



# Key Information for Broader Programmatic Discussion:

*The Verification Framework and 1619  
Agreements*

Vanessa Van Note, June 11, 2021

# Presentation Contents

1. *Why, Who, What of the Framework Document*
2. *Defining key terms – lifespan and credit duration*
3. *What the verification framework says about 1619*
4. *Continued discussion from last month*

## **Strengthening Verification of Best Management Practices Implemented in the Chesapeake Bay Watershed: A Basinwide Framework**

Report and Documentation from the Chesapeake Bay Program  
Water Quality Goal Implementation Team's  
BMP Verification Committee  
October 2014



# Framework Basics - Why

## A Practice Accountability System

*(pg 1 of Basinwide Framework).*

- Calls for accountability (assurance that BMPs are working and continuing to work properly) from:
  - CEC, CAC, STAC, USDA 2011 CEAP Report, National Academy of Sciences, Federal Executive Order
  - Demanded **improvements in the transparency and scientific rigor** of the Bay Program's efforts.
- **Improperly installed or functioning practices** do little to mitigate the effects that runoff of nutrients and sediment.
- **Properly installed practices** reduce local flooding, protect sources of drinking water, ensure against the collapse of stream banks, and support local economies through the return of clean water and viable habitats suitable for recreational activities.

*More in-depth documented history located in [BMP Verification History PPT](#) or pg 2 of Framework.*

*[Information from pg 1 of Basinwide Framework.](#)*

# Framework Basics - Who

Group	Meeting Period	# of CBP Sponsored Verification Meetings
BMP Verification Committee	2012-2014	15
BMP Verification Review Panel	2012-2014	10
WQGIT	2009-2014	20
Habitat GIT	2012	1
AgWG	2012-2014	30
FWG	2012-2013	6
USWG	2011-2014	8
WWTWG	2012-2014	9
Wetlands Action Team	2013	1
STAC	2012-2014	5
CAC	2011-2014	4
LGAC	2012-2014	3
Management Board	2012 – 2014	9
PSC	2012-2014	4

[Information from Appendix N of the Basinwide Framework.](#)

These groups encompass [the “Bay Program Partners” in the Framework.](#)  
 -> Individuals involved are listed within Appendix K of the Basinwide Framework.

# Framework Basics – What

## What is Verification?

- “process through which agency partners ensure practices, treatments, and technologies resulting in reductions of nitrogen, phosphorus, and/or sediment pollutant loads are implemented and operating correctly.”

*[\(As defined by the Bay Program Partners on pg. i of the Basinwide Framework\)](#)*

- This is the formal definition of verification.

# Framework Basics - What

<i>Framework Element</i>	<i>Documentation Location</i>
BMP Verification Principles	Section 2, Appendix A
BMP Verification Review Panel	Sections 2, 4, Appendix C
Source sector and habitat specific BMP verification guidance	Section 2, Appendix B
Practice life spans	Sections 2, 4, Appendix D
Ensuring full access to federal cost-shared agricultural conservation practice data	Sections 2, 3, 4 Appendices E, F
Enhance data collection and reporting of federally cost-shared practices	Section 2, Appendices F, G
Accounting for non-cost-shared practices	Sections 2, 3, Appendix H
Preventing double counting	Sections 2, 3, Appendix F
Clean-up of historic BMP databases	Sections 2, 3, 4
Development and documentation of jurisdictional BMP verification programs	Sections 2, 3, 4
Partnership processes for evaluation and oversight	Sections 2, 4
Communications and outreach	Sections 2, 4, Appendix I

*(As defined by the Bay Program Partners on pg. 10 of Section 2 of the Basinwide Framework)*

# Framework Basics - What

**Let's dig deeper –**

*The framework is defined by “12 elements with four key components”:*

1. Five **BMP verification principles.**
2. **BMP Verification Guidance**
3. Jurisdictions' enhanced **BMP tracking, verification, and reporting programs.**
4. The Bay Program's commitments to **ongoing evaluation and oversight.**

[\(As defined by the Bay Program Partners on pg. i of the Basinwide Framework\)](#)

# Framework Basics - What

## 1. The BMP Verification Principles:

- 1) Practice Reporting
- 2) Scientific Rigor
- 3) Public Confidence
- 4) Adaptive Management
- 5) Sector Equity

*(Established by the BMP Verification Committee with input from BMP Verification Review Panel, Water Quality Goal Implementation Team, and Management Board, and approval by the Principals' Staff Committee in 2012)*

- Adopted to recognize the need for internal, organizational changes and enhancements that will create consistency in efforts across the watershed *(pg. i)*



# Framework Basics - What

## 2. BMP Verification Guidance from source sector and habitat workgroups:

- 1) Agriculture
- 2) Forestry
- 3) Urban Stormwater
- 4) Wastewater
- 4) Wetlands
- 5) Stream Restoration

### Appendix B

#### Source Sector and Habitat Specific BMP Verification Guidance

#### Chesapeake Bay Program Agriculture Workgroup's Agricultural BMP Verification Guidance

##### PROLOGUE: CRITICAL OVERARCHING ISSUES

In developing this verification guidance for agricultural practices, the Agricultural Work Group wrestled with a host of complicated and sometimes competing interests and perspectives. In completing the guidance, the Work Group concluded that three critical overarching issues warranted future consideration by entities other than the Work Group.

*Critical Overarching Issue One: Revisiting of the Guidance's "Less than 5%" Criteria*

### Appendix B

#### Urban Stormwater BMP Verification Guidance

#### Chesapeake Bay Program Urban Stormwater Workgroup's BMP Verification Guidance

This section describes guidance on how to verify the performance of urban BMPs in the Bay watershed, and is organized into eight parts:

1. The Need for BMP Verification and the Chesapeake Bay Program partners' Process to Define it.
2. Key Verification Definitions
3. Background on Urban BMP Verification

# Framework Basics - What

## 3. The BMP Verification Review Panel's recommendations for the jurisdictions' enhanced BMP tracking, verification, and reporting programs.

- Choosing level of BMP verification based on the relative importance of a specific practice to achieving the jurisdiction's WIP.
- Grouping the hundreds of BMPs they be tracking and reporting into categories that make sense for each jurisdiction and then develop and document the appropriate protocols and procedures followed for each logical grouping of BMPs.
- Structuring verification programs to carry out an initial inspection for answering the question "is the BMP there?" and then follow-up checks carried out at the appropriate frequency to answer the question "is the BMP still there and operating?" throughout the lifespan of the practice.
- Having written procedures in place for assuring the quality of the BMP data for which the jurisdictions are now accountable for.

*(pg. iii of Basinwide Framework)*

# Framework Basics - What

## 4. The Bay Program's commitments to ongoing evaluation and oversight.

- Amending CBP BMP protocol and grant guidance to address BMP verification
- Annual reviews of progress data submissions to confirm verification of each submitted practice
- Annual reviews of the jurisdictions' QAPP by EPA
- Periodic audits of the jurisdictions' verification programs by EPA.

*(pg. iii of Basinwide Framework)*

# Framework Basics - What

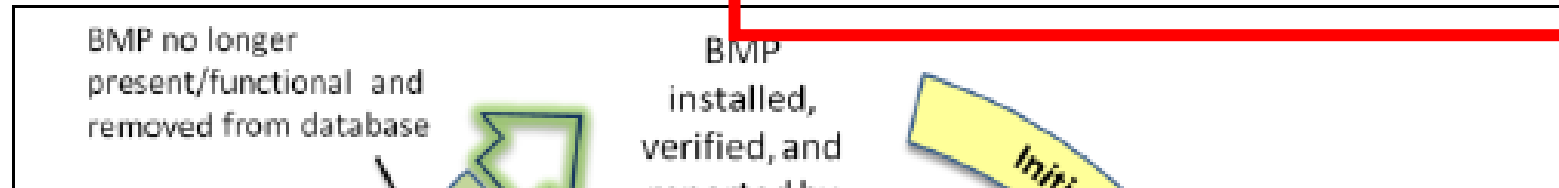
## Key Phases for Verification

1. BMP installation (year 1) – States Report BMP Implementation Date
2. Post-BMP implementation/installation while under a contract (state or federal cost share program) or regulatory oversight (state/federal permit)
  - Exam **Key Term = Regulatory Oversight** ts.
3. Post-BMP implementation/installation after the contract expires and/or regulatory oversight ends
  - A State is responsible for reverifying the practice and reports accomplished through enhancing existing regulatory and perm **Key Term = Regulatory Oversight** programs.

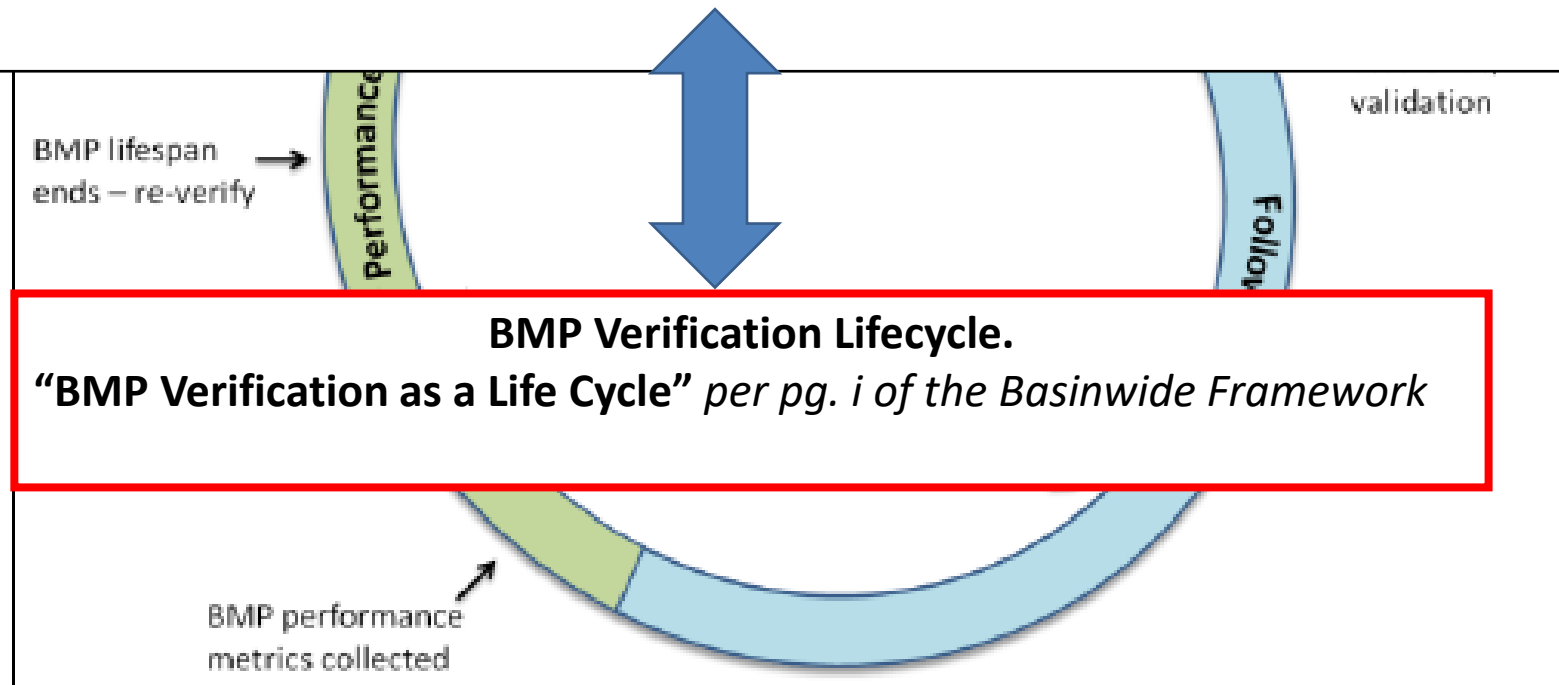
*(As defined by the Bay Program Partners on pg. 4 of Appendix O of the Basinwide Framework)*

# So, What is this?

**Figure 1. Illustration of the BMP Verification Life Cycle**



**Verification Formal Definition** = “process through which agency partners ensure practices, treatments, and technologies resulting in reductions of nitrogen, phosphorus, and/or sediment pollutant loads are implemented and operating correctly.”



# BMP Verification as a Life Cycle

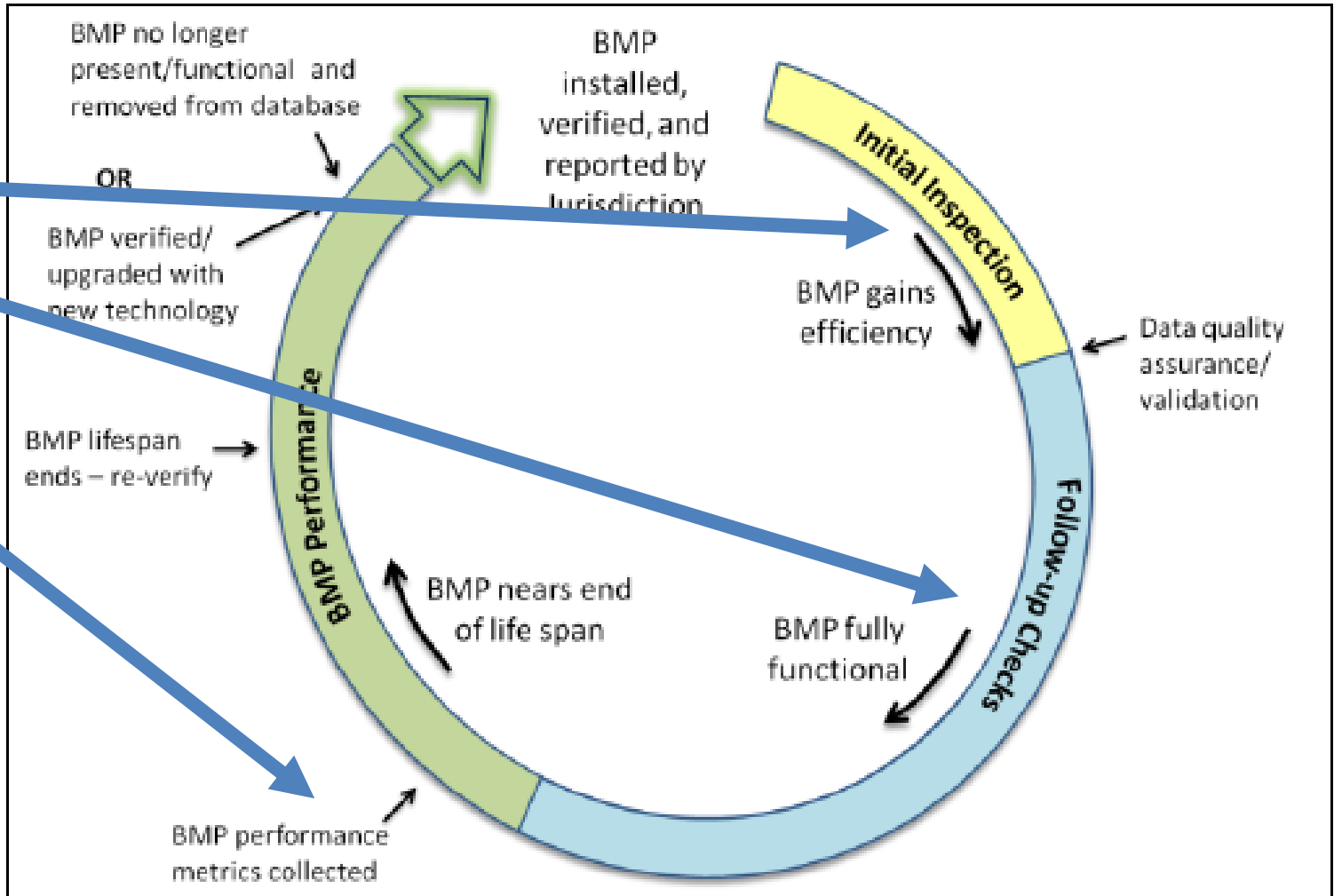
**Figure 1. Illustration of the BMP Verification Life Cycle**

Step 1: "Is the BMP There?"

Step 2: "Is the BMP still operating correctly?"

Step 3: "Systematic Data Collection" or  
Performance Outcomes

[Please see the BMP Verification Webpage for  
More information.](#)



# BMP Life Span (as Defined by the Verification Framework)

What do these descriptions sound like?

- Lifespan used interchangeably with **expiration date** (Section 2, pg 12)
- **What falls under BMP lifespan?** (Section 2, pg 12)
  - Contractual life span
  - Permit life span (Regulatory life span)
  - Engineering design life span (Functional life span – How long can the practice exist for its expected purpose?)
    - The “and functioning” portion of the “verifying practices are ‘still there and functioning’” statement
  - Actual life span (Physical Life Span – How long can the practice exist on the landscape?)
    - The “Still there” portion of the “verifying practices are ‘still there and functioning’” statement
- The **“time they [practices] must be re-verified or be removed** from the data submitted for crediting” (Responsibility of lead workgroups for future BMP expert panels; Section 2, pg 12)
- To **“sunset specific reported practices which have gone beyond their lifespan and have not received the level of required re-verification after the designated lifespan”**. (Responsibility of source sector workgroups; Section 2, pg 12)
- Develop **“(NEIEN)-based BMP reporting system specifically addressing the issue of practice lifespan**. This includes building in a system for flagging reported practices which are past their established life spans, and confirmation there was follow up re-verification of their continued presence and functionality or removal from the data submitted for crediting. (Responsibility of WTWG; Section 2, pg 12)

Credit Duration

# What is Credit Duration?

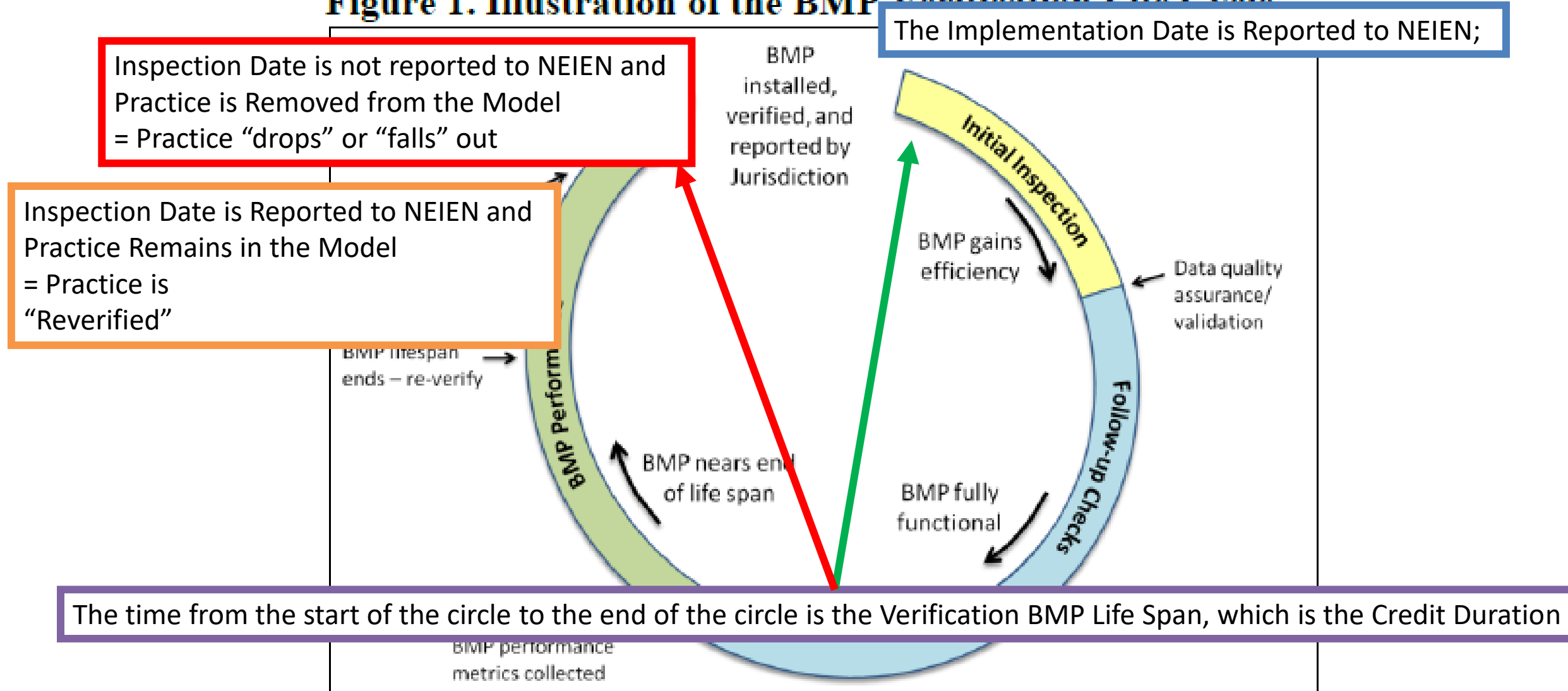
- The maximum amount of time a practice can remain in the model after initial implementation or reinspection date without an inspection date being reported to the Bay Program.
- **For Ag BMPs:** “BMP credit duration periods were primarily based on federal and state BMP contractual lifespans when specific BMP lifespans were not specified from BMP expert panel reports or existing modeling structure requirements.” (*May 21, 2015 AgWG Decision*)
  - Reporting the inspection date on Ag BMPs tells the Bay Program that the **regulatory oversight** is in place for the practice to remain in the model

Ex. The State inspection program has taken over the *regulatory oversight* of a practice from the expired NRCS Contract.



# Let's break it down:

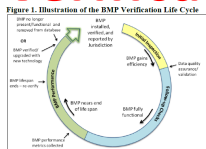
**Figure 1. Illustration of the BMP Verification Life Cycle**



# Ag Credit Duration ≠ Functional BMP Lifespan ≠ Actual Lifespan

- Where does the confusion come in?

- From the *BMP Verification Review Panel Summary* on pg 2 of Appendix O, “Establish **practice life spans** and use within the workgroup’s verification guidance”.
- From Section 2 (pg. 12) of the *Basinwide Framework*, “Within a BMP verification context, the Bay Program partners are focused on the **functional life span** of a given practice”.
- The **BMP verification cycle** uses “**life span**” to represent what we recognize as credit duration.



- In the case of Ag BMPs, NRCS Lifespans were used to establish the credit durations in 2015 by the AgWG.
- *Are NRCS Lifespans equivalent to a BMP Functional Lifespan?*
  - No. NRCS lifespans are the minimum amount of time a practice is expected to function on the ground with proper maintenance and operation.
  - **NRCS lifespans** = NRCS Contract Duration = the amount of time a practitioner is required to maintain and operate the implemented practice.

# How was Credit Duration referenced in the Framework?

- Agriculture Credit Durations were **finalized in 2015.**
- The framework was **finalized in 2014.**
- *How many times is “credit duration” referenced in the main body of the Framework, Sections 1-6?*
  - **0 times.**
  - Credit duration is only mentioned in the USWG Verification Guidance, Appendix B, [pg 104](#) and [pg 105](#).
- *With 12 elements making up the Framework, why did Credit Duration become so important?*
  - Credit duration is how we apply our accountability framework in the model.
  - While Credit Durations were not the main driver or focus of verification, they impact model load reductions.

Term	Definition	Related or Equivalent Terms
<b>BMP Verification Life Cycle</b>	Amount of time between two Verifications	<b>BMP Verification</b>
<b>BMP Life Span (as defined in the Framework)</b>	Expiration date of a practice. Determines when a practice must be removed from the data submitted for crediting, unless it has since been re-verified. (pg. 43)	<b>Credit Duration</b>
<b>Credit Duration</b>	A NEIEN term. Maximum amount of time to reverify a practice or supply an inspection date.	<ul style="list-style-type: none"> <li>• <b>BMP Life Span (as defined in the Framework)</b></li> <li>• <b>Contractual Life Span</b></li> <li>• <b>Regulatory/Permit Life Span</b></li> <li>• <b>For Ag Practice, NRCS Life Span (Federal Contract Durations)</b></li> </ul>
<b>NRCS Life Span</b>	The minimum amount of time a practice can remain on the ground with proper O&M.	<ul style="list-style-type: none"> <li>• <b>NRCS Contract Duration</b></li> <li>• <b>For many Ag Practices, Credit Duration</b></li> </ul>
<b>NRCS Contract Duration</b>	The amount of time a landowner is responsible for	<ul style="list-style-type: none"> <li>• <b>NRCS Life Span</b></li> <li>• <b>For many Ag Practices, Credit Duration</b></li> </ul>
<b>Actual Life Span</b>	Amount of time a practice can exist on the landscape.  Is it still there?	<b>Physical Life Span</b>
<b>Functional Life Span</b>	Amount of time a practice operate to meet its intended purpose with O&M.  Is it operating?	<b>Engineered Design Life</b>

# What does the Framework say about 1619 Agreements?

<i>Framework Element</i>	<i>Documentation Location</i>
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# What does the Framework say about 1619 Agreements?

**Section 2, pg. 13:** “Organizations can be established as 1619 Conservation Cooperators if they agree to maintain data confidentiality and if their use of the data provides technical or financial assistance to USDA conservation programs.”

**Section 4, pg. 44:** “Chesapeake Bay Program Agreement to Ensure Full Access to Federal Cost Share Practice Data. The six states, USDA and other appropriate partners will sign a cover page referencing all of the six states’ agency-specific 1619 agreements collectively committing to ensure all six states have full access to federal financially assisted practice data into the future.”

# What does the Framework say about 1619 Agreements?

**Appendix E** : Outlines how states should go about **obtaining 1619 agreements.**

- When Appendix E was written, MD (MDA), NY (USC), VA (DCR), and WV (WVDA and WVCA) had established 1619 Conservation Cooperator Agreements.
- Ex. Use Consistent Language across all Bay Watershed Agreements.

**Appendix F:** USGS “Integrating Federal and State Data Records to Report Progress in Establishing Agricultural Conservation Practices on Chesapeake Bay Farms”

- In response to the Executive Order for Chesapeake Bay Protection and Restoration (E.O. #13508, May 12, 2009), the USGS took on the task of acquiring and assessing agricultural conservation practice data records for USDA programs, and **transferred those datasets in aggregated format to State jurisdictional agencies** for use in reporting conservation progress to the CBP Partnership.

# What does the Framework say about 1619 Agreements?

[From the BMP Verification Frameworks Webpage:](#)

To accomplish this goal (1619 Agreements), the partnership recommends that states establish a U.S. Department of Agriculture (USDA) 1619 Conservation Cooperator agreement between the Natural Resources Conservation Service (NRCS) and one of more of their state conservation agencies. *(References Appendix E)*



# July 2020 Evaluation of Federal Milestones

**EPA continued to fund USGS to implement the USGS/USDA 1619 data sharing agreement to provide aggregated USDA conservation data to the states.**

- EPA, USDA and USGS worked together, in cooperation with the states, to improve data management methods to address state reporting issues, while complying with the data privacy provisions in the Farm Bill.

# Proposed Action Steps

The framework document has not been updated since October 2014.

**Identify Challenges and Solutions for each Jurisdiction.**

- This will help with collaboration amongst group members, and to inform the WQGIT and partnership of outstanding concerns.

**Identify inconsistencies within or updates needed to the Framework itself** – Take these proposed edits to appropriate workgroups and the WQGIT.

# Discussion Questions

## **Questions from DE Presentation:**

Are BMP Verification Plans working as originally intended or having unexpected impacts?

Is it time to re-evaluate or adaptively manage our BMP Verification approach as a whole?

## **Ultimately:**

- 1) What are the challenges with the Verification Program?
- 2) What are solutions to those challenges?

[Google JamBoard](#)