

MINUTES
Chesapeake Bay Program
Urban Stormwater Workgroup (USWG) Conference Call
Tuesday, October 16th, 2012, 10:00AM – 12:00PM
<http://www.chesapeakebay.net/calendar/event/18546/>

SUMMARY OF ACTION ITEMS & DECISIONS

DECISION: The September 18th conference call minutes were accepted as written.

ACTION: Schueler will take input and integrate into a 6th draft of the verification protocol.

ACTION: Schueler and Sweeney will consider the BMP estimation issue and report back to the workgroup.

MINUTES

Welcome & introductions

- Tom Schueler (CSN; Coordinator, USWG) convened the call at 10:00AM, welcomed participants and reviewed the [agenda](#).
- He asked if there were any comments or corrections to the September 18th USWG minutes ([Attachment A](#))
 - Hearing none, the minutes were approved as written

DECISION: The September 18th conference call minutes were accepted as written.

Expert Panel updates

- Schueler updated the workgroup on the urban stormwater expert panels:
 - Two expert panels have completed the BMP protocol process, approved by WQGIT on October 9th, 2012:
 - stormwater retrofits
 - performance standards
 - Two other panels are nearing their recommendations and could be ready for the USWG by December
 - Urban nutrient management
 - Stream restoration
 - The Erosion & sediment control (ESC) panel continues to review the literature and is in the early stages.
 - The Illicit discharge detection and elimination (IDDE) is also reviewing the literature and has expanded its charge to include SSOs.

Introduction of new sediment and stream restoration coordinator

- The Center for Watershed Protection (CWP) has been contracted by the Bay Program to serve as a Sediment and Stream coordinator to various panels and workgroups under the Water Quality and Habitats Goal Implementation Teams
 - Bill Stack, Neely Law, Sadie Drescher, and Lisa Fraley-McNeal from the CWP are jointly working as the new Coordinator.
 - The position will assist expert panels, including stream restoration, urban shoreline erosion control, the ESC panel, and some of the agriculture panels
- Ted Brown (Biohabitats): stream restoration panel has been going for a while, are they new?
 - Schueler explained they have been assisting the Stream Restoration panel as members and will continue to help with final stages of report

- He also noted that Nick DiPasquale (Director, EPA CBPO) has created a task force to look at stream restoration permitting issues.

Update on the BMP Verification Process & Discussion of Urban BMP verification protocol

- Schueler explained that Rich Batiuk has asked the workgroup chairs to reach consensus and finalize their BMP verification protocols by January 25, 2013 (see [Attachment D](#))
 - If unable to reach consensus on some issues, can provide minority reports to the BMP Verification Committee and BMP Verification Review Panel
- The 5th draft (July 2012) of the Urban BMP verification protocol was provided as [Attachment B](#)
- Schueler reviewed [Attachment C](#)
- He noted there are two lingering verification issues for the USWG to consider:
 - Non-regulatory situations (non-MS4s)
 - Existing CBP approved urban protocols
- Schueler described some of the impediments (slide 8, attachment C)
- He reviewed what the USWG agreed to so far and asked the workgroup for their comments and thoughts
 - Ray Bahr (MDE): one of the slides referenced “culling” old BMPs, but it is important to provide credit for older BMPs that still function and provide water quality benefit
 - Schueler: Agree; not trying to cull so much as make sure all BMPs are accurately recorded/reported and help find candidates for restoration
 - Bahr: perhaps use a different term
 - Bahr: Perhaps agree on one cycle (6-10 years) rather than “once every other cycle” which would cause a discrepancy between jurisdictions that have 3 or 5 year cycles
 - Schueler: Perhaps 9-10 years would better mesh with permit cycles
 - Glynn Rountree (NAHB): is USWG considering role of trading/offsets?
 - Schueler: Trading and Offsets Workgroup (TOWG) has bulk of that responsibility; certification/verification for BMPs in trading programs is probably more stringent than the Bay Program’s BMP verification protocols will be
 - Megan Grose (WV DEP): what’s the effective lifespan for some of these BMPs and how does the verification frequency relate to that?
 - Schueler: we want to leverage existing inspection requirements from MS4 permits; MS4s have to inspect their entire portfolio of stormwater BMPs within permit cycle; intent was to make the CBP’s verification process a little less burdensome than that
- Schueler discussed some of the remaining issues and the initial approach he and Norm Goulet (NVRC; Chair, USWG) were taking.
 - Options for non-regulatory situations (slides 20 and 21, Attachment C):
 - Schueler asked the workgroup for thoughts on the options, or could think of other potential options
 - Grose: wouldn’t make sense to assume non-MS4s perform at same level as MS4s
 - Brown: How are these BMPs reported into system to begin with?
 - Schueler: it varies by state, but most commonly a non-MS4 area reports its BMPs as a part of its construction general permit to the state
 - Brown suggested a two-part approach: if you’re a state and you don’t have resources for sub-sampling or verification in non-MS4 areas, then take Goulet’s approach of gradual drop-off; sub-sampling option could be done in partnership with watershed or other groups

- Ken Murin (PA DEP): incorrect to say these non-MS4 areas are unregulated, from state perspective these are still regulated activities. It's important to have a range of options available, given different sophistication/capacity in different localities.
- Ginny Snead (VA DCR): agree with Ken. It's important to have flexibility to rely on state programs, not just federal (e.g., Virginia's databases for state cost-shares practices)
 - Schueler: CSN and UMD cooperative extension are working to develop a tool to capture homeowner BMPs; hope to have beta version in first quarter of 2013 to share with USWG
- Bahr: under construction general permit, anything greater than 1 acre of disturbance requires post-construction controls; could be way to go back and retrieve reporting information through this mechanism.
 - Schueler: get a BMP reported at a location, check installation, but no resources to perform maintenance inspections – is this descriptive of jurisdictions under construction general permit?
 - Snead: Yes, Virginia doesn't have staffing, so it's essentially an honor system. Moving into 2014, this is rationale for shifting programs to local level, localities will be required to inspect BMPs every five years
 - Bahr: Same in Maryland. Prefer to keep this role in hands of government rather than divert resources to third parties – who's going to certify these parties to perform inspections? Not necessarily a bad thing, but with limited resources, better to keep in state/local hands.
 - Bevin Buchheister (CBC): agree with state having final inspection authority, but there is a role for third-parties or watershed groups, at least to report/photograph problems to inspectors
 - Murin: depends on complexity or visibility of the practice, could identify
 - Schueler: another subset of options could include reporting certain visual indicators to the locality, e.g. for illicit discharges. There seems to be agreement on concept, but not on specific indicators, particularly in case of LID.
- Schueler: seems we're okay as long as we keep the list of options and don't specify any particular approach
 - Alana Hartman (WV DEP) suggested another option of using third parties or funding a state staff position through Chesapeake Bay grants
 - Glynn Rountree (NAHB): some concern about third party inspections, some training would be needed to ensure minimum level of understanding
 - Buchheister: probably not accurate to apply MS4 compliance rates to non-MS4s, perhaps use CBP grants to sub-sample non-MS4 areas
 - Grose: non-MS4 areas would differ by state or jurisdiction
 - Schueler: agree, would need to have different numbers/rates for different jurisdictions or regions
- Schueler described issues and some options regarding existing BMP rates and traditional stormwater BMPs: what duration of removal rate credit should be offered for CBP-approved BMPs
 - Bahr explained that Maryland is struggling with another potential BMP. Specifically, rural residential development where the low-density residential houses are essentially "ESD to the MEP," but weren't reported that way to the

CBP, e.g. downspouts flow to grassy areas, driveways disconnected etc. He noted Maryland has issued guidance asking communities to begin documenting these areas.

- Grose: that kind of situation may be addressed through the land use parts of the model
 - Steve Stewart (Baltimore County): agree, if we take a close look and add classifications or different loading rates for rural residential or other densities of development
 - Schueler: newly formed Land Use Workgroup (LUWG) is looking at those types of issues
 - Jenny Tribo: the LUWG is still in early stages and exploring potential classification schemes for land uses; they will seek input from USWG and others on issues like this
- Murin: PA has locational data for projects, but not necessarily for BMPs
- Schueler: might be worth getting feedback from each state to know how far back their locational urban BMP databases go.
 - Bahr: Bay Program has urban BMP database with practices dating back to early 1980s. Maryland state law requires Construction Completion Form, with about 15-20 pieces of information, including location (lat-long) which gets entered into a database.
- Schueler: have a table in memo that summarizes the status of each state's record
 - Grose: WV uses 2004 as starting point
 - Snead: not completely sure, but tracking similar to Maryland, moving to e-permitting in 2014
 - Jeff Sweeney (EPA, CBPO): CBP has historic stormwater management records from all jurisdictions, some go back to 1980s, others to 90s. In some cases these were based on best professional judgment. We need to look at the historic record to check for inaccuracies; some municipalities have 100% implementation for stormwater management, so a new BMP may be crowded out from model because of incorrect historical record. Alternatively, there are areas with zero implementation because the historical record is missing BMPs from that municipality.
 - Schueler asked to touch base with Sweeney on this issue to gather more information and identify a few example areas with 100% or 0% implementation.
- Schueler asked for any final thoughts or comments. Hearing none, Schueler thanked participants for their time and input.

ACTION: Schueler will take input and integrate into a 6th draft of the verification protocol.

ACTION: Schueler and Sweeney will consider the BMP estimation issue and report back to the workgroup.

Meeting adjourned

Next conference call:

Tuesday, November 27th, 2012

10:00AM-12:00PM

<http://www.chesapeakebay.net/calendar/event/18547/>

Participants

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