded that Partnership has conducted several load reduction effectiveness analyses in the past and we several lists of major load reduction practices. He agreed it could help the states to focus on these practices. We also know what's in the jurisdictions' Watershed Implementation Plans so we know what the states have emphasized in the past implementation efforts and their future plans for the practices to be implemented.

Rebecca Hanmer stated that the CBP's verification program doesn't address the 25-30% of nitrogen load from air deposition. This is of particular concern during a time period when the national atmospheric monitoring stations are being cut back.

Rich Batiuk responded that not including verification of effort to reduce nitrogen air emissions was an oversight by the Partnership. He will raise this issue with the BMP Verification Committee.

- Review of the Panel's operations and schedule ([Attachment F](#))

ACTION: Rich Batiuk will provide Panel members with more specific information about covering each member's respective travel expenses well in advance of the face to face meeting in December.

- Review of the BMP Verification Program schedule through summer 2013 ([Attachment G](#))

DECISION: Based on availability of the Panel members, Thursday, December 6 was selected as the date for the Panel's first face to face meeting.

Questions from Panel members about the BMP Verification Program Schedule

Robert Travers asked whether there was any mechanism in place to account for new information or understanding of BMPs over time.

Rich Batiuk responded that the CBP Partnership's BMP protocol allows for review of new or existing BMPs, their definitions, their efficiencies, how they will be simulated by the Partnership's model, as well as how they will be tracked and reported based on available science.

Draft BMP Verification Principles

- Overview of the draft principles and their role within the larger BMP verification framework ([Attachment H](#))
 - These draft principles are still subject to change all the way up until they receive final approval by the Principals' Staff Committee.

Feedback from Panel Members on the Draft Principles

Richard Klein observed that in addition to increasing public confidence, it may be possible to increase public support for inspection and maintenance of practices through the BMP verification process. He recommended using the BMP verification process to how to use verification to improve effectiveness of BMPs and support for implementation programs.

Dan Zimmerman pointed out that it is key that people understand the value of BMPs. There is a constant battle to help the public make that connection. People need to understand the value of these individual BMPs to helping restore and maintain water quality. The CBP Partnership needs interweave/inject education directly into the BMP verification process.

Mike Gerel stated that for principles 1 and 2, its going to be difficult to balance how to pay for verification, implementation, etc while not compromising scientific rigor of the accountability. Need to factor in the reality of how these verification efforts can

Rich Batiuk responded that its not a panacea, but all seven jurisdictions have access to a set of EPA grants specifically set up to provide financial support—Chesapeake Bay Regulatory and Accountability Program grants or CBRAP grant.

Mike Gerel followed up by point out this was another reason for placing emphasis on the need for full public transparency. The public needs to understand that costs were consideration of the development of the BMP verification protocols and that the resulted verified BMP data were used by the partnership is directly support program implementation. This will all help make case that the Partnership is are being realistic and considering costs while making decisions on verification.

Rebecca Hanmer asked for an explanation of principle 5. She could see how jurisdictional equity would be determined more easily than sector equity. She read equity as an equal amount and did not believe that was what the Partnership intended.

Rich Batiuk responded by drawing examples from the agricultural and stormwater sectors. Can we draw parallels between verification of structural agricultural conservation practices and structural urban BMPs? Can we take the same with comparing verification approaches directed towards annual practices in the two source sectors? Chesapeake Bay Program Office staff are taking the existing draft verification protocols for the six different source sectors and habitat restoration arenas and aligning and comparing common elements among the sectors in a matrix format. We are asking questions like are there common techniques or common levels of confidence that can translate between/across sectors. Can we set verification expectations on the basis of regulated vs. non-regulated sources?

Tim Gieseke recommended developing a principle or adding principle language communicating the commitment to integrating the verification process into existing management protocols.

Tim Gieseke further recommended principle language stating that the ‘transaction cost’—the costs associated with the inspection, assessment, monitoring, and/or survey actions yielding verification—need to be relative to the value of the BMP being verified.

Robert Traver asked whether the principles reflect very different highly visible to the public vs. hidden from view of the public nature of some BMPs and how their different set of BMPs will be verified?

Rich Batiuk responded that the draft protocols, with emphasis on the stormwater protocols, do account for verifying visible vs. hidden from view BMPs. This is a very good point—please bring of this point up again when reviewing the source sector protocols at your December Panel meeting and understand how the protocols are dealing with two very different sets of BMPs.

Gordon Smith observed there are really a couple of different uses of the verification information what we need to know and what processes we need to employ to gain that understanding. When people understand how the verification information will be used, they will be much more willing to share information if they aren’t worried about federal enforcement actions for failure to meet TMDLs. Even the federal enforcement action is going after governmental entities, producers are going to be hesitant to provide the verification information. The Partnership will have to think about these sensitivities.

Dana York asked whether the Urban Stormwater Workgroup has developed their own set of principles? Are their principles more rigorous than the draft principles the Panel is currently reviewing?

Rich Batiuk responded that the Urban Stormwater Workgroup did develop a set of stormwater-specific principles tailored to their own source sector and their specific verification challenges. They were trying to put in place a framework for their community and structuring ongoing discussions about stormwater verification programs. They are not trying to raise the bar.

Gordon Smith stated that we are all aware of corporate responsibility efforts underway, not necessarily related to TMDLs, but may benefit the TMDL implementation process. Recommend adding principle to recognize other conservation improvement efforts in the private/NGO/utility world that may add benefits to the verification process.

ACTION: Panel members will further review the principles and provide Rich Batiuk with further comments and/or recommended language for the principles in the next three weeks. Chesapeake Bay Program Office staff will provide the members with a MSWord version of the draft principles so members can electronically mark up the principles text.

Plans for Face to Face Panel Meeting

- Draft meeting agenda ([Attachment I](#))

The first face to face meeting of the Panel was scheduled for Thursday, December 6th at the Chesapeake Bay Program Office in Annapolis, Maryland based on availability of the Panel members.

ACTION: Chesapeake Bay Program Office staff will provide Panel members with the following information:

- A summary of the conference call;
- A list of priority BMPs identified during past sensitivity/load reduction effectiveness analyses;
- The matrix comparing the six set of draft source sector and habitat restoration verification protocols; and
- A URL link to full NRC Chesapeake Bay evaluation report.

Panel Members Participating on the Conference Call		
Name	Affiliation	Present
Dr. Curtis Dell	USDA-Agricultural Research Service	Yes
Mike Gerel	Sustainable Northwest	Yes
Tim Gieseke	Ag Resource Strategies	Yes
Rebecca Hanmer	CBP Citizens Advisory Committee	Yes
Dr. Dianna Hogan	USGS-Eastern Geographic Science Center	Yes
Richard Klein	Community and Environmental Defense Services	Yes
Dr. Andrew Sharpley	University of Arkansas	Yes
Dr. Tom Simpson	Watershed Stewardship	No
Dr. Gordon Smith	Wildlife Works Carbon LLC	Yes
Rebecca Stack	District of Columbia DOE	No
Dr. Robert Traver	Villanova University	Yes
Dana York	Green Earth Connections LLC	Yes
Dan Zimmerman	Warwick Township	Yes
Non-panelists in Attendance		
Rich Batiuk	U.S. EPA, Chesapeake Bay Program Office (CBPO) [Panel Coordinator]	
Jeremy Hanson	Chesapeake Research Consortium/CBPO [Panel Staff]	
Matt Johnston	University of Maryland/CBPO [CBP Watershed Technical Workgroup Coordinator]	
Jeff Sweeney	U.S. EPA CBPO	
Hank Zygmunt	Resource Dynamics, Inc. [CBP Verification Committee member]	
Beth Zinecker	University of Maryland	
Sally Claggett	U.S. Forest Service/CBPO [CBP Forestry Workgroup Coordinator]	