



May 5, 2016

**MEMORANDUM**

**SUBJECT:** Addressing BMP Expert Panel Process Challenges

**FROM:** Nicholas A. DiPasquale  
Chair, Management Board

**TO:** James Davis-Martin  
Chair, Water Quality Goal Implementation Team

Convening Best Management Practice (BMP) Expert Panels and crediting BMPs is an ongoing focus and priority under the Chesapeake Bay Program (CBP) partnership, given the integral role BMP implementation plays in the Bay jurisdictions' Watershed Implementation Plans and two-year milestones. The CBP partnership has approved over 200 BMPs for nutrient and sediment reduction credit in the partnership's modeling tools, and there are currently 19 BMP Expert Panels underway. Each of these Expert Panels was identified by the Water Quality Goal Implementation Team's (WQGIT) Source Sector Workgroups as priority Expert Panels for inclusion in the Phase 6 suite of modeling tools. Therefore, these "Phase 6" Expert Panels need to be complete by October 2016 in order to meet the final Phase 6 calibration deadlines. The specific schedule for these Phase 6 BMP Expert Panels can be found in Appendix A.

The BMP Expert Panels are a partnership-driven process. There are partnership-approved BMP Expert Panel Protocols<sup>1</sup> in place that guide the development of the BMP efficiencies, as well as the partnership's review and approval of the Expert Panels' BMP recommendations. Several revisions to these Protocols have been made in order to streamline the review and approval process; to protect the integrity of Expert Panel deliberations through closed meetings (while at the same time providing increased opportunities for the partnership to interact with the Expert Panels); and to address ancillary benefits and unintended consequences.

Despite attempts to streamline the CBP partnership's review and comment process, the BMP Expert Panels are still experiencing considerable delays due to several contributing factors that violate both the BMP Expert Panel Protocols and the WQGIT's Governance Procedures<sup>2</sup>. A number of Expert Panel and Source Sector Workgroup Chairs and Coordinators have specifically requested partnership intervention to help address these delays and reinforce the process and procedures in the BMP Expert Panel Protocols. As a response to this request, the Management Board directs the WQGIT and its Source

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<sup>1</sup> [http://www.chesapeakebay.net/channel\\_files/22733/cbp\\_bmp\\_expert\\_panel\\_protocol\\_wqgit\\_approved\\_7.13.15.pdf](http://www.chesapeakebay.net/channel_files/22733/cbp_bmp_expert_panel_protocol_wqgit_approved_7.13.15.pdf)

<sup>2</sup> [http://www.chesapeakebay.net/channel\\_files/22735/water\\_quality\\_git\\_governance\\_protocols\\_v8.24.15\\_revised\\_1.12.16\\_clean.pdf](http://www.chesapeakebay.net/channel_files/22735/water_quality_git_governance_protocols_v8.24.15_revised_1.12.16_clean.pdf)

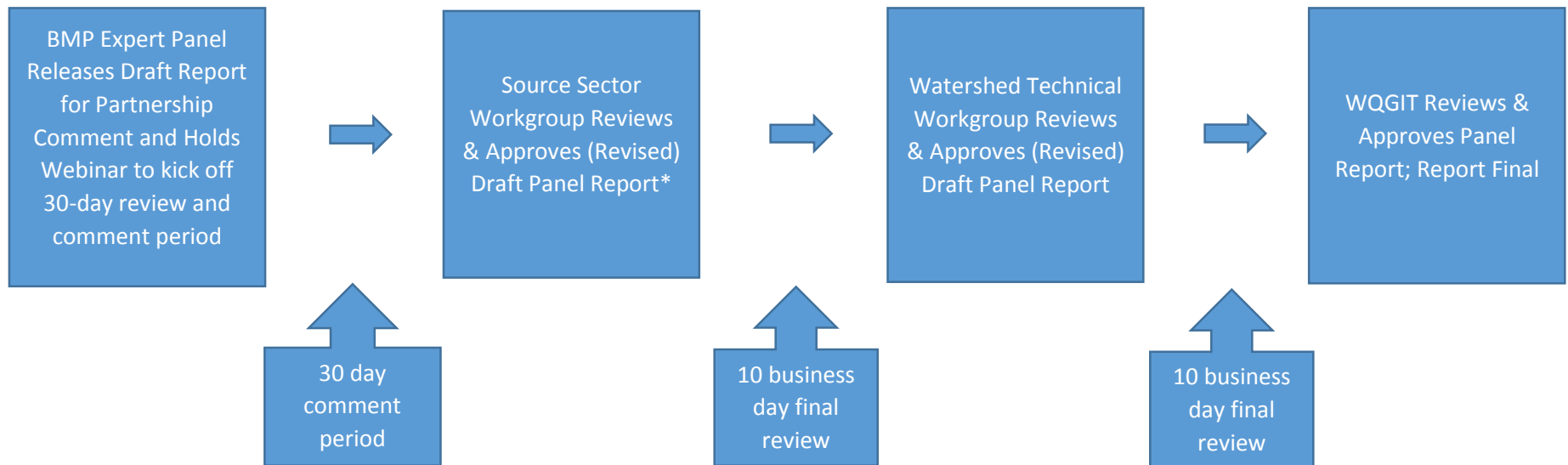
Sector Workgroups to adhere to the following Protocols to help ensure that BMP Expert Panel recommendations are included in the final Phase 6 model calibration.

1. **30-day Partnership Review and Comment Period.** Partnership comments on draft Expert Panel reports should be submitted in the 30-day review and comment period (see Appendix B). Although the BMP Expert Panel Protocols allow additional comments to be submitted prior to a decisional meeting, the 30-day comment period is the primary opportunity to submit comments on draft reports. Providing comments – particularly substantive – within this timeframe can help move the report through the partnership approval process more smoothly. If “late-hit” comments are received outside of this 30-day comment period, either right before or during a decisional meeting with no notice to the Expert Panel and Source Sector Workgroup Chair/Coordinator of an objection, leadership from the Source Sector Workgroups and the WQGIT should feel empowered to adhere to the BMP Expert Panel Protocols and move the draft report forward to the next approving partnership group.
  - It is also critical for the Expert Panel, the Source Sector Workgroups, and the WQGIT to raise any issues to the partnership that may be particularly controversial or have significant policy implications prior to this 30-day review and comment period, so adequate time is provided to resolve such issues. A specific process to address these policy issues has been developed and is currently under partnership review.
2. **Roles and Responsibilities of Partnership Groups in the Review Process.** Each Source Sector Workgroup and GIT serves a specific role in reviewing these reports. However, in many instances, issues are being considered that have no relevance to the roles and responsibilities of a particular group. For example, scientific data is being debated by a partnership group that instead should be focused on the reporting, tracking, and verification of that BMP. Source Sector Workgroups and GITs need to follow their respective charges and review the Expert Panel reports based on their roles and responsibilities– whether it be providing programmatic, modeling, or policy expertise.
3. **Approval Process for Expert Panel Reports.** Flexibility may be necessary when submitting an Expert Panel report to a partnership group (e.g. might not be submitted 10 business days prior). Missing this 10-day deadline should not be used as an excuse or as a means to delay a draft report, given the 30-day review and comment period available to the partnership. In addition, the approval process may need to be further streamlined due to an Expert Panel’s timeline and when a partnership group is scheduled to meet. For example, a draft report may need to be jointly submitted to the Source Sector Workgroup and the Watershed Technical Workgroup for their approval. Therefore, concurrent reviews and approval may be necessary in the event that deadlines for delivering the final Expert Panel recommendations to the Modeling Workgroup may not be met.
4. **Achieving Consensus.** To help facilitate consensus, the Source Sector Workgroups and the WQGIT should use the consensus continuum (see Appendix C) to demonstrate the spectrum between agreement and disagreement on any partnership issue. If such a disagreement or objection is raised on an Expert Panel report, the dissenting party/parties are responsible for providing an alternative proposal for consideration that the dissenting parties are reasonably sure the full group can live with. If no alternative proposal is submitted and consensus cannot be reached, the panel report should be elevated to the next partnership group.

## Appendix A: Phase 6 BMP Panel Schedule

<b>BMP Panel Name</b>	<b>Sponsoring Workgroup</b>	<b>Workgroup/WTW G Approval Date</b>	<b>WQGIT Approval Date</b>
Algal Flow Ways	Watershed Technical WG	January 2016	January 2016 (complete)
Street Sweeping	Urban Stormwater WG	January 2016	April 2016
Advanced Onsite Systems (Attenuation), Part 2	Wastewater WG	June 2016	July 2016
Manure Technologies	Agriculture WG	May 2016	June 2016
Oyster Restoration/Aquaculture	N/A	N/A	July 2016
Urban Tree Canopy	Forestry WG	June 2016	July 2016
Floating Wetlands	Urban Stormwater WG	July 2016	August 2016
Impervious Disconnection	Urban Stormwater WG	July 2016	August 2016
Phase 6 Cover Crops	Agriculture WG	August 2016	September 2016
Phase 6 Nutrient Management	Agriculture WG	August 2016	September 2016
Phase 6 Conservation Tillage	Agriculture WG	July 2016	August 2016
Manure Injection/Manure Incorporation	Agriculture WG	July 2016	August 2016
Cropland Irrigation Management	Agriculture WG	November 2016	December 2016
Ag Stormwater Structures	Agriculture WG	November 2016	December 2016
Boat Pump-Out	Wastewater WG	August 2016	September 2016
Advanced Onsite Systems (drip dispersal and peat treatment w/ dispersal to pad), Part III	Wastewater WG	August 2016	September 2016
Animal Waste Storage Systems	Agriculture WG	August 2016	September 2016
Agricultural Ditch (NRCS BMPs)	Agriculture WG	August 2016	September 2016
Wetlands	Wetlands GIT	August 2016	September 2016

## Appendix B: CBP Partnership Review Process for BMP Expert Panels



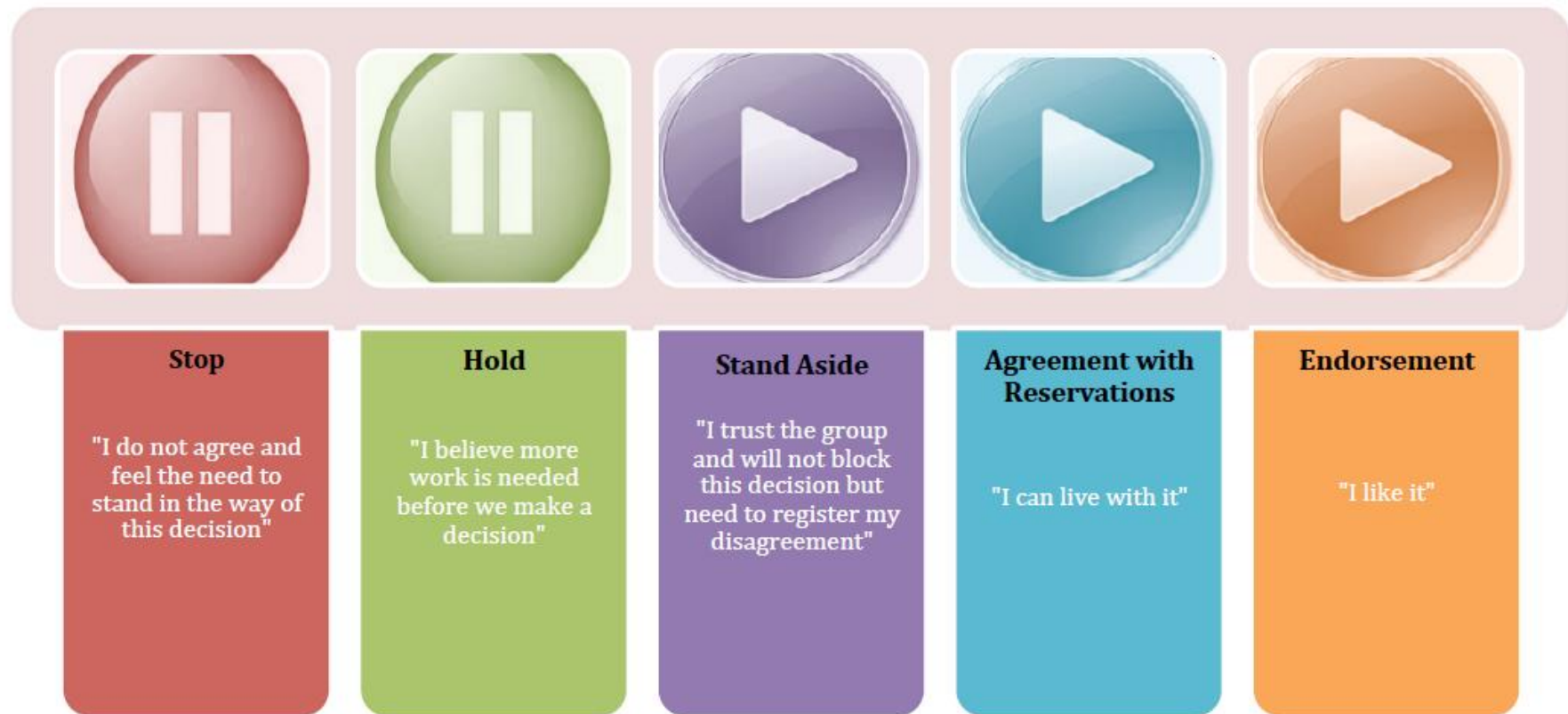
### CBP Partnership has Opportunity to Review and Comments on Draft Panel Report during Each Stage of Review Process

To better ensure effective resolution of comments, all interested partners, groups or individuals are encouraged to submit their comments during the first review and comment period. New comments at later stages will be considered, but the Panel can more effectively address substantive comments the earlier they receive them.

\*The Panel Chair and Coordinator are responsible for developing a “Response to Comments” document based on feedback received through partnership review. The “Response to Comments” document will be attached to the final Panel report.

## Appendix C: Consensus Continuum<sup>3</sup>

### Consensus Continuum



<sup>3</sup> University of Maryland, Center for Leadership & Organizational Change