

EPA's Conditional Approval of West Virginia's Revised Draft BMP Verification Program Plans

January 26, 2016

EPA has conditionally approved West Virginia's November 14, 2015 revised draft BMP verification program plan. Conditional approval means that the revised draft plan addressed most of the Panel's/workgroup coordinator's/EPA initial feedback but some limited 'holes' in the documentation which EPA feels can be easily addressed by the jurisdiction and that the plan was generally written and presented in a public friendly, easy to understand format/text.

Conditional approval also means that West Virginia can apply for 2016 WIP assistance funds. Prior to award of West Virginia's 2016 Chesapeake Bay Implementation Grant and Chesapeake Bay Regulatory and Accountability Grant, EPA will need to be in a position to fully approve West Virginia's final revised BMP verification program plan.

West Virginia's BMP verification program plan provides an excellent level of documentation using text and formats easily readable and understandable by a wide audience. West Virginia was very clear in documenting its choices of which BMP to develop verification protocols. West Virginia made it clear that the state is relying on NRSC for verification of all cost shared practices, with the state agencies taking on responsibility for continued verification at the end of each contract. However, West Virginia still needs to address a number of comments provided by the Partnership's independent panel of experts in order for EPA to fully approve its plan.

Below please find the list of remaining major comments EPA is asking West Virginia to respond to within a final revised BMP verification program plan. Please submit to Rich Batiuk, at batiuk.richard@epa.gov, a final revised BMP verification program plan by Friday, March 4th. Please include a copy of the below remaining major comments annotated with the pages numbers where each remaining comment was addressed in West Virginia final revised program plan. This will ensure there is time for final EPA review and approval of West Virginia's final revised BMP verification program plan prior to EPA and West Virginia working together on the forthcoming award of West Virginia's 2016 Chesapeake Bay Implementation Grant and Chesapeake Bay Regulatory and Accountability Grant.

Finally, for your reference and consideration as West Virginia works to further enhance its BMP verification program over the coming two years, attached please find a compilation of EPA's reviews of West Virginia's November 14, 2015 Revised Draft BMP Verification Program Plan in the form of a series of evaluation forms.

Remaining Major Comments to be Addressed by West Virginia

Overall

- West Virginia did not provide a listing of BMPs for which verification protocols have not been developed and a schedule for when such protocols will be developed.
- Verification procedures for BMPs owned or operated by Federal agencies, facilities and landowners were essentially absent from West Virginia's revised draft BMP verification program plan.
- Need to provide URL links to many of the documented references throughout the text.

Agriculture

- Nutrient Management plans evaluation is a paperwork assessment that appears to be done in the office, without field visits or onsite verification of records.
- West Virginia provided additional details on verifying manure transport (p.16), however manure transport is still identified as being verified through a paperwork review (p.46).

Streams

- Table 10 needs to be clearer as to the frequency of follow-up checks.
- West Virginia needs put more emphasis on measurement of functionality, not just presence of the stream restoration project itself, as called for in the Partnership's Stream Health Workgroup's stream restoration verification guidance.
- Needs to address what happens 5 years after the stream has been restored in terms of verification.

Wastewater

- The wastewater section reads strictly like a wastewater treatment data reporting document, not a verification program plan.
- For non-significant wastewater treatment facilities, need documentation as to whether NPDES DMR data will be used to verify reported load reductions upgrades and offsets of new or expanding facilities.
- There is not documentation of CSO verification procedures.
- There were no proposed verification protocols for septic systems/on-site treatment systems.

Wetlands

- No reference or link to the actual wetlands restoration field inspection protocol/checklist being used by West Virginia and its federal and NGO partners.
- West Virginia's documentation for wetlands verification needs to include the answers to the wetlands evaluation questions listed on page 52 of the Panel's August 7, 2015 report to the Partnership.