

Maryland Agricultural Certainty Program

Agriculture Workgroup Meeting
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Watershed Implementation Program





Maryland Certainty Program

Provides a “safe harbor” (regulatory relief for any new regulations with regards to nitrogen, phosphorus and sediment) for farmers who meet and exceed their local TMDL reductions at the farm scale.

Goal: is to allow farmers to conduct business in a predictable regulatory environment, while providing certainty that agricultural pollution controls are being implemented.





Certainty Program Background

- In 2012, MDA received a CIG grant from USDA to develop a Certainty Program.
- During the following Legislative session SB 1029 was introduced and passed creating the Maryland Agricultural Certainty Program.
- Over the next 1½ years the Agricultural Certainty Oversight Committee worked together to develop the regulations of how the program will be run.



Regulations were adopted in January 2015. Outreach and Education campaign Spring/Summer 2015.



Oversight Committee

- Diverse stakeholder group including:
 - Maryland Farmers
 - Chesapeake Bay Foundation
 - Chesapeake Bay Commission
 - University of Maryland Center for Environmental Science
 - Maryland Grain Producers Association
 - Soil Conservation Districts
 - U.S. Environmental Protection Agency
 - MDA & MDE among others



Regulations

- Eligibility Requirements
- Certification Process
- Certification
- Verification
- Verifier Certification Program
- Recordkeeping and Reporting Requirements
- Denial, Suspension or Revocation of Certification
- Oversight Committee



Eligibility

- A. Except as provided by this regulation, a person who operates an operation is eligible to apply for the Program
- B. An application for agricultural certainty shall include a farm parcel in its entirety but need not include all farms or farm parcels under the management of a person
- C. An operation or a part of an operation defined as a Concentrated Animal Feeding Operation ("CAFO") or any operation in the process of applying for a CAFO permit is not eligible for certification under the Program



Program Process

- To become a certified farm in the Certainty Program the farm operation is subject to a thorough review including:
 - Review of the SCWQP with on-farm verification
 - Full nutrient management plan implementation review
 - Evaluation using the CBNTT to determine whether a baseline condition is met
- MDE will also take part in the onsite inspections of the farm.





Obligations

- Once an farming operation is approved in the Certainty Program, an agreement is required outlining operation and maintenance:
 - Need to maintain current conditions protecting water quality
 - Notification requirements if certain management or site conditions change
- Required records will be submitted annually as well as full on farm inspections every 3 years.
- At the end of the 10 year period, the operation must be in compliance with all current laws.





General Requirements

- The operation remains in compliance with the Certainty agreement and all other requirements of the Program and there are no changes to the operation including:
- A change in the operator with the exception of an interfamily transfer;
 - A change in the owner when it results in a change in the operator;
 - A change in average annual number of animal units of 10 percent or greater; or
 - A change in the operation resulting in the operation being ineligible for the Program.
- 60 days to notify MDA of change, may result in re-evaluation (crop rotation etc) or suspension (mismanagement)



General Requirements

- An operation that is certified:
 - is not subject during its ten year certification period to local and state laws, regulations or requirements enacted or adopted after the date of certification that require the reduction of agricultural sources of nitrogen, phosphorus, or sediment runoff to meet the Chesapeake Bay TMDL including requirements of the WIP, local TMDLs or other water quality requirements for managing agricultural sources of nitrogen, phosphorus, or sediment;
- Is not protected from enforcement or corrective actions related to a water quality impacts or violations; and



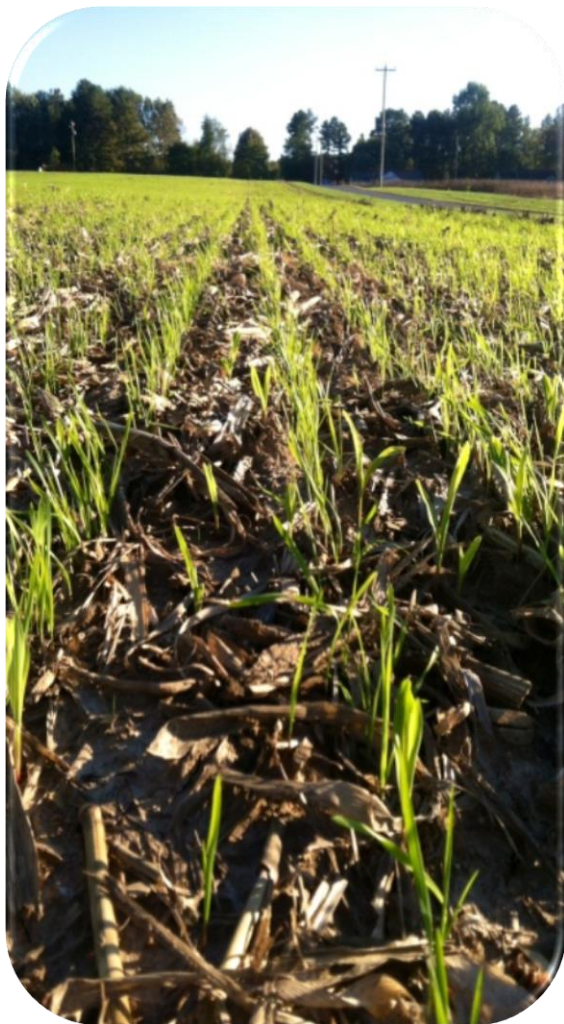
General Requirements

Is not protected from the application or enforcement of any other laws, regulations or permits, including the following:

- Corrective actions issued under Environment Article Title 4, Subtitle 4 that addresses water pollution abatement;
- Environment Article Title 5 that addresses water resource management including flood control and water appropriations;
- Environment Article Title 9, Subtitle 2 that addresses water supply systems, sewage systems, refuse disposal and sewage sludge;
- Environment Article Title 9, Subtitle 3 that addresses discharge permits;
- Environment Article Title 16 that addresses wetland protection programs;
- Natural Resources Article Title 8, Subtitle 18 which addresses land use and protections in the Atlantic Coastal and Chesapeake Bays Critical Area;
- Growth tier maps adopted by a local jurisdiction under the Land Use Article Title 1, Subtitle 5;
- Any State or local law or regulation that regulates the development of land;
- The Federal Clean Water Act;
- Regulations governing the management of agricultural sources of nitrogen, phosphorus or sediment initiated by the Department before the enactment of authorizing legislation for this program including regulations to revise the phosphorus site index or to implement a phosphorus management tool, regardless of when they are adopted; or
- Any applicable laws enacted or regulations adopted prior to certification, that are subject to a delayed implementation period.



Program Benefits



- Demonstrated at their farm scale that they have met their TMDL requirement
- Provides relief from potential State regulatory requirements
- Eligible to Trade on an Ecosystem Marketplace to help others with Bay restoration goals.



Verifier Certification Program

- A. An individual may not be certified or act as a certified verifier unless the individual meets the following requirements:
 - 1) Education and experience;
 - 2) Training; and
 - 3) Continuing education.

- B. The Department may certify a verifier who meets the following eligibility requirements:
 - 1) Has 3 or more years experience developing SCWQPs or qualifies as a USDA-NRCS Planner level II;
 - 2) Is certified in Maryland to prepare NMPs; and
 - 3) Is certified in the use of the MNTT.

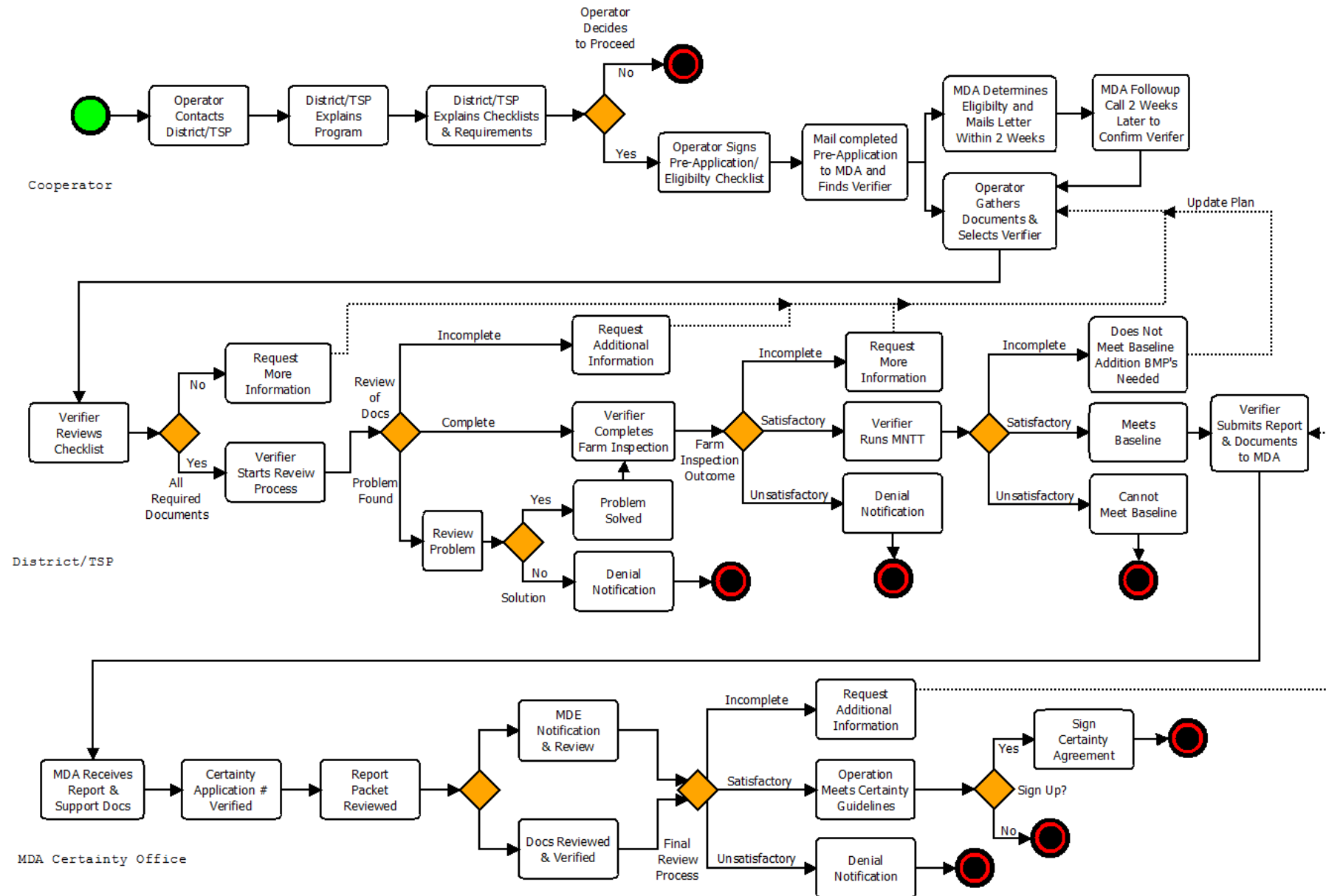
- C. A verifier may only remain certified by completing at least 6 hours of Department approved training within the first year, and 12 hours thereafter for each three-year certification period, as well as completing a training session on the use of any modified version of the MNTT within six months of the modification.



Next Steps



- Finalizing the Manual & MOU MDE
- Certified Verifier Training
- Beginning outreach program
- ID potential participants
- Full Certainty vs Evaluation only





Questions

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http://mda.maryland.gov/resource_conservation/Pages/agricultural_certainty_program.aspx