

**Date:** February 1, 2016

**To:** Members, Urban Stormwater Work Group

**From:** Tom Schueler, CBP Stormwater Coordinator

**Re:** Process for Handling Urban BMP Decision Requests

**Background.** Over the last year, the USWG has received numerous requests to determine whether certain innovative BMPs could be interpreted or classified in the context of existing expert panel reports. Examples include:

- Retrofit of facility not originally designed for stormwater quality treatment, such as a farm pond, a PL-566 reservoir or a flood control facility.
- Homeowner BMPs
- “Smart BMP” Retrofits
- Combo retrofit and stream restoration
- “Self-converting” wetlands
- Urban agriculture practices
- PEDs for BMPs

The basic idea is to set up a process for making decisions on BMP requests without having to launch a full-blown expert panel. CSN presented a concept for how the process could work in November of 2015. This memo reflects the feedback received on how to proceed.

**Key Elements to Consider.** The process for handling BMP decision request needs to satisfy several potential concerns.

- The process should clarify and reinforce the existing BMP expert panel protocol and process, and never be used to undercut or re-open an existing urban BMP expert panel.
- The proposed BMP should not be a manufactured treatment device or a proprietary practice (The USWG is working on a separate process to handle these requests).
- The BMP must represent a real change on the ground that occurs in the present day (e.g., no historic BMP discoveries).
- The proposed BMP must have verification procedures that are at least as stringent as the "parent" BMP.
- The proposed BMP should not create problems when it comes to reporting it in Scenario Builder.

## **Recommended Process.**

The basic process is as follows:

- The proposer has the responsibility to provide adequate supporting documentation so that it can be considered by the USWG. Other USWG members or interested parties have the option to provide additional documentation.
- USWG can decide to accept or reject the proposal, accept it with modification, send it back to the proposer for more work or recommend that it be added to the queue for future urban expert panels.
- The USWG members will be polled to determine their support for the requested decisions, under its recently approved governance policy.
- The Scenario Builder team will be consulted prior to discussion of any request to ensure consistency with CBP tools and models. They may request that the proposal be coordinated with the Watershed Technical Work Group.
- BMP decisions are not binding on any jurisdictions. States can individually opt out of a BMP decision made as the result of this process. This may occur if they are not comfortable with the technical basis for the decision or are concerned about its impact on their existing reporting systems and/or verification protocols.
- Once a final decision is made, states and the CSN will make MS4s and other aware about the new options.

### *Who can make the request?*

Anybody can, but it is highly recommended that they work with a USWG member to "sponsor" the request. The USWG sponsor can be a signatory, local government or at-large member. The sponsor should coordinate with the work group chair and stormwater coordinator on the proposal, and schedule a presentation at an urban stormwater work group meeting.

### *What needs to be submitted?*

A brief memo that outlines the technical basis for the request, including any supporting scientific or engineering information.

The memo should also specifically reference the urban BMP definition and crediting protocol(s) from an existing urban expert panel report approved since 2011. Credits for individual urban BMPs that were developed prior to 2011 are being phased out. In limited cases, it may be acceptable to reference non-urban expert panels (i.e., agriculture and forestry), but these proposals will need to be cross-walked by the appropriate workgroup.