

BMP Verification Ad-Hoc Action Team

Meeting Minutes

February 11th, 2022

9:00 AM – 11:00 AM

Meeting materials: [link](#)

Summary of Actions and Decisions

Decision: The BMPVAHAT approved the [January meeting minutes](#).

Action: Vanessa Van Note will present at the [Wetlands Workgroup Meeting](#) on Tuesday, February 15th regarding the Wetlands BMP Credit Duration Recommendation. She will update the BMPVAHAT after the meeting.

Decision: The BMPVAHAT **did not** reach consensus on recommending the following [proposed methodology](#) for partial credit: *Apply partial credit to the federally funded multi-year agriculture practices listed in Table 1. Partial credit will only be applied during the development of Phase 7 of the watershed model to allow time for the Partnership to address the issues outlined below [see document]. When Phase 7 is officially implemented, partial credit will sunset (terminate).* Next steps are forthcoming.

Action: Members are encouraged to reach out to Dean Hively, USGS, (whively@usgs.gov) with any additional questions or comments on his remote sensing presentation.

9:00 Welcome, Introductions, Roll Call, Elliott Kellner, Chair (WVU)

- Welcome & Roll Call of participants
- **Decision:** The BMPVAHAT approved the [January meeting minutes](#).
- **Announcement:** Wetland BMP Credit Duration Recommendation, Vanessa Van Note, EPA
 - **Action:** Vanessa Van Note will present at the [Wetlands Workgroup Meeting](#) on Tuesday, February 15th regarding the Wetlands BMP Credit Duration Recommendation. She will update the BMPVAHAT after the meeting.
- **Next Meeting:** Friday, March 11th from 9:00 - 11:00 AM

9:10 Partial Credit Decision, Vanessa Van Note, EPA/CBPO, All (1 hr).

The BMPVAHAT sought to approve the recommendation of the proposed partial credit methodology. The recommendation was a conservative approach to partial credit based on previous discussions and feedback from the BMPVAHAT. The process and discussion are outlined below.

Step 1: Vanessa presented the proposed methodology.

Step 2: Discussion on the proposed methodology:

Sunset Period and Phase 7

James Martin: I think the proposal is moving in the right direction but it's such a small step, and doesn't fully address the two main concerns we've been talking about as a group - first, failure of partnership to fulfill two of the integral verification framework elements, specifically a) full access to federal cost-share practice data and b) enhanced reporting of federally cost-shared

practices. Giving practices gradually, rapidly decreasing credit for three years is not a solution to these problems. Also, the failure to implement the framework elements has nothing to do with Phase 7, so I don't understand phasing it out then; second, the discussion of partial credit was spurred by the all or nothing transition that happens in the model at the end of a credit duration. In real life, practices fade away, gradually losing effectiveness. This proposal would only address this for federal practices and not all of the practices affected by the all or nothing transition.

Vanessa Van Note: Members indicated that they needed a sunset period to endorse this proposal. The reason that Phase 7 was chosen as the end of the sunset period is simply because it's a milestone for the Bay Program that would happen after 2024 that would allow this to remain in effect until NEIEN potentially changes or we have to do calibration for Phase 7.

Joe Wood (in chat): Can someone provide the latest estimate of when phase 7 would be implemented (i.e. when a phase 7 sunset would likely kick into place?)

James Martin (in chat): Current proposal would have P7 available in 2027 for review and 2028 for application, as I recall. Presumably, the phase out would mean partial credit is not considered in the calibration of P7 which would be happening in 2026.

Suzanne Travena (in chat): We would still be using Ph 6 up until Ph 7 so wouldn't Partial credit still apply up until we start using Ph 7 in 2028? Am I not understanding the process?

Olivia Devereux (in chat): @Suzanne, You are correct.

James Martin (in chat): I think it would apply through the remaining life of P6 and would be excluded entirely from the development of P7.

Norm Goulet: The reason I can't support this without a sunset period is because the partial credit concept is only a band-aid to help the states when it comes to the 2025 evaluation and gives time to work with NRCS to develop a permanent solution beyond the 2025 evaluation.

Joe Wood: My interest in the sunset period is because this doesn't seem like a long term solution and doesn't get to all the problems raised by the group. If something is broken and we have a partial fix for it that lasts indefinitely, it will remove the incentive to fully fix the issue at hand. We want to make it clear that we need to address these problems.

KC Filippino: I agree with Joe, Norm, and Rebecca. Also, what does it mean that NEIEN might change between P6 and 7? How will that solve this issue?

Vanessa Van Note: Nothing getting programmed into P7 or NEIEN would remedy the issues brought up in this document. NEIEN might not even change, but proposals have been brought forward for different ways for states to submit data. Those decisions/discussions haven't been had by the partnership. I just mentioned that if NEIEN *were* to change, partial credit would have to be reevaluated to fit that change. Phase 7 is just a benchmark that will allow for more time to solve the issues at hand. PC would not be included in the calibration of P7.

Norm Goulet: NEIEN is only the transmission mechanism. The policies behind NEIEN is where the changes occur.

Vanessa Van Note: Yes, partial credit is a policy issue not necessarily a programming issue.

Kate Bresaw: The reasons that folks want a sunset period are the same reasons that we don't want a sunset period. There's no guarantee that this will be solved in Phase 7, so I understand we need motivation to address the issue, but 1619 is statutory and it's easier to change policy than statute. No solutions to address this were included in the recommendation.

Additional Data on BMP Lifespans

Rebecca Hanmer: I think the applicability should be limited to certain BMPs (aka federally funded practices) because we haven't built an information base for most of the practices on that

list. The CBP needs to document the viability of these practices lasting over time for all of the practices on the list before allowing this for all types of practices.

Leon Tillman: Are you asking for data or research related to the practices and functionality beyond the credit duration?

Rebecca Hanmer: Yes. I think we need more information on that.

Leon Tillman: I think there may be some research out there. It might be worth looking into.

Access to Federal Data and 1619 Agreements

Leon Tillman: The 1619 agreement does not allow us to share data, which creates a need for an alternative. I think there needs to be a solution such as partial credit until the framework or agreement can be adjusted with consideration to PII.

Mark Dubin: Important to remember that we have ongoing efforts to address these issues, the two pilot projects I previously presented on. Also, there will be a lot of partnership decision making for Phase 7, so I see this as potentially being a topic issue we can revisit later on once we have more information.

Gary Felton: On 1619 agreements - we need a large effort put on by the greater Bay Program to address this, not our ad-hoc team. We need to start to elevate this and focus on that larger issue at hand. Maybe some movement will occur by 2026.

Leon Tillman: I want to emphasize that there are pilots going on to work through the 1619 issues, but that is statute and it deals with personal privacy, so it's similar to HIPAA. There are certain things that are confidential. Producers working with the government just don't want their personal information shared with other entities.

Gary Felton: We're talking about all practices in table one and the pilots going on only solve a portion of those practices. The pilots are a tool, but they won't solve the entire issue at hand.

Step 3: The BMPVAHAT voted on the proposed methodology:

Total Votes*	
Stop	0
Hold	7
Stand Aside	8
Agree w/ Reservations	5
Endorse	0

****To see specific votes and rationale from each voting member, refer to the spreadsheet ([linked here](#)).***

Step 4: The following amendment(s) was suggested to the proposed methodology:

James Martin: I propose we change the recommendation to state that partial credit would remain in place until the 1619 agreement issues are resolved.

Step 5: Discussion on the amendment:

Kate Bresaw: PA would support that.

Joe Wood: CBF would not support that.

Norm Goulet: I would not support that either.

Rebecca Hanmer: If we could put a timeframe around the resolution of the 1619 issue and if states were willing to develop proposals for how to address those issues, I could live with that.

Suzanne Trevena: The 1619 issue could take a really long time. What about some interim checkpoints?

James Martin: What about 5 year or 2 year checkpoints to determine if we've made any progress in addressing these issues and if we should rescind partial credit?

Jennifer Walls: I support the checkpoints. I also agree with Dana's suggestion of addressing this at a much higher level than this group, at the cabinet level with EPA and USDA.

Elliott Kellner: To James's proposal, would those check-ins change your opinion?

Joe Wood: Not really. We can't have the consensus issue flipped - where we would need consensus to block this rather than move forward with it. I think the default should be sunsetting, and then if everyone agrees to move forward, we can do so. The option to check-in in 5 years is always there.

James Martin (in chat): Could CBPO fund NRCS to hire staff to conduct end of contract inspections?

Matt Ehrhart (in chat): Isn't the current proposal basically a 5 yr check in with the presumption that it sunsets unless the 5 year check in leads to continuing the proposed reality?

James Martin (in chat): @Matt - I don't think that was the current proposal, but I could live with a 5 year check in, where we reassess, to see if we should sunset or continue.

Vanessa Van Note (in chat): James is correct, Matt. The current proposal does not document reevaluation or check-ins.

Elliott Kellner: I encourage members to elevate this issue to higher levels. Also, several people mentioned a more rigorous analysis on bmp lifespan data - we've been encouraging states to give us this data if available but we have not received much, if any, data. It's very unlikely that those data are made available to this group for the purpose of this recommendation. We are not hearing consensus here. If hold votes change their mind, please reach out to us.

Proposed amendment (proposed via email, post-meeting):

*"Apply partial credit **ONLY** to the federally funded multi-year agriculture practices listed in [Table 1](#). Partial credit will only be applied during the development of Phase 7 of the watershed model to allow time for the Partnership to address the issues outlined below. When Phase 7 is officially implemented, partial credit **SHALL** sunset (terminate)."*

Decision: The BMPVAHAT **did not** reach consensus on recommending the following [proposed methodology](#) for partial credit: *Apply partial credit to the federally funded multi-year agriculture practices listed in Table 1. Partial credit will only be applied during the development of Phase 7 of the watershed model to allow time for the Partnership to address the issues outlined below [see document]. When Phase 7 is officially implemented, partial credit will sunset (terminate).* Next steps are forthcoming.

10:10 Remote Sensing Discussion, Dean Hively, USGS/USDA-ARS (50 min).

Dean gave an overview of his work using satellite remote sensing to evaluate winter cover crop performance, map conservation tillage, and assist the MD and DE cost-share programs with understanding field management. Following the presentation, there was an opportunity for discussion and questions from the group.

Discussion

Joe Wood: Have you done a cost benefit analysis about current costs of verification?

Dean Hively: We're starting to go down that road. There's definitely an opportunity for cost savings here. Have to be aware of the limitations of remote sensing.

Joe Wood: This is the best solution I've heard to the issue of voluntary BMPs that exist but are not paid for. I'm incredibly supportive of this.

Mark Dubin: Have you figured out what the cost is for you guys to run this program?

Dean Hively: No we haven't. Right now it takes expertise to handle it, so it's not streamlined and can't be scaled up yet.

James Martin: For differentiating cover crops from winter grain crops. You can tell by the time of harvest, but what if there is manure spread or fertilizer applied? Is there an indication of those types of management activities?

Dean Hively: Not in a way that I can confirm. At some level, we are missing the nutrient management part of the equation, we don't have that data from farmers.

Action: Members are encouraged to reach out to Dean Hively, USGS, (whively@usgs.gov) with any additional questions or comments on his remote sensing presentation.

11:00 **Meeting Adjourned**

Meeting Chat

From Joe Wood (Chesapeake Bay Foundation) to Everyone: 09:15 AM

Can someone provide the latest estimate of when phase 7 would be implemented (i.e. when a phase 7 sunset would likely kick into place?)

From James Martin to Everyone: 09:16 AM

Current proposal would have P7 available in 2027 for review and 2028 for application, as I recall.

From Joe Wood (Chesapeake Bay Foundation) to Everyone: 09:17 AM

thanks

From James Martin to Everyone: 09:18 AM

Presumably, the phase out would mean partial credit is not considered in the calibration of P7 which would be happening in 2026.

From Suzanne Trevena to Everyone: 09:26 AM

We would still be using Ph 6 up until Ph 7 so wouldn't Partial credit still apply up until we start using Ph 7 in 2028? Am I not understanding the process?

From Olivia Devereux to Everyone: 09:28 AM

@Suzanne, You are correct.

From James Martin to Everyone: 09:30 AM

I think it would apply through the remaining life of P6 and would be excluded entirely from the development of P7

From Adrienne Kotula, CBC to Everyone: 10:04 AM

I hear you, Norm!

From James Martin to Everyone: 10:09 AM

There are alternatives to the 1619 solution...NRCS could conduct end of contract inspections of the practices. This would allow 1619 to remain intact, it would gather data about practice conditions at the end of credit duration, and for those practices that remain functional, it would give them a second credit duration.

From Kate Bresaw, PA DEP to Everyone: 10:10 AM

Requesting that the following is added to the minutes regarding PA's vote: PA DEP CBO will "HOLD" if there is any BMP sunset period. PA DEP is requesting more discussions on the BMP "sunset" in regards to partial credit duration.

From Me to Everyone: 10:10 AM

Yes i'll include that in the minutes.

From Jennifer.Walls to Everyone: 10:11 AM

I agree with James's suggestion

From Norm Goulet to Everyone: 10:11 AM

YUP!

From Joe Wood (Chesapeake Bay Foundation) to Everyone: 10:11 AM

For what it is worth we couldn't support that

From James Martin to Everyone: 10:18 AM

Could CBPO fund NRCS to hire staff to conduct end of contract inspections?

From Matt Ehrhart - Stroud to Everyone: 10:19 AM

Isn't the current proposal basically a 5 yr check in with the presumption that it sunsets unless the 5 year check in leads to continuing the proposed reality?

From James Martin to Everyone: 10:23 AM

@Matt - I don't think that was the current proposal, but I could live with a 5 year check in, where we reassess, to see if we should sunset or continue

From Vanessa Van Note, EPA CBPO to Everyone: 10:24 AM

James is correct, Matt. The current proposal does not document reevaluation or check ins.

From Ted T to Everyone: 10:27 AM

Use NPDES data.

Participants

Jackie Pickford, CRC

Vanessa Van Note, EPA/CBPO

Elliott Kellner, Chair

Dean Hively, USGS/USDA-ARS

Kate Bresaw, PA DEP

Clare Sevcik, DE DNREC

Cassie Davis, NYS DEC

Joe Wood, CBF

Jennifer Starr, LGAC

Jennifer Walls, DNREC

John Maleri, DC DOEE

Helen Golimowski, Devereux

Consulting

Mollee Dworkin, DE DNREC

Leon Tillman, USDA-NRCS

Karl Blankenship, Bay Journal

Normand Goulet, NVRC

Adrienne Kotula, Chesapeake

Bay Commission

Jason Keppler, MDA

Loretta Collins, UMD,

Agriculture Workgroup

Coordinator

Katie Brownson, USFS

Jordan Baker, HRG

T. Tesler, PADEP

Bill Tharpe, MDA

Rebecca Hanmer, FWG Chair

Alana Hartman, WV DEP

Emily Dekar, Upper

Susquehanna Coalition

James Martin, VA DCR

Sally Claggett, USFS

KC Filippino, HRPDC, co-chair

LUWG

Olivia Devereux

Jessica Rodriguez- DoD CBP

Suzanne Trevena, EPA

Mark Dubin, UME/CBPO

Curt Dell, USDA-ARS, University

Park, PA

Gary Felton, Chair AgWG, UMD

Matt Ehrhart CAC and Stroud

Water Research Center

Dana York Green Earth

Connection

Jeremy Hanson, CRC, CBP

WQGIT coordinator

Lisa Beatty, PA DEP CBO