

# Maryland Agricultural Certainty Program Manual

**Watershed Implementation Program**

**Version 1.1**

**September 2015**



50 Harry S. Truman Parkway  
Annapolis, MD 21401

[www.mda.maryland.gov](http://www.mda.maryland.gov)



# Maryland Agricultural Certainty Program Manual

## TABLE OF CONTENTS

<b>SECTION I – Introduction</b>	<b>PAGE 2</b>
Introduction .....	2
Background and Goal .....	3
Objectives .....	4
Program Overview .....	5
General Eligibility .....	5
Application Procedures .....	7
General Criteria .....	8
Procedures .....	9
Certainty Agreement.....	10
<b>SECTION II – Forms and Instructions</b>	<b>PAGE 13</b>
Pre-Application and Eligibility .....	14
Application and Farmer’s Checklist .....	15
CBNTT Required Data Collection Sheet .....	16
Verifiers Certainty Report .....	17
Certification Process Checklist .....	18
Annual Report Form - In Development .....	19
Verifiers 3 Year Review - In Development .....	20
Review Follow-up Letter .....	21
Certainty Agreement - Inter-Family Transfer Form .....	22
Certificate of Resolution (MDA Certainty Program) .....	23
Certified Verifier Application .....	24
<b>SECTION III – Program Management</b>	<b>PAGE 25</b>
Certainty Verifier Program .....	25
Guidelines for Violations .....	25
<b>SECTION IV – Appendix</b>	<b>PAGE 26</b>
Steps on Becoming a Certified Farm .....	27
Certainty Regulations COMAR .....	28
Sample Certainty Agreement - In Development .....	44
Certainty Program Technical Committee - Membership .....	45
MDA Nutrient Management Specialist - Contact Information .....	46

# Maryland Agricultural Certainty Program Manual

## **SECTION I**

### **INTRODUCTION**

**A**gricultural activities can have a major impact on water quality in Maryland. If not properly managed, soil, fertilizer and animal wastes, along with the nutrients they carry, can find their way into groundwater and surface water, causing long-term pollution problems as recognized in the Watershed Implementation Plans for the reductions of nitrogen, phosphorus and sediment.

The Agricultural Certainty Program, which was passed by the General Assembly during the 2013 legislative session (SB1029) and the regulations adopted in January 2015, will allow farmers who have voluntarily implemented advanced best management practices (BMPs) and have proven at the farm scale to have met their pollution reduction goals set forth in the Bay model, will be able to conduct their business without additional regulations for ten years. After ten years, however, farmers will have to be in full compliance with all regulations in effect at that time. The intention of the program is to help speed up Bay Restoration efforts by encouraging farmers to more quickly implement BMPs while providing them with a predictable regulatory environment.

This manual is a step towards assuring statewide consistency in the application of the Maryland Agricultural Certainty Program. We have compiled eligibility criteria, program policy, BMP information, Certainty Program forms and administrative guidelines into this manual for use as a comprehensive reference by field staff and Technical Service Providers as they assist farmers with the Certainty Program. The information contained in this document represents current program guidelines.

As we continue to refine the program in response to the recommendations from the Certainty Program Technical Committee, changes in Nutrient Trading Tool, and changes identified by field staff or Technical Service Providers, sections of the manual will be revised and updated.

## **BACKGROUND**

Farmers throughout the years have continually been implementing best management practices on their farms to reduce erosion and the loss of nutrients. Many of these practices have been installed and implemented with cost-share programs to assist landowners in the protection of natural resources. Farmers have also done these many types of practices on their own without cost-share. By installing and maintaining these practices over the years overall on farm management has improved. The Certainty program was developed to acknowledge that farmers have done a certain level of conservation on their farm that exceeds the Chesapeake Bay pollution reduction goals.

## **GOAL**

To implement the voluntary Agricultural Certainty Program that will improve water quality compliance by agricultural operations. Under this program, operators who meet and maintain compliance with State water quality requirements may be certified for a 10-year period, during which time their farms are not subject to new State or local nutrient and sediment reduction requirements. This manual explains the requirements, responsibilities, and benefits for agricultural operators who participate in the Agricultural Certainty Program; it also explains the requirements for individuals who verify certainty compliance and the responsibilities of the Maryland Department of Agriculture when administering this program.

## OBJECTIVES

The certainty program has five main objectives. These objectives, and the mechanisms that have been instituted to meet them, are listed below:

1. **To meet the 2025 Bay restoration Total Maximum Daily Load (TMDL) goals ahead of schedule.**
  - Qualify farm operators who manage their farm in environmental way.
  - Farmers could install additional BMPs to meet baseline in the NTT.
  - Farmers could implement all scheduled BMPs listed in their farm plan.
  - Onsite inspections help with verifying installed BMPs that have been previously reported to the Bay Model.
  - During site inspections additional BMPs may be discovered that were never reported to the Bay Model and credit could be received.
  
2. **To promote participation in the program and generate a list of potential operations for the Nutrient Trading Program.**
  - To be eligible for the Certainty program the farm has to meet Base line in the NTT.
  - Once baseline is met, any additional BMPs above that can generate tradable credits.
  - Nutrient Trading could bring an additional source of revenue to a farming operation for install additional BMPs for credit generation.
  
3. **To provide insurance policy for any operation that is participating in the Chesapeake Bay Nutrient Trading Program.**
  - Establishes an even playing field, knowing that new regulations would not reduce the available number of credits generated that the farmer has already traded.
  - Credits generated by a particular BMP would be protected for a period of 10 years
  
4. **To demonstrate that a farm operation meets or exceeds the TMDL and is not negatively impacting the environment with regards to N, P and sediment.**
  - Farmer has recognition that they are not negatively contributing to the degradation of the bay.
  - Using the Nutrient Trading tool which using the same model as the Bay Program, it can show that a farmer “meet baseline” and therefore is not polluting.
  - Farmer can show that they have done their part in cleaning up the Bay.

5. **To maintain the registry of certified Verifiers for the Certainty and Nutrient Trading Programs, which include developing the training and certification process for the Verifiers.**

- Verifier training and certification will be ongoing
- A list of certified Verifiers will be posted on the website
- Maintain Certifications for Nutrient Management, Planner II, and NTT
- Conduct annual refresher training for updates with the NTT and any changes to the Certainty Program
- Verifiers will be used for both the Certainty and Nutrient Trading Programs.

## **PROGRAM OVERVIEW**

To qualify for the Maryland Certainty Program, individual farm parcels must be evaluated for compliance under the stricter of either a local TMDL or the larger Chesapeake Bay TMDL. The Department will continually provide a comprehensive training program on conducting on-farm assessments/verifications and identification of both cost-shared and functional equivalent practices. On average, the entire assessment process takes approximately two days to complete and consists of a thorough review of Best Management Practice implementation as documented in a comprehensive soil and water conservation plan, verified through an in-field inventory. An interview is also conducted to ensure the operation's Nutrient Management Plan is reflective of the current crop and/or animal production system.

Once the initial on-farm interview and assessment is complete, the trained Verifier will complete a farm worksheet within the CBNTT. Results of this assessment are immediate and the Verifier can quickly determine if the given operation/farm parcel has met their TMDL baseline requirement, thus qualifying the operation to participate in the Maryland Certainty Program. Once the operation has qualified and enrolled in the program additional credits can be earned by implementing additional conservation enhancements (either BMP's or additional management).

## **GENERAL ELIGIBILITY**

The Maryland Agricultural Certainty Program is a statewide program that wants to showcase the good farming operations that are doing their part to clean up the bay. The recognition of these farming operations is rewarded by having protection from any new State or local laws with regards to N, P, and sediment for a 10 year period.

There two main areas; eligibility and the "Farmer's Checklist", which states the need documents to submit for the full application.

The eligibility requirements are relatively basic. However, the “Farmer’s Checklist” requires specific documents that need to be current and implemented. Please see below for the details on both.

**Eligibility:**

There are 3 general eligibility requirements for the applicant to participate in the Certainty Program:

1. The applicant you must be a person who operates a farming operation.
2. The applicant must apply for an entire farm parcel.
3. The parcel cannot be defined as a Concentrated Animal Feeding Operation (CAFO).

**“Farmer’s Checklist”:**

The following documents must be submitted for full application in the Certainty Program:

1. Current Soil Conservation Water Quality Plan
  - a. Copy of plan map (with location and boundaries of the operation showing field numbers and locations of all BMPs).
  - b. Copy of soils map, soil information, and RUSLE2 worksheet.
  - c. Copy of job sheets for all BMPs installed on the farm.
2. Current Nutrient Management Plan
  - a. Copy of current Nutrient Management Plan (NMP)
  - b. Copy of most recent Annual Implementation Report (AIR)
  - c. Copy of the on farm Nutrient Management Plan Implementation Evaluation (PIE) if conducted in the last year.

**Applications for the Certainty Program are approved using the following criteria:**

- Must be the operator of a farming operation
- Must be authorized to sign for the operation (partnership, corporation, LLC, etc.)
- Is not a Concentrated Animal Feeding Operation (CAFO)
- Enroll an entire farm parcel

**Applications for the Certainty Program may be disapproved for any of the following reasons:**

- The operation is a Concentrated Animal Feeding Operation (CAFO)
- Did not enroll an entire farm parcel
- Not the operator of the farm
- Is the landowner not the operator
- Is not authorized to sign for the operation (partnership, corporation, LLC, etc.)

## **APPLICATION PROCEDURES**

The application process is described in the “Steps to becoming a Certified Farm” document located in the Appendix. This is a voluntary program, which has its advantages and disadvantages. The main advantage is that interested farmers will be very willing to work and gather the proper documents and help move the process along. The main disadvantage is that because of the voluntary nature of the program, if the applicant has difficulties in providing certain documents, or the process seems to be time intensive, they may not want to follow through with the process.



## GENERAL CRITERIA

There are two ways to sign up for the Certainty Program and each way has its own distinctions. Please see below for more detail about the two different choices known as “Full Certainty” and “Farm Evaluation Only”. The “Full Certainty” is when the farmer wants the full 10 years of stable regulatory environment for their farming operation. The other choice was developed from the need or interest from farmers wanting to know if their farm met the TMDL but they did not want to sign on for the 10 year commitment. Additional feedback and concerns from farmers about not wanting the Maryland Department of Environment (MDE) involved or invited onto their farms. The “Farm Evaluation Only” choice was made available for the reasons listed above. Please see below for some of the main differences:

### **“Full Certainty”:**

- Provides protections from any new laws and regulations (N, P, & sediment) for the 10 year period
- Insurance policy if you are participating in the Trading Program by creating a stable environment
- Shows that your farm has already met the TMDL for the Bay Program restoration goals
- Annual reporting requirements and farm inspections every 3 years with possible MDE involvement.

### **“Farm Evaluation Only”:**

- If the operation does not want to start the 10 years yet (no pending Laws)
- Show that your farm is meeting the TMDL at the time of evaluation
- Qualifies the operation for the Trading Program because it currently meets baseline (helps generate eligibility list)
- Is similar to the FSCAP program that is used by the Maryland Association of Soil Conservation Districts (MASCD) to evaluate farms, but evaluates the farm on meeting the TMDL for that individual property.
- No annual reporting, but if the farmer wants to switch to the “Full Certainty”, they will have to go through the review process again unless it was conducted with 12 months of the original review.

## PROCEDURES

The SCD staff or a Certified Verifier can work with the farmer to help them through the process. They can assist the farmer with the general eligibility and completing the Farmer's Checklist. Only farmers with updated farm plans that are fully implemented would be eligible, so if the operation still needs to implement some BMPs or need their farm plan updated, then the SCD could assist with that as well. Once a farmer has shown interest, they will fill out the Pre-Application and select the type of review they wish to have completed. See below for the differences of what each review entails:

### **“Full Certainty”**

To become certified for the 10 year program, the farm operation has to undergo a thorough review:

- A review of the Soil and Water Conservation Farm Plan, which includes an on-farm inspection; and
- A full Nutrient Management Plan Implementation Evaluation; and
- An evaluation using the Maryland Nutrient Tracking Tool to establish whether baseline for the local TMDL is being met.

*Note: MDE will also take part in the review process for the farm.*

### **“Farm Evaluation Only”**

For the “Farm Evaluation Only”, the farm operation undergoes the same review as “Full Certainty”:

- A review Farm Plan with an on-farm inspection; and
- A full Nutrient Management Plan Implementation Evaluation; and
- An evaluation using the Maryland Nutrient Tracking Tool to establish whether baseline for the local TMDL is being met.

*Note: MDE will not be involved and the results of this evaluation can show that an operation meets its TMDL for their farm and can qualify them for the MD Nutrient Trading Program*

After the farmer has selected the type of review and submitted the Pre-application to the Department, the SCD or Certified Verifier can assist the farmer with the Application and “Farmer's Checklist”. There is a current list of certified Verifiers on the MDA website ([Link](#)). The farmer will have to work with a verifier for the submittal of the full Application and Farmer's Checklist, and the Verifier will be responsible for forwarding the application packet to MDA.

The Verifier will start his review process by going over all of the documents and preparing their “Verifiers Certainty Report”. Please refer to Section II for all documents for the Certainty Program.

## **CERTAINTY AGREEMENT**

When a farm has been evaluated and all of the requirements have been met, the Farmer and MDA will sign a contract know as the Certainty Agreement. This agreement spells out the requirements for the 10 year agreement lifespan. Those farmers that wish to paticipate in the evaluation process and selected the “Farm Evaluation Only” option are not required to sign this agreement. See the appendix to view a SAMPLE Certainty Agreement.

Once agreements have been signed they are good for a 10 year period. During that period there is an option to transfer the agreement to another farmer as long as it is an inter-family transfer. The familial relationship can include a parent, spouse, child, sibling, grandchild, grandparent, step-parent, step-child, step-sibling, step-grandchild, or step-grandparent.

When a farmer has signed the agreement there are several things that this contract does not protected the farmer from. They are not protected from enforcement or corrective actions related to water quality impacts or violations that may have happened on the farm.

The following are laws and regulations that are not covered by this agreement and the farmer must remain in compliance with during the Certainty contract life. Please see the list below:

- Corrective actions issued under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, which addresses, for example, water pollution abatement;
- Environment Article, Title 5, Annotated Code of Maryland, which addresses, for example, water resource management including flood control and water appropriations;
- Environment Article, Title 9, Subtitle 2, Annotated Code of Maryland, which addresses, for example, water supply systems, sewage systems, refuse disposal, and sewage sludge;
- Environment Article, Title 9, Subtitle 3, Annotated Code of Maryland, which addresses, for example, discharge permits;
- Environment Article, Title 16, Annotated Code of Maryland, which addresses, for example, wetland protection programs;
- Natural Resources Article, Title 8, Subtitle 18, Annotated Code of Maryland, which addresses, for example, land use and protections in the Atlantic Coastal and Chesapeake Bays Critical Area;

- Growth tier maps adopted by a local jurisdiction under Land Use Article Title 1, Subtitle 5, Annotated Code of Maryland;
- 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.

**This page is  
Intentionally Blank.**

## **SECTION II**

### **FORMS AND INSTRUCTIONS**

This forms and instructions sections will describe the function of each form and who the intended user is. The chart below shows the names of the form, and who is responsible for the form (who will fill out and sign the form) and who receives the completed form (where the form will be sent).

<b>Name of Form</b>	<b>Responsible Party</b>	<b>Receiving Party</b>	<b>Page</b>
Pre-Application and Eligibility	Farmer	MDA	14
Application and Farmer's Checklist	Farmer	Verifier	15
CBNTT Required Data Collection Sheet	Verifier	MDA	16
Verifiers Certainty Report	Verifier	MDA	17
Certification Process Checklist	Verifier	MDA	18
Annual Report Form - In Development	Farmer	MDA	19
Verifiers 3 Year Review - In Development	Verifier	MDA	20
Review Follow-up Letter	MDA	Verifier & Farmer	21
Certainty Agreement Inter-Family Transfer Form	Farmer	MDA	22
Certificate of Resolution (MDA Certainty Program)	Farmer	MDA	23
Certified Verifier Application	Verifier Applicant	MDA	24

## Pre-Application and Eligibility

### DESCRIPTION

This form is to be filled out by the Farmer/Applicant. It will act as a notice of intent by the applicant to the MDA for the consideration in the Maryland Certainty Program. Please mail all Pre-applications to the address listed below.

### PURPOSE

The purpose of this form is to verify that all eligibility requirements are met and that the applicant is eligible to sign for the operation he/she represents. The applicant will select what type of review they are requesting (“Full Certainty or Farm Evaluation Only”). By submitting this form this will allow MDA to determine interest from the farming community about this program although we know that full applications are document intensive, this allow MDA to track general interest.

### POLICIES

1. This form should only be signed by the owner of the operation. If the farm parcel is owned by a company, corporation, partnership or any other legal entity, a certificate of resolution should be attached. See Certificate of Resolution form for guidance.
2. This is a voluntary program and the applicant can withdraw at anytime by contacting the Certainty Administrator in writing stating that they no longer wish to participate in the Program. All letters should be mailed to:  
  
Maryland Department of Agriculture  
c/o Certainty Program Coordinator  
Room 307  
50 Harry S. Truman Parkway  
Annapolis, MD 21401
3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. Applicants may change what type of review they requested (“Full Certainty or Farm Evaluation Only”) at any time by notifying the Department in writing at the address listed above.

## Application and “Farmer’s Checklist”

### DESCRIPTION

This form is to be filled out by the Farmer/Applicant with the guidance of a Certified Verifier or District Staff. The completed form should be given to the Verifier so they can begin the review process. The Verifier will include this form with all of the attachments as part of their Certainty Report. By submitting the form to a verifier that applicant will be request that a review will be conducted for their farming operation.

### PURPOSE

The purpose of this form is to inform the applicant about the specifics of what is required for submittal and what type of review is to be completed for the Certainty program. All of the documents need to be up to date and implemented to the fullest. By submitting an application to the Verifier, the applicant is requesting that a full plan implementation review be conducted by a MDA Nutrient management Specialist. MDE may be involved depending on the type of review requested.

### POLICIES

1. This form should only be signed by the original applicant who signed the Pre-Application and Eligibility Checklist.
2. This is a voluntary program and the applicant can withdraw at anytime by contacting the Certainty Administrator in writing stating that they no longer wish to participate in the Program. All letters should be mailed to:

Maryland Department of Agriculture  
c/o Certainty Program Coordinator  
Room 307  
50 Harry S. Truman Parkway  
Annapolis, MD 21401

3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. This form



## **CBNTT Required Data Collection Sheet**

### **DESCRIPTION**

This form can be used by the Verifier to help document the required data need for the input values for the online Chesapeake Bay Nutrient Trading Tool.

### **PURPOSE**

The purpose of this form is to document the operator's crop management details that will be used in the Nutrient Trading Tool (NTT) baseline run. The Verifier can interview the operator and provide answers to the questions listed on the form.

### **POLICIES**

1. This form is optional as long as the Verifier can document the required information need for an accurate baseline run in the NTT. Please provide other documentation if this form is not used and include it with the Certain Report attachments
2. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.

## Verifiers Certainty Report

### DESCRIPTION

This form is to be filled out by the Certified Verifier who is conducting the review of the farming operation. This document will help guide the Verifier through the review process and detail what is need in the final Certainty Report.

### PURPOSE

The purpose of this form is to document that the Verifier has conducted a thorough review of the farming operation that is requesting the Certification. The Verifier will determine if MDE will be involved and will initiate the Nutrient Management Plan Implementation review by contacting the appropriate NM Specialist. Please see the appendix for a list of the NM Specialist for your region. Completing this form in its entirety will satisfy the Verifiers Certainty Report requirement. With the completed document and all attachments this report should be sent to the Department for review. Please use the Verifiers Certification Process Checklist in conjunction with this form to verify that all documents are present before submittal.

### POLICIES

1. This form should only be signed by the Verifier who actually conducted the review. The report should be completed in its entirety by the same Verifier to maintain consistency throughout the Program.
2. This Verifier shall contact the Department within 1 week, to notify them that they have received an application and provide the name of the applicant and what type of review is being requested.
3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. This form

## **Certification Process Checklist**

### **DESCRIPTION**

This form is to be filled out by the Certified Verifier who has completed their Certainty Report for a operation. This document provides a summary checklist to make sure everything is present before submittal of the final Certainty Report to MDA.

### **PURPOSE**

The purpose of this checklist is to document that the Verifier has all documentation present for an accurate submittal.

### **POLICIES**

1. This checklist should be signed by the Verifier who is actually submitting the Report.
2. This Verifier shall contact the Department at time of submittal to verify that MDA received the information packet so that information is protected.
3. Please mail all completed packets to:

Maryland Department of Agriculture  
c/o Certainty Program Coordinator  
Room 307  
50 Harry S. Truman Parkway  
Annapolis, MD 21401

4. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
5. This form

## Annual Report Form - In Development

### DESCRIPTION

This form is to be filled out by the Farmer annually to satisfy the annual reporting requirements for the Certainty Program.

### PURPOSE

The purpose of this form is to document that the farming operation has been managed in accordance with the Certainty Agreement and will continue to be managed the same for the rest of the calendar year.

### POLICIES

1. The Department will generate a report in January of all active Certainty Agreements and send participants a letter with attached Annual Reporting form to be completed and returned to MDA on or by March 1.
2. This report must be signed by the same individual that signed the Certainty Agreement.
3. Attach a copy of a current NMP(if not sent previously) and
4. Please mail all completed form to:  
  
Maryland Department of Agriculture  
c/o Certainty Program Coordinator  
Room 307  
50 Harry S. Truman Parkway  
Annapolis, MD 21401
5. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
6. This form

## Verifiers 3 Year Review - In Development

### DESCRIPTION

This report is to be filled out by the Verifier after they have conducted their 3 year on farm review.

### PURPOSE

The purpose of this form is to document that the farming operation has been managed in accordance with the Certainty Agreement and will continue to be managed the same for the rest of the calendar year.

### POLICIES

1. The Department will generate a report in January of all active Certainty Agreements and determine if there are any 3 year reviews needed for the calendar year.
2. The Department will assign a Certified Verifier to complete these inspections. The Verifier must be currently certified, cannot hold any interest in the operation and is not the individual who conducted the verification of the operation at the time of application.
3. The selected Verifier will contact the operator in advance of the inspection to make an appointment so the operator can be present and have records available for review. The Verifier will present a photo ID at the time of inspection and adhere to all bio-security requirements.
4. The report must be sent to MDA within 30 days of the date of inspection and the final report will be sent to the operator.
5. At each review the Verifier will provide the operator with information concerning any applicable new laws, regulations, or requirements that have become effective since the Agreement was signed and that will need to be addressed at the end of the 10 year Agreement.
6. Please mail all completed form to:  
  
Maryland Department of Agriculture  
c/o Certainty Program Coordinator  
Room 307  
50 Harry S. Truman Parkway  
Annapolis, MD 21401
7. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
8. This form

## **Review Follow-up Letter**

### **DESCRIPTION**

This letter will be used by MDA to notify the Farmer about the outcome of their 3 year farm review.

### **PURPOSE**

The purpose of this letter is to notify the farmer of the report results the Verifier submitted to the Department. This letter will also outline the procedures to take if they would like to dispute the report outcome.

### **POLICIES**

1. The letter and a copy of the report will be sent to Farmer within 30 days of the date of inspection.
2. The Farmer has the right to dispute the information in the report if they believe there was an error or the report does not reflect the present condition on the farm. If there is a dispute the Farmer has 30 days from when they received the report to contact MDA in writing.
3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. This form

## **Certainty Agreement Inter-Family Transfer Form**

### **DESCRIPTION**

This Inter-Family transfer form will be used in the event that a current Certainty Agreement will be transferred from one family member to another.

### **PURPOSE**

The purpose of this form is to document the transfer of the Certainty Agreement. See below for details.

### **POLICIES**

1. This form can only be used for inter-family transfer of a current Certainty Agreement and must be sign by the original applicant or “The Estate”.
2. The eligible familiar relationships include; parent, spouse, child, sibling, grandchild, grandparent, step-parent, step-child, step-sibling, step-grandchild, or step-grandparent.
3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. This form

## **Certificate of Resolution (MDA Certainty Program)**

### **DESCRIPTION**

This Certificate of Resolution can be used for in Certainty Program to appoint an specific person to sign documents on behalf of an entity.

### **PURPOSE**

The purpose of this form is give signature authority to an individual to sign on behalf of an entity or organization.

### **POLICIES**

1. This form can only be used for the Certainty program.
2. The form cannot be used to give signature authority to an individual to sign on behalf of another individual. You must use a power of attorney (POA) for that purpose.
3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. This form



## **Certified Verifier Application**

### **DESCRIPTION**

This Verifiers application is use for requesting to become a Certified Verifier for the Certainty and Nutrient Trading Programs.

### **PURPOSE**

Qualified individuals meeting the basic requirements for becoming a verifier will use this application. All completed applications should be mail to MDA at the address listed below.

### **POLICIES**

1. This application should only be used if all three requirements have been met which include, Planner II or equivalent, NM Certificate, and NTT Certificate.
2. Please attach all required documentation before mailing to the address below.
3. Please mail all completed form to:

Maryland Department of Agriculture  
c/o Certainty Program Coordinator  
Room 307  
50 Harry S. Truman Parkway  
Annapolis, MD 21401

3. This form may be update periodically to reflect changes in the program, please refer to the MDA [\(LINK\)](#) webpage for the most recent version.
4. This form

## **SECTION III**

### **PROGRAM MANAGEMENT**

This program is based on having qualified individuals perform inspections and conduct thorough reviews of farming operations to certify that they are meeting the pollution reduction goals for the Bay Program. The qualified individuals must be certified by MDA that they meet the background and training requirements mandated by the Certainty Regulations. MDA has developed a training program and an application process to certify individuals that they meet the education, experience, training and continuing education requirements. These “Certified Verifiers” will be able to be used for the Certainty Program and for the MD Nutrient Trading Program. The qualification on becoming a Certainty Verifier is list below:

- Has 3 or more years experience developing SCWQPs or qualifies as a U.S. Department of Agriculture, Natural Resource Conservation Service, Conservation Planner level II;
- Is certified in Maryland to prepare NMPs; and
- Is certified in the use of the MNTT.

A verifier may remain certified only by completing at least 6 hours of Department approved training within the first year, and 12 hours thereafter for each 3-year certification period, as well as completing a training session on the use of any modified version of the MNTT within 6 months of the modification.

#### **Violation Guidelines**

The guidelines for violations are currently being developed based on the regulations and will be available in the near future.

## **SECTION IV**

### **APPENDIX**

Below are references for the Maryland Agricultural Certainty Program

<b>Reference</b>	<b>Pages</b>
Steps on Becoming a Certified Farm through the MD Agricultural Certainty Program	27
Certainty Regulations COMAR	28-43
Sample Certainty Agreement - In Development	44
MOU between MDA and MDE	45-49
Certainty Program Technical Committee - Membership	50
MDA Nutrient Management Specialist - Contact Information	51



## Steps to Becoming a Certified Farm through the Maryland Agricultural Certainty Program

- Step 1** Ask your local soil conservation district (SCD) or the Maryland Department of Agriculture (MDA) for a *Pre-Application and Eligibility Checklist*. Answer all questions and decide what type of review to request, **Full Certainty** or **Farm Evaluation Only**. You will receive an *Application and Farmer's Checklist* to begin the application process.
- Step 2** You will receive a letter from MDA within two weeks outlining eligibility determination and additional information about the type of review requested. Work with your Verifier to gather required documents.
- Step 3** Complete the *Application and Farmer's Checklist* and gather appropriate documents for your Verifier. The verifier will conduct a brief interview and discuss your current crop rotation, tillage, and fertilizer application.
- Step 4** Your Verifier will begin the following review process:
- A review of the Soil Conservation Water Quality Plan to verify that it is being implemented to address all nitrogen, phosphorus, and sediment issues.
  - A farm visit to review the operation.
  - The nutrient management specialist for your region will be contacted to conduct a Plan Implementation Evaluation. The specialist will contact you directly to set up the review.
  - The verifier will use the Maryland Nutrient Trading Tool to evaluate the parcel to ensure that it meets baseline requirements established by Maryland's Total Maximum Daily Load.
  - The verifier will submit a completed Certainty Report and accompanying documents to MDA for review and approval.
- Step 5** MDA reviews the verifier's report.
- *Full Certainty* - MDA notifies the Maryland Department of the Environment (MDE) if the operation requires a permit. MDE will either approve the operation for participation in the program or outline conditions that need to be addressed. MDE may require a field inspection.
  - *Farm Evaluation Only* - MDA will notify the farmer of the review results.
- Step 6** Once MDA receives MDE approval, it will complete the review and make a final determination.
- Step 7** MDA approves the operation to become a Certainty Certified Farm.
- The farmer and MDA sign the 10-year Certainty Agreement which includes inspections every three years and annual reporting requirements.
  - After 10 years, the operation must comply with any new regulations.

# **Title 15 DEPARTMENT OF AGRICULTURE**

## **Subtitle 20 SOIL AND WATER CONSERVATION**

### **Chapter 11 Maryland Agricultural Certainty Program**

**Authority: Agriculture Article, §§8-1001—8-1013, Annotated Code of Maryland**

#### **.01 Scope.**

A. This chapter establishes the requirements and standards to be met for agricultural operations to achieve voluntary certification under the Maryland Agricultural Certainty Program and the privileges and responsibilities that arise through certification.

B. The purpose of the Program is to accelerate the implementation of best management practices to meet State agricultural nitrogen, phosphorus, and sediment reduction goals.

C. This chapter also establishes a program for certifying professionals qualified to review and evaluate agricultural operations that apply or are enrolled in the Program.

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Agricultural Certainty”, “Certainty”, or “Program” means the Maryland Agricultural Certainty Program.

(2) “Agricultural operation” or “operation” means a business or activity where a person tills, crops, keeps, pastures, or produces an agricultural product, including livestock, poultry, plants, trees, sod, food, feed, or fiber by in-ground, out-of-ground, or other culture.

(3) “Agricultural sources of nitrogen, phosphorus, or sediment” means sources of nitrogen, phosphorus, or sediment that originate from an agricultural operation’s land or animals. This does not include sources of nitrogen, phosphorus, or sediment that originate from residential, municipal, industrial, or a commercial activity.

(4) “Best management practice” or “BMP” means a conservation or pollution control practice that manages soil loss due to farming practices or manages animal wastes or agricultural chemicals so as to minimize movement of nitrogen, phosphorus, and sediment into waters of the State.

- (5) “Certainty agreement” means a written agreement between the owner or operator of an agricultural operation and the Department, as provided under this chapter.
- (6) “Certified verifier” means an individual certified by the Department under this chapter to review, inspect, and evaluate conditions, records, and management of an operation for purposes of qualifying for and maintaining compliance with the Maryland Agricultural Certainty Program.
- (7) “Department” or “MDA” means Maryland Department of Agriculture.
- (8) “Department of the Environment” or “MDE” means the Maryland Department of the Environment.
- (9) “Farm parcel” means agricultural land that is separately described by deed or tax parcel.
- (10) “Holds an interest” means a person who:
- (a) Has any ownership interest or any other legal or equitable interest in an operation;
  - (b) Has any outside employment relationship with the owner or operator of the operation;  
or
  - (c) Has a relationship to the owner or operator of the agricultural operation as spouse, parent, child, sibling, grandchild, grandparent, step-parent, step-child, step-sibling, step-grandchild, or step-grandparent.
- (11) “Interfamily transfer” means a transfer of ownership or management of an operation between or among individuals who have a familial relationship including parent, spouse, child, sibling, grandchild, grandparent, step-parent, step-child, step-sibling, step-grandchild, or step-grandparent.
- (12) “Maryland Nutrient Tracking Tool” or “MNTT” means a Department-approved online platform with a performance-based calculation component that enables users to analyze agricultural parcels and their management to determine baseline compliance with the more stringent of the nutrient loading baselines outlined in either the Chesapeake Bay Total Maximum Daily Load (TMDL) for each watershed or the local TMDL that has been adopted for an impaired water body including Watershed Implementation Plan goals and any other nitrogen, phosphorus, and sediment control requirements. Through site- and operation-specific data inputs, the calculation component can generate multiple management scenarios and compute the nutrient reductions achieved by the application of agricultural best management practices.
- (13) “Nutrient management plan” or “NMP” means a plan that complies with the requirements of COMAR 15.20.07 and 15.20.08 that is prepared by a certified nutrient management consultant to manage the amount, placement, timing, and application of manure, fertilizer, biosolids, or other plant nutrients in order to:
- (a) Minimize nutrient loss or runoff; and

(b) Maintain the productivity of soil when growing agricultural products.

(14) “Person” means the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity, unless otherwise provided.

(15) “Soil conservation and water quality plan” or “SCWQP” means a farm plan approved by a local soil conservation district to minimize soil erosion and to minimize the movement of sediment, animal waste, nutrients, or agricultural chemicals into waters of the State.

(16) “Total maximum daily load” or “TMDL” means an estimate set in accordance with Clean Water Act requirements which establishes the amount of a particular pollutant, in this case nitrogen, phosphorus, or sediment inputs, that a water body can assimilate and still meet water quality standards.

(17) “Watershed Implementation Plan” or “WIP” means a plan required by the U.S. Environmental Protection Agency for achieving the pollution reduction goals and allocations necessary in implementing the Chesapeake Bay TMDL.

### **.03 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) in COMAR 26.08.01.01B or any operation in the process of applying for a CAFO permit is not eligible for certification under the Program.

### **.04 Certification Process — Agricultural Certainty.**

A. A person who applies for certification for an operation shall submit to the Department the following:

(1) An application on a Department form that includes a farm parcel in its entirety but need not include all farm parcels under the applicant’s management;

(2) Documentation from the local soil conservation district that the current SCWQP for the operation is fully implemented to address all soil conservation and water quality issues;

(3) A map identifying the location and boundaries of the operation showing field identification numbers and location of BMPs;

(4) A current NMP that is fully implemented and is developed for the operation in accordance with regulations adopted by the Department; and

(5) A report from a certified verifier engaged by the applicant that contains the information specified in §B of this regulation.

B. A certified verifier who complies with §C of this regulation and is engaged by the owner or operator of an operation to prepare a certified report in support of an application under §A of this regulation shall:

(1) Inspect the operation before making the report;

(2) Review all relevant records, including but not limited to those provided in §A of this regulation; and

(3) Prepare a report on a Department form, supplemented by the verifier, that confirms the following:

(a) The SCWQP provided by the applicant for the operation is being fully implemented and addresses all nitrogen, phosphorus, and sediment runoff issues on the operation;

(b) The NMP provided by the applicant for the operation is being implemented in accordance with applicable Department regulations COMAR 15.20.07 and 15.20.08;

(c) The agricultural management and BMPs implemented on the operation which enable that operation to meet the approved local or Chesapeake Bay TMDL baseline requirements as determined by an analysis using the MNTT; and

(d) No deficiencies exist and no corrective measures are needed on the operation.

C. A person who holds an interest in an operation may not act as a certified verifier for that operation.

D. Prior to approving an application for certification under the Program, the Department:

(1) Shall review the application and information submitted to assure that it is complete, true, and accurate and notify the applicant of any deficiencies;

(2) Shall notify MDE by providing a copy of the application or any portion of the application as requested by MDE, after receipt of which MDE shall advise the Department if:

(a) The operation holds or has applied for a permit from MDE;

(b) MDE will participate in an inspection of the operation, with the verifier if requested by MDE; and



(c) Either:

(i) MDE approves the operation, if the operation holds or has applied for a permit from MDE, for participation in the Program; or

(ii) Any conditions are required to be satisfied by the operation, if the operation holds or has applied for a permit from MDE, before MDE would approve the operation for participation in the Program;

(3) Shall determine the compliance status of the operation and applicant with all the Department's laws, regulations, and permit conditions applicable to nitrogen, phosphorus, and sediment;

(4) Shall review information submitted by the certified verifier to assure that it meets the requirements set forth in this chapter;

(5) May inspect the operation, with the verifier if requested by the Department, and request records pertaining to the SCWQP, NMP or management otherwise related to addressing nitrogen, phosphorus, and sediment issues on the operation in order to verify the application; and

(6) Shall retain as required by law the application, information, and records in a manner that protects its confidentiality prior to certification and retain all records and information in a manner that protects the identity of the person applying in perpetuity.

E. A certification may be approved if the Department determines that an operation:

(1) Meets the laws, regulations, rules, and permit conditions applicable to the operation at the time of certification;

(2) Has no outstanding conditions resulting in movement of nitrogen, phosphorus, or sediment that impacts water quality;

(3) Receives approval from MDE if the operation is permitted or has an application submitted to be permitted by MDE;

(4) Is managed under a current SCWQP that fully implements BMPs to address all nitrogen, phosphorus, and sediment runoff on the operation;

(5) Manages fertility using a current NMP fully implemented in accordance with COMAR 15.20.07 and 15.20.08;

(6) Is in compliance with all State and federal laws, regulations, and permit conditions related to agricultural sources of nitrogen, phosphorus, and sediment on the operation;

(7) Meets the agricultural nitrogen, phosphorus, and sediment reduction thresholds required for achieving the local and Chesapeake Bay TMDLs approved by the U.S. Environmental Protection Agency at the time of certification as determined by MNTT; and

**PAGE 5**

(8) Enters into the Certainty agreement required under §F of this regulation.

F. The person responsible for the management of an operation approved for the Program shall enter into a Certainty agreement with the Department identifying requirements for maintaining the certification including:

- (1) Continued compliance with applicable local, State, and federal laws, regulations, and permit requirements pertaining to nitrogen, phosphorus, and sediment control;
- (2) Maintenance and full implementation of a current NMP;
- (3) Maintenance of BMPs that address nitrogen, phosphorus, and sediment control, and are part of the SCWQP and any other BMPs necessary to achieve certification;
- (4) Meeting record-keeping and annual reporting requirements;
- (5) Agreeing to site reviews and inspection of records at least once every 3 years to verify current conditions on the operation and compliance with certification requirements and recognizing that the Department reserves the right to inspect more frequently if it determines a need;
- (6) Agreeing to notify the Department no later than 60 days prior to any change in the owner or operator;
- (7) Agreeing to notify the Department as soon as practicable, but in any case no later than 60 days after the occurrence of any condition or event which would impact the certification under the Program, including but not limited to property title transfers or changes in the operation, pursuant to Regulation .05A(2) of this chapter, that result in or increase nitrogen, phosphorus, or sediment runoff or change adherence to TMDL baseload; and
- (8) Agreeing to address within a time frame established by the Department, after concurrence by MDE, any nitrogen, phosphorus, or sediment runoff problem arising on a certified operation during the certification period through no fault of the operator.

## **.05 Agricultural Certainty Certification — General Requirements.**

A. Unless suspended or revoked, a certification remains in effect for a 10-year period following approval by the Department if:

- (1) The operation remains in compliance with the Certainty agreement set forth in Regulation .04F of this chapter and all other requirements of the Program under this chapter; and
- (2) There are no changes to the operation, including no change in the:
  - (a) Operator with the exception of an interfamily transfer;
  - (b) Owner when it results in a change in the operator;

(c) Average annual number of animal units of 10 percent or greater; or

(d) Operation resulting in the operation being ineligible for the Program.

B. An operator who has any of the changes identified in Regulation .04F(7) or Regulation .05A(2) of this chapter shall notify the Department within 60 days and:

(1) Execute an agreement with the Department to bring the operation into compliance to meet certification requirements;

(2) Reapply for certification; and

(3) Terminate the Certainty agreement.

C. For changes in the operation that would not result in suspension of certification under this chapter, including rotation of crops, implementation of additional BMPs, or other changes that receive prior approval by MDA provided they do not exceed the allowable TMDL threshold for the operation, MDA may:

(1) Approve changes not deemed significant; and

(2) Require documentation be provided by a new MNTT analysis verifying TMDL thresholds continue to be met.

D. When nitrogen, phosphorus, or sediment runoff conditions arise as a result of natural causes, such as severe weather events, which are not within the control of the operator of the operation:

(1) The certification holder shall provide notice within 60 days to the Department describing the condition;

(2) The Department will coordinate a site inspection with MDE and may assign a certified verifier to conduct a site inspection; and

(3) Following a Department review, the Department, with concurrence from MDE, shall:

(a) Allow continuation under the Program if a repair, correction, or installation of additional BMPs to address the nitrogen, phosphorus, or sediment runoff is accomplished within a reasonably expeditious time frame identified by an agreement executed with the Department; or

(b) Suspend certification if the Department finds the condition arose due to mismanagement, lack of maintenance, or the failure of the operator of the operation to provide notice to the Department within 60 days.

E. Following the site inspection that takes place nearest to year 9 during the 10-year certification period, the operator shall take steps to address compliance issues with any new local, State, or federal law,

regulation, or requirement that took effect during the Certainty agreement period.

F. After each review conducted at the direction of MDA under Regulation .06D of this chapter, the certified verifier shall list on a Department form and orally explain to the certification holder any current or proposed laws that will require changes to the operation before the 10-year completion of the Program.

G. At the expiration of the certification, an operation shall be in compliance with all laws, regulations, or permit requirements relating to nitrogen, phosphorus, and sediment runoff control that are in effect at that time.

H. An operation certified under Regulation .04 of this chapter may apply and qualify for recertification if:

- (1) The application and information required under Regulation .04A of this chapter reflect current conditions as submitted to the Department;
- (2) All the requirements in Regulation .04 of this chapter are met; and
- (3) MDE approves the recertification if an operation is permitted or has a permit pending with MDE.

I. An operation that is certified:

- (1) Except as provided in §I(2) and (3) of this regulation, is not subject during its 10-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;
- (2) Is not protected from enforcement or corrective actions related to water quality impacts or violations; and
- (3) Is not protected from the application or enforcement of any other laws, regulations or permits, including the following:
  - (a) Corrective actions issued under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, which addresses, for example, water pollution abatement;
  - (b) Environment Article, Title 5, Annotated Code of Maryland, which addresses, for example, water resource management including flood control and water appropriations;
  - (c) Environment Article, Title 9, Subtitle 2, Annotated Code of Maryland, which addresses, for example, water supply systems, sewage systems, refuse disposal, and sewage sludge;

- (d) Environment Article, Title 9, Subtitle 3, Annotated Code of Maryland, which addresses, for example, discharge permits;
- (e) Environment Article, Title 16, Annotated Code of Maryland, which addresses, for example, wetland protection programs;
- (f) Natural Resources Article, Title 8, Subtitle 18, Annotated Code of Maryland, which addresses, for example, land use and protections in the Atlantic Coastal and Chesapeake Bays Critical Area;
- (g) Growth tier maps adopted by a local jurisdiction under Land Use Article Title 1, Subtitle 5, Annotated Code of Maryland;
- (h) Any State or local law or regulation that regulates the development of land;
- (i) The federal Clean Water Act;
- (j) 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
- (k) Any applicable laws enacted or regulations adopted prior to certification that are subject to a delayed implementation period.

## **.06 Verification.**

A. The applicant shall employ a certified verifier who does not hold an interest in the agricultural operation, as defined by this chapter, in order to apply to the Program.

B. A certified verifier shall provide the following to the Department for the applicant's application:

- (1) Information as required on a Department form;
- (2) A map delineating the boundaries of the operation and showing field identification numbers and locations of BMPs on site; and
- (3) Information following an inspection and review of records for an operation applying for a Certainty agreement including:
  - (a) Review of the NMP and documentation of any outstanding issues;
  - (b) Review of the SCWQP and documentation that it:
    - (i) Is fully implemented to address nitrogen, phosphorus, and sediment runoff; or

(ii) Fails to address any conditions causing movement of nitrogen, phosphorus, and sediment that are impacting water quality;

(c) A farm summary showing outcomes of the MNTT assessment and an operation's status in meeting the Chesapeake Bay or local TMDL; and

(d) Any additional BMPs implemented to meet the nitrogen, phosphorus, or sediment thresholds required by the local or Chesapeake Bay TMDL for the watershed in which the operation exists.

C. As required by law, the verifier shall keep confidential information that is collected and submitted to the Department as a result of the verification for the Certainty certification.

D. Reviews.

(1) The Department shall schedule site reviews and inspection of records at least once every 3 years for each certified operation under the Program to verify current conditions on the operation and compliance with Certainty agreement requirements.

(2) The Department shall notify MDE of operations that are to have site reviews conducted and provide copies of the verifier's report of interim site reviews.

(3) The Department shall assign a certified verifier who:

(a) Meets qualifications set forth in Regulation .07 of this chapter;

(b) Does not hold an interest in the certified operation; and

(c) Is not the same individual who conducted the verification of the operation at the time of application.

(4) Certified verifiers assigned by the Department to conduct interim inspections and reviews shall:

(a) Contact the operator in advance of the inspection to make an appointment so the operator or his representative can be present and have records available for the review;

(b) Present a photo identification at the time of the inspection as proof of credentials; and

(c) Adhere to all biosecurity and other measures necessary to protect health and safety at the operation.

(5) Information collected and submitted as a result of the inspection shall be maintained by the verifier and the Department, as required by law, in a manner that protects the identity of the person who holds the certification for the operation.

(6) An operator shall receive a copy of the report prepared by the verifier conducting a review and inspection of records within 30 days and:

(a) May dispute information in the report that the operator believes is in error or does not accurately represent the condition or management of the operation; and

(b) May address any concerns about the verification report in writing with the Department and copy the verifier within 30 days of receiving a copy of the report.

(7) The Department may conduct an investigation that may include additional inspections to determine the actual condition and management of the operation.

#### E. Documentation Required by Verifiers.

(1) The certified verifier shall provide a certified report within 30 days of the interim site review and inspection to the Department as required on a Department form that includes:

(a) A map providing the boundaries of the agricultural operation that shows field numbers and the locations of any BMPs on site;

(b) A review of the NMP and implementation records to assure the plan is in accordance with COMAR 15.20.07 and 15.20.08 and is being fully implemented and documentation of any outstanding issues and necessary corrections; and

(c) Either:

(i) A review of the SCWQP and documentation that it is implemented and that it addresses all nitrogen, phosphorus, and sediment runoff issues; or

(ii) A documentation of site evaluation and any nitrogen, phosphorus, and sediment runoff issues that are outstanding or require correction, including necessary BMP maintenance.

(2) At each review the certified verifier shall provide the operator of the operation with information concerning any applicable new laws, regulations, or requirements that have become effective since the operation's Certainty agreement and that will need to be addressed at the end of the 10-year Certainty agreement period.

#### F. Department Certainty Agreement Compliance Requirements.

(1) The Department shall determine whether an operation is in compliance with all State water quality programs in effect when the Certainty agreement was signed pertaining to nitrogen, phosphorus, and sediment, and review information submitted from the verifier to ascertain compliance with the Certainty agreement.

(2) The Department shall notify and provide information received from the verifier to MDE. MDE may seek additional information to assure compliance with laws, regulations, permits, or other requirements administered by MDE, including a site visit if needed and in coordination with the Department.

(3) The Department may take the following actions based on the outcome of any inspections or the report of the verifier:

- (a) Determine if an operation is in compliance with the Certainty agreement;
- (b) Corroborate any conditions identified as a violation of the Certainty agreement;
- (c) Corroborate any conditions creating nitrogen, phosphorus, or sediment runoff and determine, in concurrence with MDE, whether they:

- (i) Occurred through any fault of the operator; and

- (ii) Can be corrected in a timely manner under a written agreement with the operator; or

- (d) Address any failure to comply with any of the conditions described in Regulation .04E of this chapter or in the Certainty agreement as follows:

- (i) Provide a time frame for the operator to come into compliance as a condition of retaining any existing Certainty agreement;

- (ii) Require the operator to apply for a new Certainty certification without penalty when changes to the operation have occurred; or

- (iii) After an opportunity for a hearing, revoke or suspend the certification.

## **.07 Verifier Certification Program.**

A. An individual may not be certified or act as a certified verifier as provided by this chapter unless the individual meets the following requirements to be established by the Department:

- (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 U.S. Department of Agriculture, Natural Resource Conservation Service, Conservation 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 remain certified only by completing at least 6 hours of Department approved training within the first year, and 12 hours thereafter for each 3-year certification period, as well as completing a training session on the use of any modified version of the MNTT within 6 months of the modification.

## **.08 Record-Keeping and Reporting Requirements.**

A. A person who manages an operation certified under the Program shall submit annually to the Department on or before March 1, information for the previous calendar year, as follows:

(1) A Department reporting form that includes the person's signed certification that the operation has been managed in accordance with the Certainty agreement and will continue to be so managed during the upcoming calendar year;

(2) Current NMP records including soil analysis within the last 3 years for land receiving nutrients, fertility recommendations for crops produced, nutrients applied by source and crop type, and a map identifying the location and boundaries of the operation showing field identification numbers and location of BMPs; and

(3) SCWQP records related to implementation of any additional BMPs during the reporting period.

B. A person who operates an operation certified under the Program shall keep the following records:

(1) All NMPs and records used to manage soil fertility during the certification period and for 3 years following the termination of any certification; and

(2) The SCWQP for the operation and any updates, information, or documentation that addresses plan implementation or installation of additional BMPs during the certification period and for 3 years following the termination of any certification.

C. Public Access to Program Information.

(1) As required by law all records concerning any agricultural operation shall be maintained by the Department and shall be made available for public review, in a manner that provides the greatest public disclosure of records and information, after the Department redacts records to protect the identity of the person to whom the record or information relates.

(2) The Maryland Public Information Act applies to any request for records.

D. Annual Reporting.

(1) The Department shall submit an annual report to the Governor, the Senate Education, Health, and Environmental Affairs Committee, and the House Environmental Matters Committee on or

before December 31, beginning in 2014.

(2) The annual report shall include:

- (a) Acres of agricultural land certified under the program and presented by county and watershed at a scale consistent with that applied by the MNTT;
- (b) Presentation of information to protect the identity of the certified agricultural operator in accordance with the requirements of the law; and
- (c) Recommendations of the Oversight Committee.

## **.09 Denial, Suspension, or Revocation of Certificate.**

A. Certification of Operations.

(1) After the opportunity for a hearing, the Department may deny, suspend, or revoke the certification of any person who:

- (a) No longer meets the eligibility requirements of the Program;
- (b) Violates any of the regulatory requirements of this chapter;
- (c) Provides misleading, false, or fraudulent information in applying for a certification;
- (d) Provides the Department with any misleading, false, or fraudulent report;
- (e) Fails to promptly provide any report or to allow the Department access to inspect any operation certified under the Program or any record required to be kept by this chapter;
- (f) Fails to comply with Certainty agreement for the operation; or
- (g) Performs any action or fails to act in such a manner that the Department determines provides other good cause to deny, suspend, or revoke the certification.

(2) The Department shall give notice and hold hearings in accordance with the Administrative Procedure Act.

(3) The Department may consider the following when assessing whether suspension or revocation is warranted:

- (a) The willfulness of the violation;
- (b) The extent to which the existence of the violation was known to the violator, but uncorrected by the person;

- (c) The extent to which the person exercised reasonable care;
- (d) Any actual harm to human health or to the environment or the natural resources of the State;
- (e) The available technology and economic reasonableness of controlling, reducing, or eliminating the violation; and
- (f) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the person.

**B. Certification of Verifiers.**

(1) After the opportunity for a hearing, the Department may deny, suspend, or revoke the certification of any verifier who:

- (a) No longer meets the eligibility requirements of the Program;
- (b) Violates any of the regulatory requirements of this chapter;
- (c) Provides the Department with any misleading, false, or fraudulent report;
- (d) Fails to promptly provide any report or any record required to be kept by this chapter;
- (e) Fails to adhere to confidentiality requirements required by this chapter;
- (f) Fails to meet continuing education requirements for verifiers;
- (g) Is determined to be negligent or incompetent; or
- (h) Performs any action or fails to act in such a manner that the Department determines provides other good cause to deny, suspend, or revoke the certification.

(2) The Department shall give notice and an opportunity to be heard in accordance with the Administrative Procedure Act.

(3) The Department may consider the following when assessing whether suspension or revocation is warranted:

- (a) The willfulness of the violation;
- (b) The extent to which the existence of the violation was known to the violator, but uncorrected by the person;
- (c) The extent to which the person exercised reasonable care; and

(d) Any actual harm to human health or to the environment or the natural resources of the State.

## **.10 Agricultural Certainty Oversight Committee.**

A. There is an Agricultural Certainty Oversight Committee. The responsibility of the Oversight Committee includes:

- (1) Assisting in the development of regulations that govern the Program;
- (2) Monitoring and providing oversight on the development and implementation of policies and standards relating to the Program;
- (3) Evaluating performance of the Program and making recommendations for improvements to the Program based on information provided by the Department; and
- (4) Reviewing the draft annual report and other information to make recommendations.

B. The Oversight Committee meets when necessary to provide recommendations for developing regulations for the Program and thereafter a minimum of once a year to carry out its responsibilities.

**Sample Certainty Agreement**

**~ In Development ~**

## Certainty Program Technical Committee

### Membership

<p><b>Ridgway Hall</b> <i>Attorney</i> Washington, D.C.</p>	<p><b>Paul Spies</b> <i>Chester River Association</i> Talbot County</p>
<p><b>Trey Hill</b> <i>Farmer</i> Kent County</p>	<p><b>Robert Stabler</b> <i>Farmer</i> Montgomery County</p>
<p><b>Lynne Hoot</b> <i>Maryland Grain Producers Association</i> Anne Arundel County</p>	<p><b>Wayne Stafford</b> <i>Cecil County Farm Bureau</i> Cecil County</p>
<p><b>David Kann</b> <i>Crop Consultant</i> AET Dover, PA</p>	<p><b>Ann Swanson</b> <i>Chesapeake Bay Commission</i></p>
<p><b>Drew Koslow</b> <i>Choptank Riverkeeper</i> Talbot County</p>	<p><b>Government representatives:</b></p>
<p><b>Wes Messick,</b> <i>Dorchester County Soil Conservation District</i> <i>Chairman</i></p>	<p><b>Kelly Shenk</b> <i>Agriculture Advisor</i> U.S. Environmental Protection Agency Chesapeake Bay Program</p>
<p><b>Doug Myers</b> <i>Chesapeake Bay Foundation</i></p>	<p><b>Horacio Tablada</b> <i>Director</i> <i>Land Management Administration</i> Maryland Department of Environment</p>
<p><b>Judith Marie O’Neil</b> <i>University of Maryland Center for Environmental</i> <i>Science</i></p>	<p><b>Royden N. Powell, III</b> <i>Assistant Secretary</i> <i>Office of Resource Conservation</i> <i>Maryland Department of Agriculture</i></p>
<p><b>Steuart Pittman</b> <i>Dodon Farm Training Center</i> Anne Arundel County</p>	<p><b>Louise Lawrence</b> <i>Chief</i> <i>Office of Resource Conservation</i> <i>Maryland Department of Agriculture</i></p>
<p><b>James Raley</b> <i>Valentine’s Delight Farm</i> St. Mary’s County</p>	
<p><b>Denny Remsburg</b> <i>Frederick/Catoctin Soil Conservation District</i> <i>Manager</i> Frederick County</p>	

December 2014

## MDA Nutrient Management Specialist - Contact Information

<p><b>Garrett, Allegany, Washington</b></p> <p>12407 Naves Cross Road, NE, Rm. 10 Cumberland, MD 21502 Keith Potter 301-777-1747 x 3 <a href="mailto:keith.potter@maryland.gov">keith.potter@maryland.gov</a></p>	<p><b>Baltimore, Harford, Cecil</b></p> <p>19 Newport Dr. Suite #106 Forest Hill, MD 21050 Darren Alles 410-838-6181 x118 <a href="mailto:darren.alles@maryland.gov">darren.alles@maryland.gov</a></p>
<p><b>Frederick, Montgomery, Carroll, Howard</b></p> <p>92 Thomas Johnson Dr #110 Frederick, MD 21702 Bryan Harris 301-694-9290, x136 <a href="mailto:bryan.harris@maryland.gov">bryan.harris@maryland.gov</a></p>	<p><b>Kent, Queen Anne's, Talbot</b></p> <p>28577 Mary's Ct. Suite 4 Easton, MD 21601 Howard Callahan 410-822-8126 <a href="mailto:howard.callahan@maryland.gov">howard.callahan@maryland.gov</a></p>
<p><b>Anne Arundel, Prince George's</b></p> <p>50 Harry S. Truman Pkwy, #201 Annapolis, MD 21401 Adam Lyon 410-841-5958 <a href="mailto:adam.lyon@maryland.gov">adam.lyon@maryland.gov</a></p>	<p><b>Caroline, Dorchester</b></p> <p>28577 Mary's Ct. Suite 4 Easton, MD 21601 Dan Schwaninger 410-822-8120 <a href="mailto:dan.schwaninger@maryland.gov">dan.schwaninger@maryland.gov</a></p>
<p><b>Charles, Calvert, St. Mary's</b></p> <p>26737 Radio Station Way, Ste B, Leonardtown, MD 20650 Weylin Anderson 301-475-8402 x122 <a href="mailto:weylin.anderson@maryland.gov">weylin.anderson@maryland.gov</a></p>	<p><b>Somerset, Wicomico, Worcester</b></p> <p>27722 Nanticoke Rd #2 Salisbury, MD 21801 Steve Dorsey 410-677-0802 x4 <a href="mailto:steven.dorsey@maryland.gov">steven.dorsey@maryland.gov</a></p>