

Reaching Partnership Agreement on How to Address Policy Issues Emerging from Partnership Convened BMP Expert Panels

Revised for the June 16, 2016 Management Board Meeting

Background

The mixing of technical issues (the purview of the Panel and Partnership) and policy issues (the purview of the Partnership) is often a reason why draft reports and recommendations from Partnership-convened BMP expert panels can take many months, or longer, to be successfully approved by the sponsoring Goal Implementation Team (or Management Board).

Key Considerations for Resolving Policy Issues Raised During the BMP Expert Panel Process¹:

- Need to separate out the policy issues from the technical issues, keeping the panel members focused on addressing technical and scientific issues.
- Provide the involved sector workgroup chair, the Goal Implementation Team chair, and the Management Board chair with several options for how to best go about resolving identified policy issues coming out of the work of their convened BMP expert panels.
- Preference will be given to the sector workgroup taking the lead for resolution of policy issues, to keep this work within the established Partnership groups and to follow the existing BMP protocol. Regular updates on progress towards resolution of the identified policy issues will be provided to the Management Board and if necessary the Principals' Staff Committee by the Goal Implementation Team responsible for the specific BMP panel.

Proposed Procedures for How the Partnership Would Address Policy Issues Raised During the BMP Expert Panel Process into the Future

- Charge each BMP Expert Panel Coordinator with responsibility for identifying policy issues which are either raised during the discussions and deliberations of the Panel itself; raised by partners or stakeholders during or following the public stakeholder meeting/webinar; or raised during the Partnership and public review and comment process. The policy issues should be categorized as: integral to the panel's recommendations; essential to the tracking/reporting/simulation of the practice in the modeling tools; potential for unintended consequences; possible impact on related programs or goals; or others.
- Once these policy issues have been identified, they should be raised immediately to the chairs of the sector workgroup and Goal Implementation Team responsible for the specific BMP panel, and the chair of the Management Board.
- The Management Board chair will, in turn, notify the full Management Board membership of the identified policy issues.
 - The Management Board membership will be informed on the status of these policy issues during their monthly conference calls or meetings or, if necessary, at a specially called meeting.

¹ As agreed to by the WQGIT on their May 9th conference call

The sector workgroup chair will discuss with their respective Goal Implementation Team chair which of the following three optional approaches they will follow in resolving the identified BMP panel policy issues. The Management Board chair and membership will be notified of the specific procedure to be followed when resolving the identified policy issues, and can raise any specific questions on the selected procedure with the sector workgroup chair and Goal Implementation Team chair at that time.

- 1) When facing policy issues clearly within the purview of the sector workgroup and at the recommendation of the sector workgroup chair, the Goal Implementation Team chair will charge the respective sector workgroup with responsibility for working towards resolution of the identified issues.
- 2) When facing policy issues not solely within the purview of the sector workgroup or relatively straightforward policy issues which involve two or more workgroups or Goal Implementation Teams, the chairs of the involved Goal Implementation Teams will collaborate on identifying a small group of workgroup and Goal Implementation Team members and charge them with responsibility for working towards resolution of the identified policy issues.
- 3) When facing more complex policy issues (e.g. crediting in-situ practices) or policy issues with implications for a wide cross-section of the Partnership (e.g., trading), the involved Goal Implementation Team chair or chairs will ask for the Management Board's approval to convene a policy group during their next scheduled conference call or meeting.

The Goal Implementation Team(s) which has the lead for the specific BMP panel will have the responsibility for recommending the membership for a group of program and policy managers with recognized experience and expertise with the proposed BMP, representing a range of programmatic and policy perspectives. It is recommended that the Goal Implementation Team(s) identify potential members as part of the submittal requesting approval to convene the policy group. Potential members for the policy group must disclose actual or potential conflicts of interest in writing to the Goal Implementation Team, as described in the Partnership's *Protocol for the Development, Review, and Approval of Loading and Effectiveness Estimates for Nutrient and Sediment Controls in the Chesapeake Bay Watershed Model*. This requirement applies to all procedures as described above.

The Management Board will have the responsibility for reviewing and approving the respective Goal Implementation Team's recommended membership of the group of program and policy managers when they approve the request to convene the policy group. This policy group will be charged by the Management Board with reviewing the listed policy issues and developing recommendations for addressing each issue. It is anticipated that the BMP Expert Panel Coordinator will initially be involved in the work of the policy group to describe the origin of the policy issues and provide the necessary background on the work of BMP expert panel.

Regardless of the option selected above, the workgroup/separate group/policy group charged with responsibility for resolution of the identified policy issues will develop their

recommendations in parallel with the development, review and approval processes of the respective BMP expert panel's report avoid delays to a panel's decision-making timeline. In the instance where the time needed to develop policy recommendations will exceed a panel report's decision-making timeline, this delay should not prevent a Partnership decision on the panel report, as that latter document is focused solely on the scientific and technical recommendations of the BMP Expert Panel. The Partnership will recognize there will be cases where approval of a BMP expert panel's report will hinge on a full understanding of resolution of the policy issues, and where a BMP expert panel's report may need to be further examined as a result of the resolution of the policy issues. In these cases, the Partnership may elect to suspend decision on the Panel report or approve the panel report but suspend incorporation of the Panel's recommendations in the modeling system pending resolution of the policy issues.

The recommendations of the workgroup/separate group/policy group charged with resolution of the identified policy issues will be documented in an appendix to the respective final BMP expert panel reports. This separate appendix will be clearly denoted as documentation written by the assigned workgroup/separate group/policy group, not the BMP expert panel. This group will have 30 days after Management Board approval to convene the group to develop these recommendations. Any issues not resolved by the policy group within that timeframe will be documented and referred to the Management Board for final resolution.

The recommendations for resolution of the identified policy issues will be released for a 30-day Partnership and public review period prior to approval, consistent with the Partnership's existing BMP protocol. Comments on the policy recommendations should be submitted to the lead staffer of the Partnership group responsible for the policy group. The policy group will be responsible for developing a response to comments document that will be appended to the policy recommendations, similar to the process followed by the BMP expert panels. This review can take place either concurrently with review of the associated BMP expert panel's draft report or separately, which ever approach will move the review and decision making process forward efficiently, yet inclusively.

Depending on the nature of the policy issues, the Management Board may choose to make the final approval of the recommended resolution of the identified policy issues in place of approval by the respective Goal Implementation Team(s).

Request for Decision to Proceed Forward

REQUESTED DECISION: The Management Board's approval for applying the above set of procedures to all BMP expert panels currently underway and those panels convened in the future.

REQUESTED DECISION: The Management Board's approval for formally amending the Partnership's *Protocol for the Development, Review, and Approval of Loading and Effectiveness Estimates for Nutrient and Sediment Controls in the Chesapeake Bay Watershed Model* to include the above specific procedures for addressing BMP-related policy issues in parallel to the work of the respective BMP expert panels focused on developing the technical basis for crediting pollutant load reductions.