



**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF CONSERVATION AND RECREATION**

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Chesapeake Bay Program Partnership Agriculture Workgroup's  
Agricultural BMP Verification Guidance - May 9, 2014.

Virginia Comments:

Item 1.

Virginia comments regarding the Chesapeake Bay Program Partnership Agriculture Workgroup's Agricultural BMP Verification Guidance document of May 9, 2014. Specifically addressing the requirement of reoccurring annual verification of 10% for BMP's achieving greater than 5% of the jurisdiction's WIP agricultural sector goals, in section 3.b. Cost Shared BMP's and section, 3.c Regulatory Programs.

Virginia is meeting the current inspection protocol established in the Bay Program's Quality Assurance Project Plan reporting requirements for reoccurring verification of BMP's of 5% of reported practices, through its BMP Cost Share program. Virginia also is inspecting 5% of the previous year's implemented BMP's per the Bay Program's QAPP reporting requirements. As the number of BMP's significantly increase from year to year and with the limitations of time and staff, this proposed verification requirement will become burdensome to the point it may adversely impact staff time to stay focused on BMP implementation. Increasing this verification inspection requirement will definitely take away significant resources that are currently dedicated to BMP development and installation.

Until such time as more resources (mainly-staff and the funding to support them) are available, Virginia is proposing three alternative processes to improve the effectiveness of the verification requirement, with limited resources. Each option listed represents a single process to be designated as the method used to meet the verification protocol.

1. Through analysis of the data submitted by the jurisdiction, determine the statistical significant sample number up to 10%, which is acceptable to have a verified sample number.
  - The thought is here that, IF the analysis shows a lower percent of inspections is acceptable, the inspection work load could be more easily managed.

2. Identify BMP practices listed in each jurisdiction's WIP into three categories:

- Annual BMP's - Inspection required within practice specification meets verification standard
- Practices unlikely to fail - reoccurring annual inspection rate of 5%
- Vulnerable Practices – reoccurring annual inspection of 10%

Example of practices for Option 2 would be:

Annual Practice-	Cover crop
Practices Unlikely to Fail-	Land Retirement, Animal waste systems, Irrigation Capture and Reuse
Vulnerable Practices –	Pasture Fence, Prescribed grazing, Conservation tillage, Nutrient Management Plans

- This option takes limited resources for inspection and focuses them on practices that have an increased possibility of not consistently being implemented or maintained to practice specifications.

3. Initiate reoccurring annual inspections including all BMP'S at 10%

While any BMP can fail, as BMP programs and the practices within them are established, there is an expectation that the landowner is committed to proper installation and operation and maintenance of the BMP through its lifespan and perhaps beyond its life span if installation and maintenance have been above standard through its lifespan.

Item 2.

During the Agricultural BMP verification webinar it was alluded to that the Chesapeake Bay Program Partnership Agriculture Workgroup's Agricultural BMP Verification Guidance, was just that a guidance document. However a comment was made, that it can easily be adopted as a standard for reporting by EPA. Addressing the issue of the 10% verification for follow-up inspections, language stating that states can develop their own standard for determining the number inspections with justification needs to be part of the language in the document. So the language on page 4, under section 3.b. Cost-Shared BMP's, could read as follows:

*"The minimum expectation for verification for cost-shared BMP's is recommended to be 100 percent of the initial physical installation of annual or multi-year BMP's and plan implementation by trained and certified technical field staff or engineers with supporting documentation that it meets the governmental and/or CBP practice standards.*

*During the course of the contractual oversight period, involving multi-year BMP's, reoccurring annual verification that the BMP's are being maintained and operated in accordance with the funding agency standards at a minimum expectation for follow-up sub sampling of 10% for BMP's achieving greater than 5% of the jurisdiction's WIP agricultural sector goals. As an alternative, a jurisdiction may choose to develop a specific verification sample level designed to achieve an acceptable sub sample set. This alternative sampling level will be accompanied by justification for the request and be approved by the BMP Verification Panel (or whatever panel/committee is appropriate).*

Item 3. a.

In Part 7: Guidance for Development of an Agricultural Practice Verification Protocol, the third paragraph talks about “spot-checks by appropriately trained individuals”. (bottom of page 8) The next paragraph (top of page 9) deals with “Independent verification” and states that “Quality assurance personnel should be independent of those involved in the original BMP reporting, and not directly involved with the entities responsible for the initial implementation of the BMP’s.”

My question is - are the “appropriately trained individuals” and the “quality assurance personnel the same people OR are these two different groups serving specific purposes? If they are the same people, then we could not use the people we currently use to do verification, because most times they are involved in some part of the BMP’s design/installation process.

Item 3.b.

In the PowerPoint presentation given during the CBP Agriculture Workgroup Webinar, slide 11 talks about the “Verification Guidance Highlights” and discusses two categories- Independent Review and External Independent Review. Is this Independent review the same as the independent verification discussed in the guidance document?

Also, External Independent Review is discussed in the PowerPoint presentation. I was not able to find any discussion of this in the guidance document. Is this a level of verification above that which the guidance document addresses or does it just identify another entity doing similar verification?

These comments submitted for discussion by the Ag Workgroup.