

**SUMMARY**  
**CBP WQGIT BMP Verification Committee**  
**Meeting and Teleconference**  
**Tuesday, January 28, 2014, 10:00AM – 3:00PM**  
[www.chesapeakebay.net/calendar/event/21132/](http://www.chesapeakebay.net/calendar/event/21132/)

**Objectives of Today's Meeting**

- Rich Batiuk (EPA, CBPO; BMP Verification Committee Chair/Coordinator) convened the meeting and welcomed participants. He reviewed the day's [agenda](#) and outlined the objectives for the meeting:
  - Walk through each of the BMP Verification Review Panel's recommendations. Not voting on the recommendations, but asking for a sense of the Committee members if there is comfort with the recommendations.
  - Want to respect the Panel, which is the outside group of experts convened to advise the partnership on verification. So, if the Committee has a different opinion on certain issues, we will bring forward both the Panel's and the Committee's thoughts and recommendations as the verification framework moves through the partnership up to the Principals' Staff Committee.
  - Will seek the Committee's concurrence on a path forward and schedule as the Partnership moves forward on verification.
  - Following today's meeting CBPO staff will work to schedule a joint meeting between the Panel and Committee in late March or mid-April time period.
  - He recognized and thanked the workgroup Chairs and Coordinators for all their hard work on their workgroup's BMP verification guidance.

**CBP BMP Verification Review Panel Recommendations**

- Rich Batiuk noted the comprehensive feedback from the Review Panel was provided in [Attachment A](#). He introduced Dana York (Green Earth Connection, LLC; Chair, BMP Verification Review Panel).
- Dana York recalled the background and charge of the BMP Verification Review Panel. She noted the Panel had received a lot of input and guidance from the Citizens' Advisory Committee (CAC), the Scientific and Technical Advisory Committee (STAC), the BMP Verification Committee, and others. She walked through slides of the Review Panel's recommendations ([Attachment B](#)).
  - View Dana York's presentation for more details ([Attachment B](#))
- Rich Batiuk asked members to reserve their questions until after Dana York finished her summary of the Panel's recommendations. After that, the Committee will walk through each recommendation and determine the next steps/follow up actions.
- Beth McGee (Chesapeake Bay Foundation) asked how "ensuring full credit" would apply to the urban sector. Seems agriculture focused, but it would also seem to apply to stormwater.
  - Dana York explained this was in response to a request about NRCS and FSA cost-shared practices.
- Hank Zygmunt (Resource Dynamics, Inc): clarifying question: if some of the Bay Program's BMP definitions are not considered verifiable, would the BMP or suite of BMPs need to go back through the BMP review protocol? That can be a time-consuming process.

- Dana York: For example, there has been a crosswalk for CBP and NRCS practices, though that crosswalk has not been officially endorsed by the AgWG. The crosswalk was done for the Section 1619 project.
- James Davis-Martin (Virginia Department of Environmental Quality): To clarify, was the crosswalk to identify NRCS practices for credit under CBP-approved BMPs? It can lead you down a different path, depending how it is developed.
  - Rich Batiuk explained the crosswalk looked at CBP definitions and looked for single or multiple NRCS standards or practices that matched up. The objective of the crosswalk is to determine if a state was submitting NRCS practices, which set of CBP approved BMP efficiencies would apply to those NRCS standards.
- Hank Zygmunt: Seeing these bullet points, I keep thinking about resources. What is your sense as the Panel Chair in terms of “aim high?”
  - Dana York: The Panel did not directly address the resources issue. The Panel wants to see if elements are there. For example, is there a program and process in place? Have people been trained? Is there reliability that a practice will remain in place or functioning? We try to have these concepts in place so there is less chance it will fall apart. New technologies might arise to make verification easier or more cost efficient.
- Andy Zemba (Pennsylvania Department of Environmental Protection): Will we try to take on these resource issues today?
  - Rich Batiuk: The Panel asked the workgroups to set the bar for the states. The Committee can work with the Panel to evaluate the bar set by the workgroups. The Panel is asking the states to aim high as well, but explain logic or reasoning for their approaches. Want the jurisdictions to mold a verification program that fits them, but be transparent about the approach they take and why. We want to make sure we do not aim too high and we allow the jurisdictions needed flexibility.
- Ann Swanson (Chesapeake Bay Commission): It is important that the Panel is giving us recommendations that are reasonable. They asked the workgroups define the approach that should be taken if the resources were available. Think it is important to have that bar. We do not know what we need until we define it. We did the Chesapeake Bay Watershed Initiative (CBWI) through the 2008 Farm Bill because we had done lots of work from Chesapeake 2000, so we knew that we needed more resources and were able to make a strong argument for that funding.
- Hank Zygmunt emphasized Dana York’s point that new technologies will be critical to lessen the staff or resources necessary down the road.
- Bill Angstadt (Maryland/Delaware Agribusiness Association): asked for clarification on transition from verification to validation
  - Dana York: Validation makes sure that the reported data accurately represents the practice or practices submitted.
  - Rich Batiuk directed participants’ attention to page 17 of Attachment A, which outlined the elements of “validation.”
  - Roy Hoagland (HOPE Impacts) noted the expert panels are not currently charged with verification or validation.
    - Dana York: The Panel recommended that future BMP expert panel should be charged with providing the workgroups with the expert panel’s recommendations on verification of any new BMPs.

- Beth McGee asked when or where is determination made that an approach will receive full credit for a verified practice? For the Panel, were there any contentious issues or was it all common ground consensus?
  - Dana York: It ended up being all common ground consensus across all Panel members. There were some issues or definitions, such as “external independent review,” that took some time to churn out, but all the recommendations were the consensus of the entire Panel.

### **Committee Discussion and Responses to Panel’s Recommendations**

- Rich Batiuk directed members’ attention to [Attachment A](#) and [Attachment C](#). He walked the members through each recommendation and sought objections, comfort level and comments from the committee as to the recommended next steps/follow-up actions. He emphasized again—the Committee was making no permanent decisions today. He was asking for direction from the Committee on what to include in the forthcoming revised draft basinwide BMP verification framework documents. The summarized Panel recommendations from Attachments A and C are listed in *italics* below, along with the associated Committee discussion/decision on next steps/follow-up actions.
- *Provide guidance, jurisdictions develop protocols*
  - No objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Use USWG narrative as a model to follow*
  - No objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Use the Verification Program Design Matrix in developing your guidance*
  - Dana York: noted the Matrix is just a high level starting point to get everyone thinking about the same various elements across the sectors.
  - Bill Angstadt felt the Agriculture Workgroup would not be comfortable with the matrix. Agriculture Workgroup members had not received this matrix to review it. He noted the Agriculture Workgroup still needed to develop its narrative to accompany the verification matrix developed by the AgWG.
    - Dana York and Rich Batiuk clarified the Verification Program Design Matrix is different than the verification matrix developed by the Agriculture Workgroup.
    - Rich Batiuk: the Committee is not approving anything today as final.
  - Roy Hoagland: the question here is whether the workgroups’ and Panel’s guidance and framework are sufficient to help states develop their state verification protocols and documentation.
  - Rich Batiuk noted that the recommendations (Attachment A) were distributed to the workgroup chairs and coordinators in mid-November 2013.
  - Andy Zemba and Hank Zygmunt were okay with language.

- Hank Zygmunt suggested a footnote or language to indicate that there is a lot of work yet to be done by the Agriculture Workgroup.

**ACTION:** Rich Batiuk will communicate verbally and in writing to Frank Coale (University of Maryland; Chair, Agriculture Workgroup) that the BMP Verification Committee is very concerned about continued lack of an Agriculture Workgroup verification guidance narrative and that the Committee recommends the Agriculture Workgroup consider a convening small group of Workgroup members to support the Workgroup Coordinator in drafting up the verification guidance from the workgroup.

**DECISION:** The Committee agreed to include the *Verification Program Design Matrix* in the revised draft BMP verification framework report with the appropriate explanatory text describing its intended role in helping the jurisdictions develop their verification programs.

- *Consider these 14 steps when Developing Your Verification Guidance*
  - Rich Batiuk noted the 14 steps were outlined in Attachment B within Attachment A.
  - Hank Zygmunt: are the jurisdictions comfortable with these steps?
    - Rich Batiuk: Concurrence is not necessarily saying that we agree with the 14 steps recommended by the Panel at this time, but is the Committee okay with moving forward with including the 14 steps as part of the revised draft basinwide BMP verification framework report for further review and comment.
    - Roy Hoagland felt the Committee should embrace the 14 steps. The Panel gave us exactly what we asked for.
    - Beth McGee felt the steps were very useful to the jurisdictions as they think through their protocols.
    - Ann Swanson: the 14 steps seemed perfectly reasonable. Should we just send the 14 steps forward as the guidance?
    - Matt Monroe: would the states have to answer every letter under the 14 steps?
      - Dana York: No, the jurisdictions would not have to answer every single letter under each step. Just think through the general steps and components. The steps are there to help the jurisdictions and workgroups think through their verification programs and guidance, respectively.
      - Andy Zemba: It is important to communicate that fact very clearly. There will be a request for guidance and clear direction.
      - Ann Swanson: Address each step, but not necessarily each question underneath the steps.
    - Bill Angstadt: See this as a funnel to send this back to the jurisdictions asking them to develop their protocols based on the whole set of information and the guidance from the workgroups. We established that some of the jurisdictions' programs may already achieve the Verification Principles and may not require significant modifications or enhancements.

- Rich Batiuk clarified the 14 steps are there for the jurisdictions and workgroups to consider.
  - Dana York: The 14 steps and the questions are there to help fill out Attachment C (within [Attachment A](#)).
- Ann Swanson felt the 14 step construct is great. Do not want to fiddle with it.
- Andy Zemba noted Pennsylvania has already started working on its historical data. There has been no real guidance from EPA or states on this. There needs to be some flexibility.
- Matt Monroe: It remains a huge question to consider what can be done when we do not have the resources for fully rigorous verification.
  - Rich Batiuk: That is a question that we will frame now and into the spring. The Panel fully understands that resources are limited, which is why they are asking jurisdictions to identify what they can and cannot do—see their ‘aim high or explain why’ recommendation. There is also an understanding of priorities for verification can be established by the jurisdictions and still be consistent with the principles and the workgroups’ guidance. The Urban Stormwater workgroup (USWG), for example, is recommending if a practice is a very low percentage of reductions, then less rigorous verification is needed. The Forestry Workgroup is taking a similar approach for BMPs that account for marginal amount of pollutant reductions. We are starting to get more clarity on this. This provides the jurisdictions with the flexibility called for in the principles as well as recognizes resource constraints are a reality we all need to deal with.
- Bill Angstadt: That is an important leadership statement. Feel this is where the Agriculture Workgroup is getting hung up on. The Agriculture Workgroup is trying to develop something that covers everything possible, everywhere. Perhaps they should follow the panel’s recommendations on focusing on high priority BMPs.
  - Rich Batiuk: We can include that point in our communication to the Agriculture Workgroup Chair.

**DECISION:** The Committee agreed to include the *14 Steps* in the revised draft BMP verification framework report as presented by the Panel with the appropriate explanatory text describing its intended role in helping the jurisdictions develop their verification programs, but there is no requirement for following each step exactly nor answering all the underlying questions.

- *Workgroups/Verification Committee: Additional Submission Documents for Protocol*
  - Rich Batiuk: The Panel is recommending that the jurisdictions provide additional information and documentation for their verification protocols (page 2, [Attachment A](#)), but they are for a substantial amount of documentation. If there is existing information or documentation they can link to that.
  - Beth McGee: question the word “should.” Perhaps “may” is better. We do not know for sure how much extra information is needed.
    - Roy Hoagland shared Beth McGee’s concern about the specific language. An issue is whether or not there is a need for substantial information or not. Do not embrace it as currently written.

- Ann Swanson: Perhaps it should read differently. If the Panel believes clearly articulated jurisdictional verification protocols are important. If procedures already exist, then substantial additional documentation is not needed.
- Bill Angstadt reiterated language from the principles that some jurisdictions programs may already satisfy the verification principles and not require additional modification or enhancement.

**DECISION:** The Committee decided the Panel’s recommendation, as written was unclear and confusing. The Committee directed CBPO staff to ensure the revised draft basinwide BMP verification framework report provided clear direction to the jurisdiction on exactly what level of documentation of their verification program was needed in their amended quality assurance plans. The Committee agreed to communicate the Panel’s concern about not seeking excess documentation, but the right level of documentation so others can understand their verification program.

- *Workgroups/jurisdictions: Consider the panel’s comments on your draft protocols*
  - Rich Batiuk noted the Panel provided detailed comments to each of the workgroups (pages 19-23 of Attachment A).
  - No objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Workgroups/Jurisdictions: Group practices and options together*
  - Rich Batiuk noted the sector workgroups are already moving in this direction.
  - No objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Aim high*
  - Rich Batiuk recalled the morning’s discussion on the subject. The panel was calling for the workgroups’ best professional judgment about the types and frequency of inspection which are needed to provide a high level of confidence that the BMPs are truly installed and operating to meet the assigned removal efficiencies. He recalled that CBPO staff developed a matrix to compare the workgroups’ guidance about a year ago to ensure each workgroup was addressing a consistent set of elements in their guidance and they were aiming for a similar bar.
  - Bill Angstadt: Not sure what best professional judgment looks like from the Agriculture Workgroup perspective.
    - Rich Batiuk noted this is a concern across the partnership, not just the Agriculture Workgroup.
  - Rich Batiuk: hearing no further comments or objections, we can revisit this as needed in the spring.

**ACTION:** The Committee will reconsider the Panel’s recommendation to the workgroups to ‘aim high’ in drafting their workgroup’s verification guidance at the joint spring meeting with the Panel after having had to opportunity to have reviewed all six workgroups’ guidance documents in the forthcoming revised draft basinwide BMP verification framework report. The Committee wants to ensure the workgroups all aimed at a similar bar and that that bar was reachable by the jurisdictions.

- *Define how to verify and at what frequency*
  - No objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Functional equivalents*
  - Dana York noted that she worked on this project under contract with the Maryland Department of Agriculture (MDA), so she represented MDA for this discussion, not the Verification Review Panel. She discussed Maryland’s proposal and approach to functional equivalents (FE).
    - See her presentation ([Attachment D](#)) for more information. Key questions and discussion captured below.
  - Roy Hoagland and Dana York noted the language in the functional equivalents definition on slide 6 was not completely up to date.
  - James Davis-Martin: We previously discussed that CBP definitions are not always specific or include specific standards. Are we limiting this functional equivalents issue to CBP definitions that mention NRCS standards/specs?
    - Dana York: We only picked practices that can be seen and verified.
    - Dana York noted the Agriculture Workgroup established an ad hoc technical review group that will consider the whole FE manual developed by MDA. She asked Committee members to avoid technical questions since that technical review group has yet to consider such issues.
  - Ann Swanson noted she had to leave early and thanked Dana York for Maryland’s effort on the issue.
  - Rich Batiuk: We are asking if the Committee is comfortable with letting the Agriculture Workgroup process play itself through. From there, the Committee can then determine its next steps on revisiting the FE issue.
  - Beth McGee: This FE issue highlights importance of cleaning up historical databases. Really need to focus on that so we can have a clean starting point. Need it to be consistent, since the historical data cleanup relates to calibration.
  - Roy Hoagland: Do not think FE is a verification issue. Worried that we are discussing the issue when the partnership has no approved definition of the concept. We are dealing with an ambiguous concept and continue to push it forward. Feel pretty strongly that we should not be dealing with this. Suggest we should send it back to the Bay Program. Very concerned about going down path without clear direction.
    - Dana York agreed and felt that this is not an issue for the Committee at this time. We are still at the drawing board, so do not think the Committee should be looking at it until there is more detail.

- James Davis-Martin: The CBP definition of fencing gives no information or details about the design of the fence itself. Think we are on the right track, though need more details and definitions of functional equivalents before we move forward.
- Hank Zygmunt: There is still a lot of heavy lifting to do on BMPs in other sectors, not just in agriculture.
- Rich Batiuk summarized the discussion: We agree to let the current process take its course through the Agriculture Workgroup. Then bring it back to the larger partnership to clarify what parts of functional equivalents are verification-related and what parts need to go through the established BMP review process. We will take it down the road a little further and determine next steps from there.
- Roy Hoagland: Think we would all agree that any practices that are installed and providing a water quality should be counted. It should not matter if they are cost-shared or voluntary, what matters is the practice is verified to be there. Do not know if everything needs to meet specific design standards if it meets the definition of the practice. The Bay Program needs to determine how to address additional practices on the ground that provide water quality benefits, for which credit should be given. That is the fundamental question.
- Roy Hoagland felt this issue lies within the WQGIT since it is a water quality question.
  - Dana York noted functional equivalents went to the WQGIT and they felt it was not well defined enough and sent it back to AgWG. Then the AgWG launched the technical review ad hoc group.

**DECISION:** The Committee decided to proceed forward, letting the current review process led by the Agriculture Workgroup to continue to a successful conclusion before re-engaging on the topic of functional equivalents. This topic will not be specifically addressed in the forthcoming revised draft basinwide BMP verification framework report. Rich Batiuk will follow up directly with Jenn Volk (University of Delaware; WQGIT Vice-Chair) to identify what parts of the functional equivalent topic are verification related, which parts need to go through the existing Partnership’s BMP protocol, and how and when to bring these issues forward to the WQGIT for consideration, review and decisions.

- *Confirm cross walk between partnership BMP practice design definitions and standards*
  - Rich Batiuk: The Panel is recommending that we institutionalize a process to confirm and crosswalk CBP BMP definitions with NRCS standards. We would want to ensure that the partnership is matching up the practices and definitions whenever there is a new or updated CBP practice or NRCS standard.
  - Roy Hoagland: Is this only an agriculture issue?
    - Rich Batiuk: Yes. For other sectors like stormwater there are state specific BMP manuals that are built into the BMP expert panels’ recommendations.
  - No other objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Establish life spans*
  - Rich Batiuk reviewed the language on page 4 of [Attachment A](#).
  - James Davis-Martin suggested the Phase 6 Watershed Model would be the appropriate time to incorporate this lifespan change for progress runs.
    - Rich Batiuk: Good point. When we meet in the spring we will want to talk about the timeframe and how to roll this out.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Adapting protocols with emerging technologies*
  - Andy Zemba asked a clarifying question about the second part of the first bullet (bottom of page 3, [Attachment C](#)).
    - Rich Batiuk clarified that the bullet addresses emerging technologies for verification, not emerging BMPs.
- Rich Batiuk directed participants' attention to the summary of the Panel's feedback to the seven jurisdictions starting on page 4 of [Attachment C](#).

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Prioritize verification towards priority practices*
  - Roy Hoagland: Think the Panel's recommendation to focus on priorities is common sense. We need more information about thresholds or guidance on what practices would trigger verification.
    - Rich Batiuk: The Urban Stormwater and Forestry Workgroups' verification guidance will recommend setting threshold based on the percentage of load reductions that a specific practice accounts for.
  - Roy Hoagland: We should be careful that the percentages are not too large in case they add up to a significant percentage altogether.
  - Bill Angstadt: This may be state specific. Perhaps we could make more progress if we go straight to the states about verification in agriculture and bypass the Agriculture Workgroup for now.
- Roy Hoagland recalled that the whole BMP verification effort was launched in response to reports that concluded verification was problematic.
- Matt Monroe: with the other workgroups, how have they addressed what the states already do, or what they can or cannot do?
  - Rich Batiuk: For example, urban stormwater built off existing MS4 and construction general permit requirements. Wastewater also built on existing state programs for CSOs, non-significant facilities, and advanced septic systems.
  - Bill Angstadt: Do not want to undermine sector equity, which is one of our verification principles, but trying to build a verification system for agriculture is much different from other sectors. Legal authority varies widely across the states when it comes to agriculture and what is expected or required of farmers. It might be easier to work in smaller, state-specific groups.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Robust upfront verification yields less intensive follow up reviews*
  - No questions or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Ensure adoption of consistent nomenclature and accepted definitions*
  - Roy Hoagland felt the Committee needs to finalize transparency before it can make decision on this.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Seek to strengthen ability to verify CBP defined BMPs*
  - Roy Hoagland: how big of an effort is it to ask the Bay Program to improve its BMP definitions?
    - Dana York: It depends on how the definitions were developed. It can be a big workload.
    - Rich Batiuk: We would phase this in over time since the workgroups have a large workload under their belts already. We could bring this back to the workgroups to see if they could improve definitions as a workgroup, or if they would need to convene an expert panel.
  - Roy Hoagland: it would be great to send it back to the workgroups with examples of where the definitions were problematic or insufficient for verification purposes.
    - Dana York: With new guidance coming, the panels may need additional expertise or different kinds of expertise to address these concerns. Going back to the workgroups is the first step.
    - Rich Batiuk: We will talk it through the partnership and ask workgroups to look at workload and consider how to tackle this.
    - Bill Angstadt: Is verification included in the new cooperative agreement with Virginia Tech?
      - Rich Batiuk: Yes. Bill Angstadt is referring to the new six year cooperative agreement that was awarded to Virginia Tech in consortium with other land grant universities in the watershed. Part of RFP included consideration of BMP verification, in anticipation of this issue.
  - James Davis-Martin: Think it is right path to send this back to the workgroups. If there is a change to a BMP definition, the ultimate decision is up to the WQGIT.

**ACTION:** Rich Batiuk will work directly with the WQGIT workgroup chairs and coordinators in gauging how much effort would be involved in carrying out the Panel's recommendation over time. The responses from the workgroup will be synthesized and presented back to the Committee and the WQGIT.

- *Transparency*
  - Rich Batiuk referred to Panel’s recommended language on page 7, [Attachment A](#).
  - Dana York: the Panel switched the word “synthesis” to “validation” because we were not sure what “synthesis” meant.
  - Bill Angstadt commented that he saw this as a national tipping point. There will be groups such as American Farm Bureau Federation that will be alarmed by this. Do not want to see this become a legal issue that clouds overall progress to restore the Bay.
    - Rich Batiuk: The “legal and programmatic constraints” language is a key aspect that should keep this from being a concern.
  - Bill Angstadt: there may be farmers that are reluctant or refuse to provide data if they think it would not be protected.
    - Rich Batiuk: It should be pointed out that that would not be in their interests and that their data is protected.
    - Dana York: the panel recommended that non-cost shared practices be aggregated or protected the same way as cost-shared practices. The states will either make sure the data is protected under legal and programmatic constraints, or else they will not collect it.
  - Rich Batiuk: Is the Committee comfortable putting this language out there for the Partnership? This will go forward as an addendum to the Verification Principles, so it will require Partnership approval ultimately by the Principals’ Staff Committee.
  - Matt Monroe: “Validation” makes perfect sense and so does “clearly defined” and “external.” Tried to steer away from “site specific,” which is more problematic.
  - Rich Batiuk noted it was the Committee’s choice. He asked the Committee if they preferred “finest possible” in place of “site specific.”
    - Aaron Ristow (Upper Susquehanna Coalition): Agree with Matt’s recommend language change from “site specific” to “finest possible”. Site-specific might imply farm specific to some people, even if that was not the intent of the Panel.
    - Other members concurred with Aaron’s comments.

**DECISION:** The Committee decided on the following language for transparency in response to the Panel’s recommendations:

“The measure of transparency will be applied to three primary areas of verification: data collection, data **validation** ~~synthesis~~ and data reporting.”

“Transparency of the process of data collection must incorporate **clearly defined independent** QA/QC procedures, which may be implemented by the data-collecting agency or by an independent **external** ~~third~~ party.”

Transparency of the data reported should be transparent at the ~~most site-specific~~ **finest possible** scale that conforms with legal and programmatic constraints, and at a scale compatible with data input for the Chesapeake Bay Program partnership modeling tools.

- Rich Batiuk noted the Panel’s recommendation that aggregated data can be used, be considered validated, be provided to the public, and still be considered consistent with the Partnership’s transparency principle if there is independent verification/validation of the underlying data. (Page 7, Attachment A)
  - Roy Hoagland: Fine with this as long as it refers to data that is aggregated because of legal or programmatic constraints.
  - James Davis-Martin asked for clarification of the word “independent” in this context. Does this mean independent of the jurisdiction?
    - Rich Batiuk pointed to the Panel’s definitions on page 6 of [Attachment A](#).
    - Dana York: Independent review does not deal with actual BMPs. External independent review was more about data validation, which the Panel did not go into depth on.
  - Bill Angstadt gave an example of swine producers in PA example. Swine producers wanted to submit animal waste storage structure data to PA DEP. This is a voluntary practice with not cost-share funding or other regulatory requirements. The producers wanted to aggregate by county and submit to DEP through PennAg Industries. The producers do not want third parties to be able to access the data components of these structures.
    - Roy Hoagland: That would seem to imply that anybody with a voluntary practice should not be subject to the transparency principle. Feel this would be a fundamentally bad principle.
      - Bill Angstadt: The data was collected by the swine producers and validated by DEP in a transparent manner.
    - Dana York: The Panel tried to stay out of the larger data validation issue as it was outside of their verification charge. Data validation procedures have not been designed, because the Panel does not have that detailed expertise to design that process. The Chesapeake Bay Program Partnership has not defined a data validation process.
    - Roy Hoagland: Would not support a further loss of transparency. If there are legal reasons for aggregation, that is fine.
    - Beth McGee: Think we are talking about different issues here. There would be some level of verification for these waste structures. We do not want to mix validation and verification.
  - Bill Angstadt: Did not feel the Partnership should reopen the Verification Principles for transparency.
    - Rich Batiuk clarified that transparency is an addendum to the public confidence principle, not an additional principle.
    - Bill Angstadt felt this is a state specific issue. If the states have different methods or requirements, that is where the determination should be made.
      - James Davis-Martin agreed with Bill Angstadt.
        - James Davis-Martin: The Pennsylvania swine example is no different than aggregated data received from local government or federal agencies.

**ACTION:** Given the Committee recognized that data validation in the context of non-BMP data being provided to/used by the CBP Partnership is outside of the verification charge to the Committee and the Panel, Rich Batiuk will follow up with Jenn Volk, WQGIT

Vice-Chair, on how the WQGIT will address the larger data validation issue and the need for clear Partnership approved data validation procedures.

- Rich Batiuk pointed to the Panel’s recommendation (page 7, Attachment A) that “practice and treatment data reported for crediting of nutrient and sediment pollutant load reductions and used in some form by the Chesapeake Bay Program Partnership in accounting for implementation progress should be made publically accessible through the Partnership’s Chesapeake Stat website. Conforming with legal and programmatic constraints, the reported practice and treatment data should be publically available to at the most site-specific scales, in order of preference: site-level, followed by subwatershed, municipality, county, and then state.”
  - Dana York noted the recommendation came from the stormwater members of the Panel. They noted there was no central source for this BMP data.
  - Roy Hoagland: Would take this recommendation out of the transparency section. It is a data accessibility issue, not a transparency issue.
  - Andy Zemba: This is data that is collected and reported to the Bay Program, so it is already subject to public requests.
  - Matt Monroe suggested taking out the second sentence and only using the first as the second sentence is already address in our transparency amendment to the BMP verification principles.
  - Roy Hoagland suggested using similar language to the transparency language: “finest possible.”
  - James Davis-Martin noted the recommendation says “data reported.” Some or all of the data may be credited. What is reported is what should be made public, not just what is currently accepted and credited the Watershed Model. Right now ChesapeakeStat only depicts what is credited in the Watershed Model.

**DECISION:** Based on the Panel’s recommendation, the Committee agreed to include the following recommendation for ensuring public access to the reported BMP data:

“Practice and treatment data reported for crediting of nutrient and sediment pollutant load reductions and used in some form by the Chesapeake Bay Program Partnership in accounting for implementation progress should be made publically accessible through the Partnership’s Chesapeake Stat website. ~~Conforming with legal and programmatic constraints, the reported practice and treatment data should be publically available to at the most site-specific scales, in order of preference: site level, followed by subwatershed, municipality, county, and then state.”~~

The second sentence of the Panel’s recommendation text was deleted given the transparency addendum to the public confidence BMP verification principle already contains this exact language, only using the ‘finest possible’ in place of ‘site-specific’.

The Committee made it clear that all the BMP practice data reported by the jurisdictions will be made accessible by the public via the Partnership’s ChesapeakeStat website.

- *Treat cost-shared and non-cost-shared practices the same in terms of applying privacy restrictions*
  - Rich Batiuk noted Roy Hoagland’s concerns from earlier.
  - No other objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Provide partners with access to statistical design expertise*
  - No objections or comments were raised.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

- *Monitoring and performance checks to determine BMP performance*
  - Dana York noted that STAC wanted this as a required part of verification. The panel did not see it as a part of verification.
  - Rich Batiuk: The Panel felt it would be very smart to do this kind of data collection to improve the science and understanding and improve the BMP efficiencies, though it would require resources. We have asked STAC to help us work on this recommendation as a partnership.
  - James Davis-Martin: if the source sector workgroups are being asked to revisit some previous panels, this may be an opportunity. Some of the recent panels already identify future research needs.

**ACTION:** CBPO staff will incorporate this Panel recommendation into the revised draft framework document.

### **Proposed Revised Verification Schedule**

Rich Batiuk reviewed the current version of the BMP Verification schedule through the end of 2014 ([Attachment E](#)). He asked for the Committee’s questions and input on the schedule.

- Dana York and Rich Batiuk clarified that if the Panel and Committee do not agree on certain points, then both groups’ recommendations will be shared up through the partnership up to the PSC.
- James Davis-Martin suggested adding the Federal Facilities Team, Federal Office Directors (FOD), and Federal Leadership Committee (FLC) in the schedule and partnership process.
  - Rich Batiuk: Great point. Others have asked that we make sure we include federal facilities as we move this forward. We will add FOD and FLC to the schedule.
- Bill Angstadt: It would be great to have case study. Suggest we include Pennsylvania swine examples for non-cost shared BMPs into the schedule.
  - Rich Batiuk: Great idea.
  - Roy Hoagland suggested picking a date for a single meeting or webinar to present the example, rather than ask Bill Angstadt to present the example several times to different groups.
- Rich Batiuk: Anything else the group would like to see by the spring time frame? Anything the Committee would like to have in hand this spring?

- Beth McGee requested a refresher or discussion on the historical baseline.
- Matt Monroe felt it might be too optimistic to expect the states to turn around their documentation within a few months after the framework is endorsed by the PSC.
  - Rich Batiuk: we can discuss that part of the schedule more in the spring.
- Bill Angstadt: In this timeline do we need to include the NRCS Chesapeake Bay CEAP issue?
  - Rich Batiuk: There might be a small piece that relates to verification, but this might be a separate issue with calibration of the separate models.
  - Dana York: if NRCS has BMP data from CEAP, it could be useful to compare or calibrate the information to what the Bay Program has.
  - Roy Hoagland: Still confused about “validation.” Where does it fit in and what is it?
    - Dana York: NEIEN has an internal process that “validates” the data that comes from the states. There is external provided data that we did not want to get into, e.g. counting pigs hogs manure, etc. that sets baseline conditions or loads. Wanted to make sure that validation of that data is set apart from verification.

**DECISION:** The Committee decided to move forward with the proposed schedule up through fall 2014 and the request for the Principals’ Staff Committee’s review and approval of the basinwide BMP verification framework. Briefing for the Federal Office Directors and Federal Leadership Committee will be added into the schedule before it is presented to the WQGIT and the Management Board.

**ACTION:** CBPO staff will include a discussion of the schedule beyond fall 2014 in the agenda for the joint BMP Verification Committee and the BMP Verification Review Panel in the spring.

**What’s Next and How We Get There**

- Rich Batiuk summarized next steps. The next week after the meeting, CBPO staff will provide meeting summary, plus a revised version of the BMP verification framework document.
- Rich Batiuk thanked participants for their time and insightful discussion.

**Adjourned**

## Meeting and Teleconference Participants

<u>Name</u>	<u>Affiliation</u>
Rich Batiuk (Chair/Coord.)	U.S. EPA, Chesapeake Bay Program Office (CBPO)
Jeremy Hanson (Staff)	Chesapeake Research Consortium/CBPO
Bill Angstadt	DE/MD Agribusiness Association
Karl Blankenship	Bay Journal
Roy Hoagland	Hope Impacts LLC
Patty Ingler	USDA NRCS Maryland State Office
Dave Jostenski	PA Dept. of Environmental Protection
Beth McGee	Chesapeake Bay Foundation
Thomas Morgart	USDA NRCS Maryland State Office
Matt Monroe	WV Dept. of Agriculture
Greg Sandi	MD Dept. of Environment
Ann Swanson	Chesapeake Bay Commission
Dana York	Green Earth Connection; Chair, BMP Verification Review Panel
Andy Zemba	PA Dept. of Environmental Protection
Hank Zygmunt	Resource Dynamics, Inc.
 <i>Via teleconference:</i>	
Russ Baxter	VA Dept. of Environmental Quality
James Davis-Martin	VA Dept. of Environmental Quality
Marcia Fox	DE DNREC
Melanie Frisch	US Dept. of Defense
Jack Frye	Chesapeake Bay Commission
Rebecca Hanmer	Retired, CBP Citizen's Advisory Committee & Forestry Workgroup
Tyler Monteith	DE DNREC
Aaron Ristow	Upper Susquehanna Coalition
Jennifer Volk	University of Delaware; Vice Chair CBP WQGIT