

BMP Verification Ad-Hoc Action Team

Meeting Minutes

December 10th, 2021

9:00 AM – 11:00 AM

Meeting materials: [link](#)

Summary of Actions and Decisions

Decision: The BMPVAHAT approved the [November meeting minutes](#).

Action: The BMPVAHAT plans to host a discussion on remote sensing as an alternative to verification at the January meeting. Please reach out to Elliott Kellner, Vanessa Van Note, and Jackie Pickford (elliott.kellner@mail.wvu.edu; vannote.vanessa@epa.gov; pickford.jacqueline@epa.gov) if you have recommendations on speakers or specific projects you would like to hear about.

Action: Vanessa Van Note, EPA, will look into data on wetland loss to strengthen the wetland BMP credit duration recommendation. She will consolidate the feedback from the BMPVAHAT on the wetlands credit duration extension recommendation and bring it back to the Wetlands Workgroup.

Action: Please submit all feedback on the Partial Credit Recommendation to Vanessa Van Note (vannote.vanessa@epa.gov) and Jackie Pickford (pickford.jacqueline@epa.gov) by **COB Thursday, January 12th**.

Action: Jill Whitcomb, PA DEP, will develop reporting and tracking scenarios for partial credit for inclusion in the partial credit recommendation.

Action: Vanessa Van Note, EPA, will discuss modeling options with the programming team to determine if partial credit can be applied based on BMP success rate data.

Welcome, Introductions, Roll Call, Elliott Kellner, Chair (WVU)

- Welcome & Roll Call of participants
- **Decision:** The BMPVAHAT approved the [November meeting minutes](#).
- **Announcement:** Remote Sensing Discussion in January - *Elliott Kellner, WVU*
 - **Action:** The BMPVAHAT plans to host a discussion on remote sensing as an alternative to verification at the January meeting. Please reach out to Elliott, Vanessa, and Jackie (elliott.kellner@mail.wvu.edu; vannote.vanessa@epa.gov; pickford.jacqueline@epa.gov) if you have recommendations on speakers or specific projects you would like to hear about.
 - **Kelly Shenk (in chat):** Remote Sensing - Make sure to include PA NRCS who conducted a pilot program in the Potomac River watershed to assess utility of remote sensing data for identifying and tracking ag conservation practices. Report available and approved by CBP Ag Workgroup. Mark Dubin is the best source for all documents and history. As well as Denise Coleman, PA NRCS State Conservationist who oversaw the project.
- **Next Meeting:** **Friday, January 14th from 9:00 - 11:00 AM**

Extension of the Wetland Restoration and Wetland Creation BMP Credit Duration, Vanessa Van Note, EPA/Coordinator (15 min).

Vanessa reviewed the wetland restoration and wetland creation BMP credit duration extension recommendation (linked [here](#)).

Discussion

James Martin: Do NRCS and state specifications apply to one or all three of those practices?

Vanessa Van Note: I would have to double check.

James Martin: If we base this decision on the NRCS specifications, then we should be clear about that moving forward. If the NRCS specifications don't apply to all three practices, then we shouldn't be extending this to all practices.

Sally Claggett: Is there any evidence that shows that wetlands aren't being changed to developed lands?

Jill Whitcomb: There are jurisdictional and regulatory requirements to ensure no net loss of wetlands.

Sally Claggett: I understand, but we are still losing wetlands.

Jill Whitcomb: Do we have evidence stating that we are losing wetlands?

Adrienne Kotula: The VA coastal master plan that was just released stated that 89% of our tidal wetlands were going to be gone by 2080.

Jill Whitcomb (in chat): The tidal wetlands scenario that Adrienne raised would be loss due to climate change. I don't know exactly how that would impact non-tidal wetlands.

Rebecca Hanmer: Can the land use model pick up wetlands?

Jill Whitcomb (in chat): They do not, from what I understand. Land Use land cover can't pick it up

Vanessa Van Note: KC, do you know if the Land Use Workgroup (LUWG) plans to address that in the future?

KC Filippino: I don't think they are being captured in the imagery, but I can ask Peter about it.

James Martin (in chat): Are all three wetland practices land use change practices?

Jessica Rigelman (in chat): No, only restoration and creation are land use change.

Leon Tillman: From the agriculture side, due to the food security act, there are a lot of requirements needed to convert a wetland to agricultural land. It's nearly impossible. NRCS makes sure wetlands are not being converted. Once it's determined as a wetland, it is rare that it is lost.

Mark Dubin: NRCS monitors wetlands annually. The credibility of NRCS wetlands is high, but not sure that would be the case across all programs and states.

Leon Tillman (in chat): NRCS does monitor the wetlands to ensure size and function is retained. Thanks for that comment Mark

Rebecca Hanmer: I think there should be some research or sampling approach that proves the wetlands are not being lost.

Leon Tillman: Has there been any findings of a loss of wetlands at EPA? I know they do some oversight.

Vanessa Van Note: I will have to look into it.

Jill Whitcomb: There seems to be a lack of confidence that some have in relation to the existing regulatory and verification structure. We've been able to show that the lack of confidence doesn't align with what we're seeing on the ground.

Leon Tillman: When NRCS reports wetland enhancement and restoration practices to states for inclusion in CAST, they report that for our easement programs as well, so these are BMP acres that are restored or made into wetlands that are perpetual or 30 year long easements. If we

don't take that into consideration, states will lose a lot of easement credit that they have because of that credit duration.

Vanessa Van Note: This feedback will go back to the wetlands workgroup to strengthen the recommendation. Eventually this recommendation will go to the WQGIT.

Alana Hartman: Maybe our comments could also be passed on to the workshop in March 2022, as stated in the document.

Sally Claggett (in chat): I think Rebecca's recommendation is a type of verification. I am glad Vanessa will dig into data on wetlands loss since "no net loss" has been in place. Also looking for consistency among "naturally regenerating practices." This could include stream restoration.

Gurpal Toor (in chat): This is an old book (1987s) but might provide a historical perspective: https://play.google.co/books/reader?id=Ap2ytP_Wyw8C&pg=GBS.PP1&hl=en

Pierre Glynn (in chat): Interesting discussion on wetlands...I just took a look at what I could find for the situation in PA (I'll also look at other states later). The PA DEP says that wetland loss (however that might be defined) is now "less than 75 acres per year":

<https://www.dep.pa.gov/Business/Water/Waterways/Encroachments/Pages/NetGainStrategy.aspx>

Action: Vanessa Van Note, EPA, will look into data on wetland loss to strengthen the wetland BMP credit duration recommendation. She will consolidate the feedback from the BMPVAHAT on the wetlands credit duration extension recommendation and bring it back to the Wetlands Workgroup.

Revisiting the Charge of the BMPVAHAT, Elliott Kellner, WVU (15 min).

Elliott reviewed the original charge of the BMP Verification Ad-Hoc Action Team and discussed the future of the group. After the group completes the partial credit vote and remote sensing discussion, they will consider the following options at a future meeting:

1. Adjourn the group prior to August 2022. The BMPVAHAT leadership will compile all presentations and discussions into a report for the Water Quality Goal Implementation Team (WQGIT).
2. Continue to meet with the group, but on a less frequent basis (e.g. every other month, two or three more meetings before August 2022, etc.).

Partial Credit Recommendation, Vanessa Van Note, EPA/Coordinator (1 hour, 20 min).

Vanessa reviewed the draft recommendation for partial credit and discussed it in further detail with the group, focusing particularly on how it will be applied in NEIEN, what practices it will be applied to, the sunset period, and any necessary supporting documentation.

Discussion

Jill Whitcomb: We are supportive of this as a temporary solution. I have three comments/concerns: a) What happens if we find the location data for a practice half way through the partial credit reduction and it passes inspection? Would the BMPs have unique identifiers so that we could get full credit? b) For those practices that have data on their success rate, such as barnyard runoff control and loafing lot management, can we apply their success rate as a pilot? And then those practices that do not have data, we could apply a baseline or default success rate. c) Still concerned about the communication challenge that this brings.

Olivia Devereux: To respond to your first concern, I think it only applies to those that are not inspected.

Vanessa Van Note: Correct, NEIEN processes the inspection date or implementation date first. If it's a practice that falls within the credit duration, then NEIEN doesn't flag it as being past credit duration. If the practice is in the middle of its partial credit and has a unique identifier, it wouldn't be a problem because NEIEN is processing that inspection date first.

Jill Whitcomb: Can we come up with different scenarios about what could happen across the states and how the model would respond to that? Also, I think if there's money from the states being put into collecting data to identify success rates that should be a consideration for long term success of the verification program.

James Martin: Using the ramp down approach, does that completely replace the reinspection potential for practices where it's applied? Or if we are able to locate and inspect, we would follow the normal process. Both options are still viable, correct?

Vanessa Van Note: Yes. Partial credit will be attached to the dates reported, not the specific BMP identifier. It wouldn't remove any potential to reinspect the practice.

James Martin: So because these are aggregated data, they'll never have an inspection. If we find one and want to report an inspection, we'll have to report it as a new practice installed on the original install date, but without a connection to federal data.

Vanessa Van Note: Yes, that's where the question of double counting comes in. When you are able to have those inspection dates, that's where the unique BMP identifier comes into play.

Jill Whitcomb: I can work with my staff to develop a couple different scenarios. There will have to be a conversation between the bay program and the states as to the level of certainty required to ensure double counting doesn't occur.

James Martin: But that double counting would phase out with time, so it's probably less of a concern.

Jill Whitcomb: I think the assumption that we are going to overcome the Federal farm bill 1619 section and be able to share data between federal and state entities is misguided. I don't think that should be our end goal.

Dana York: Leon, where are discussions on 1619 and getting data? Also, I'd like to hear from jurisdictions to see if they are supportive of this.

Leon Tillman: There have been discussions with some of the jurisdictions about 1619. Currently we're working through this USGS agreement because of how that data must be protected and aggregated, there are hurdles by law that prohibits us from sharing that information. There have been a few discussions about how to work around that, for example by using remote sensing.

Bill Tharpe: in MD we are in favor of partial credit. We stand behind our verification program but see a need for this in other jurisdictions.

James Martin: VA sees it as a step in the right direction. Not particularly comfortable with the sunset concept unless we can confirm that Phase 7 can address the issue. Likelihood of meeting the verification framework goal seems unlikely.

Jill Whitcomb: PA concurs with James's comments. We see it as a temporary solution while we work to identify and adapt the policy framework.

Cassie Davis: NY stands aside.

Sally Claggett: I don't know if the language in the document "meets practice standards" is accurate. Also we were told to be conservative with our estimates on the ground, in both the expert panel process and verification process. I'm not sure those two tenants would fit into the recommendation for partial credit.

Suzanne Travena: I'm wondering if we have a general sense of how much time and complexity this involves from a modeling standpoint.

Vanessa Van Note: This could potentially be a CAST23 edition if it has partnership approval. Until Phase 7 is developed, I can't say how many years it would be active for. The reason we decided to add another layer where NEIEN identifies errors in a different way was to make it easier on the modeling team.

Jess Rigelman: It's definitely not a small lift, but if the partnership decides a priority then it will be on the development teams to do list.

Vanessa Van Note: Is there any supporting documentation that folks think would be helpful or needed to make the recommendation more credible? Any supporting data or other information?

James Martin: Recommend removing the term "enforcement" when referring to agencies. Also, I don't think we need to see data to know we haven't fulfilled the verification framework commitment to resolve this issue. If we were to move towards Jill's suggestion of success rate data or practice-specific phase out pattern, then having that data would be useful.

Rebecca Hanmer: To adopt this phase out approach for practices that we don't have any information on whether they last past their credit duration is inviting more skepticism to our verification program and this approach. So I think the more data we have about the BMPs and their durability, the better.

Ken Staver: I agree it invites skepticism without credible evidence backing it up. Also, to clarify, the issue of not having access from landowners to inspect practices is on BMPs that have expired contracts?

Bill Tharpe: Yes, typically the verification process happens after the lifespan of the BMP contract life.

Dana York: So if we send this forward, could those percentages be altered across states?

Vanessa Van Note: I have to talk with the programming team about if we are able to apply different percentages. We've only discussed applying the same percentages across all practices, that would be most feasible. I'll dive into other options with the programming team and see what else would be feasible.

Jill Whitcomb (in chat): We will draft up some reporting and tracking scenarios and will submit them with our comments on the document.

Action: Please submit all feedback on the Partial Credit Recommendation to Vanessa Van Note (vannote.vanessa@epa.gov) and Jackie Pickford (pickford.jacqueline@epa.gov) by **COB Thursday, January 12th**.

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Meeting Adjourned

Meeting Chat

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Jessica Rigelman: No, only restoration and creation are land use change

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Leon Tillman: NRCS does monitor the wetlands to ensure size and function is retained. Thanks for that comment Mark

Sally Claggett, usfs: "trust but verify"

Gurpal Toor: This is an old book (1987s) but might provide a historical perspective:

https://play.google.com/books/reader?id=Ap2ytP_Wyw8C&pg=GBS.PP1&hl=en

Jill Whitcomb: Sally - there is a value to verifying, I'm not suggesting that verification doesn't have value. But when there is a noted lack of trust in the regulatory programs, there is an imbalance that needs to be rectified.

Sally Claggett, usfs: I think Rebecca's recommendation is a type of verification. I am glad Vanessa will dig into data on wetlands loss since "no net loss" has been in place.

Sally Claggett, usfs: Also looking for consistency among "naturally regenerating practices." This could include stream restoration.

Pierre Glynn: Interesting discussion on wetlands...I just took a look at what I could find for the situation in PA (I'll also look at other states later). The PA DEP says that wetland loss (however that might be defined) is now "less than 75 acres per year":

<https://www.dep.pa.gov/Business/Water/Waterways/Encroachments/Pages/NetGainStrategy.aspx>

James Martin: Recommend removing the term "enforcement"

Jill Whitcomb: It's only for CTA practices that we have issues with perceived double-counting.

Alana Hartman: I hate to leave during this impactful topic, but I have to switch over to quarterly Stream Health Workgroup meeting now. Thanks everyone.

Jill Whitcomb: Not to throw everyone for a loop, but could we consider the practices that we know have a high success rate, that they just get assigned that rate and it holds steady?

Jill Whitcomb: Based on information presented by NY and MD on barnyard runoff control and loafing lot management, I recall that the success rate was between 79%-100% at the time of credit duration expiration.

https://www.chesapeakebay.net/channel_files/41816/brc_and_11m_report_md_and_ny_data_only.pdf

Dean Hively USGS: The various NRCS practices have different lifespans, so applying a 5-year ramp down to a 15 year practice and a 5 year ramp down for a 3-year practice doesn't seem like it would make sense. Perhaps # of years in ramp down would be a fraction of the standard lifespan for each practice?

James Martin: CBPO Credit durations are 1, 5, 10, 15...I don't think there are any 3 year practices in our model

Dean Hively USGS: James - you are correct, sorry bad example, but same comment for 5 vs 10 vs 15

Katie Brownson, USFS (she/her): I don't really understand the justification for excluding forest buffers from the practices eligible for partial credit- for USDA funded projects, the same issues of access to location data would still apply

Vanessa Van Note, EPA CBPO: Dean, the structural and vegetative practices we are proposing applying this recommendation to are listed at the end of the document on the calendar page. I believe they are all 10 years or longer. I hope this helps!

Vanessa Van Note, EPA CBPO: Good point, Katie. We discussed how the credit duration was extended for forestry practices, but we have been unable to do the same for the practices listed on this document, but I can add it back!

Dean Hively USGS: thanks!

James Martin: For forest buffers, with new 15 yr credit and backout if 15yrs older than imagery, my sense, assuming the previous decision hold, is that the phase out would not come into play very often.

Katie Brownson, USFS (she/her): For forest buffers, the 15 yr backout applies to the land use conversion, but there could be some benefit of having partial credit for the efficiency credit

James Martin: Good point Katie.

Jill Whitcomb: Agree with James

Jill Whitcomb: It doesn't have to be an enforcement agency, even if they aren't voluntary practices

Bill Tharpe - MDA: I too agree with James pertaining to the enforcement statement

Mark Dubin: I agree with Jill's more inclusive language. LGU's are already visiting farms for this purpose.

Jill Whitcomb: What would be the deadline for any comments?

Jill Whitcomb: We'll draft up some reporting and tracking scenarios and will submit them with our comments on the document

Meeting Participants

Jackie Pickford, CRC

Vanessa Van Note, EPA/CBPO

Elliott Kellner, WVU

Mollee Dworkin, DE DNREC

Clare Sevcik, DE DNREC

Cassie Davis, NYS DEC

Bill Tharpe, MDA

Emily Dekar - Upper Susquehanna Coalition

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Matt Monroe, WVDA

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Frank Schneider, PA SCC

Ted Tesler, PADEP

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Matt Kowalski, CBF

Arianna Johns VA DEQ

Ken Staver, UMD

Sally Claggett USFS CBP

Marel King, CBC

Clint Gill, DE Dept of Ag

Jennifer Starr, LGAC

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James Martin, VA DCR, WQGIT

Gurpal Toor, Environmental Science and
Technology, University of Maryland

Jessica Rodriguez, DoD CBP

Mark Dubin, UME/CBPO

KC Filippino, HRPDC, co-chair LUWG

Pierre Glynn, Scientist Emeritus USGS &
Affiliated Scholar ASU/CSPO

Adrienne Kotula, Chesapeake Bay Commission

Dana York, Green Earth Connection

Rebecca Hanmer, FWG Chair

Jessica Rigelman, J7 LLC

Tim Rosen, ShoreRivers

Kelly Shenk, Ag Advisor for EPA Mid-Atlantic
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