

# MARYLAND DEPARTMENT OF THE ENVIRONMENT

Land and Materials Administration

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## GENERAL DISCHARGE PERMIT FOR ANIMAL FEEDING OPERATIONS

**Maryland Permit No. 19AF**

**NPDES Permit No. MDG01**

**Effective Date: December 1, 2019**

**Expiration Date: November 30, 2024**

Pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and regulations promulgated thereunder, and the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. and implementing regulations 40 CFR Parts 122, 123, 124, 125, and 412 the Department of the Environment, hereinafter referred to as the "Department," hereby authorizes Animal Feeding Operations (AFOs) registered under this General Discharge Permit to discharge animal waste, including manure, poultry litter, and process wastewater, to waters of the State in accordance with the following conditions.

### Table of Contents (page numbers in parentheses)

Part I. Applicability and Authorized Discharges (3)

- A. Permit Required (3)
- B. Authorized Discharges (6)

Part II. Definitions (6)

Part III. Application Requirements (10)

- A. Notice of Intent (NOI) (10)
- B. Required Plans (12)
- C. Registration Process (13)

Part IV. Special Conditions (14)

- A. Animal Waste Storage and Distribution System Operation, Self-Inspection, and Recordkeeping (14)
  - 1. Operation in Accordance with Required Plan (14)
  - 2. Special Conditions for Liquid Manure Management Systems (16)
  - 3. Application on Frozen Ground (16)
  - 4. Application near Sinkholes and Outcroppings (16)
  - 5. Self-Inspection and Recordkeeping for CAFOs/MAFOs that Land Apply (16)
  - 6. Self-Inspection and Recordkeeping for CAFOs/MAFOs that Do Not Land Apply (18)
- B. Nine Minimum Standards to Protect Water Quality (19)
  - 1. Ensure adequate storage capacity (19)
  - 2. Ensure proper management of mortalities to prevent the discharge of pollutants into waters of the State (19)
  - 3. Divert clean water, as appropriate, from the production area to keep it separate from process wastewater (19)
  - 4. Prevent direct contact of confined animals with waters of the State (19)
  - 5. Chemical Handling (19)
  - 6. Conservation practices to control nutrient loss, including site-specific conservation practices (20)
  - 7. Protocols for manure and soil testing (21)
  - 8. Protocols for the Land Application of Manure and Wastewater (21)
  - 9. Recordkeeping (22)
- C. Additional Requirements for Operations Land Applying Process Wastewater (22)

- D. Other Best Management Practices (22)
  - 1. Odors (22)
  - 2. Reduction of ammonia, dust, and feathers (22)
  - 3. Additional Best Management Practices for Organic Poultry Operations (22)
- E. New and Modified Operations (23)
  - 1. Design of Lagoon Bottoms and Embankments (23)
  - 2. New Source Performance Standards for Swine, Poultry, and Veal Calves (23)
  - 3. New Source Performance Design Criteria for Poultry (23)
- F. Change in Permitted Operations (23)
  - 1. Documentation of Changes in Permitted Operations (23)
  - 2. Documentation of Permanent Modifications (24)
  - 3. Documentation of Unanticipated Changes to Required Plan (24)
  - 4. Documentation of Anticipated Changes to Required Plan (24)
  - 5. Changing from CAFO to MAFO (24)
  - 6. Emergency or Catastrophic Loss (25)
  - 7. Department Decision (25)
- G. Water Quality Protection (25)
- Part V. Monitoring and Reporting (25)
  - A. Monitoring (25)
  - B. Annual Report (26)
  - C. Signatures on Reports (27)
  - D. Report Submission (27)
  - E. Noncompliance Notification (27)
  - F. Demonstration of an Upset (28)
- Part VI. Violation of Permit Conditions (28)
  - A. Civil and Criminal Liability (28)
  - B. Penalties for Violations of Permit Conditions (28)
  - C. Penalties for Tampering (29)
  - D. Penalties for Falsification of Reports (29)
- Part VII. General Conditions (29)
  - A. Compliance with This General Permit and Water Pollution Abatement Statutes (29)
  - B. Right of Entry (29)
  - C. Property Rights/Compliance with Other Requirements (30)
  - D. Duty to Provide Information (30)
  - E. Submitting Additional or Corrected Information (30)
  - F. Availability of Reports (30)
  - G. Toxic Pollutants (30)
  - H. Oil and Hazardous Substances Prohibited (30)
  - I. Water Construction and Obstruction (30)
  - J. Reopener Clause for Permits (30)
  - K. Total Maximum Daily Loads (31)
  - L. Severability (31)
  - M. Individual or General MAFO/CAFO Permit Coverage, Termination, and Closure (31)
  - N. Continuation of an Expired General Discharge Permit (33)
  - O. Permit Renewal (33)
  - P. Transfer of Authorization (33)
- Part VIII. Authority to Issue General NPDES Permits (34)

**Tables:** Table 1: Summary of Permit Submittals (3); Table 2: AFO Categories (5); Table 3: Self-Inspection and Recordkeeping Requirements for Land Operations (16); Table 4: Self-Inspection and Recordkeeping Requirements for No-Land Operations (18).

Table 1: Summary of Permit Submittals\*:

Permit Condition	Submittal	Frequency/Due Date(s)
III.A	Application for Permit Coverage (NOI)	Prior to construction, change of ownership, or operation
VII.N and VII.O	Application for Permit Renewal	At least 60 days before the expiration date of this General Permit
III.B	Submittal of Required Plans	If not permitted, with submission of NOI. If previously permitted, upon request of the Department.
IV.F	Notification of Permit Modification	As necessary, at least 30 days prior to significant or substantial changes in operation
III.A.3 and VII.P	Notification of Proposed Transfer of Permit Coverage	As necessary, prior to transfer of AFO
III.A.1, III.A.3 and VII.M.6	Termination of Permit Coverage	Upon failure to comply with application process, MDE direction, or when out of production
V.B	Annual Implementation Report	Annually by March 1
V.E	Notification of Noncompliance	As necessary within 24 hours
V.F	Notification of Upset	As necessary within 24 hours
IV.F.6	Notification of Emergency or Catastrophic Loss	Immediately after
VII.E	Additional or Corrected Information	As necessary within 30 days

\*Refer to the Special and General Conditions for details on submittal requirements.

## Part I. Applicability and Authorized Discharges

### A. Permit Required.

- Every Concentrated Animal Feeding Operation (CAFO) in Maryland shall have a discharge permit issued by the Department under both State and federal permitting authority. Medium and large Animal Feeding Operations (AFOs) in the AFO Table in Part I.A.9 of this permit are CAFOs if they discharge or propose to discharge pollutants including, but not limited to, manure, poultry litter, or process wastewater to surface waters of the State (as defined in paragraph (1) of Part II.JJ of this General Discharge Permit). Medium or Large AFOs where contact of confined animals with surface waters occurs are included in the definition of CAFOs and require a discharge permit. Any large AFO, not otherwise required to obtain coverage under this General Discharge Permit, that land applies manure, litter, or process wastewater in a manner not in accordance with a NMP is a CAFO that is discharging or proposing to discharge pollutants to surface waters of the State and shall obtain coverage under this General Discharge Permit.

2. Medium AFOs are CAFOs if either:
  - a) Pollutants are discharged into waters of the State through a man-made ditch, flushing system, or other similar man-made device; or
  - b) Pollutants are discharged directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
3. A small AFO may be designated a CAFO by the Department after a site inspection reveals that animals or animal waste come into contact with surface water. A small AFO using best management practices designed and approved by the local Soil Conservation District (SCD) to limit animal access to surface water will not be designated a CAFO unless animal waste comes into contact with surface water.
4. Pursuant to federal law, the Regional Administrator ("RA") of Region III of the U.S. Environmental Protection Agency may designate an AFO as a CAFO if the RA has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent State water that is impaired for that pollutant. If the RA designates an AFO a CAFO, the Department shall also designate the AFO a CAFO.
5. An AFO that does not meet the criteria of Parts I.A.1 through I.A.4 of this General Discharge Permit but meets the "Large" size category threshold in the AFO Table in Part I.A.9 based on either the number of animals or house capacity (ft<sup>2</sup>) is a Maryland Animal Feeding Operation (MAFO). Every MAFO in Maryland is required to obtain a State discharge permit issued by the Department under State permitting authority.
6. Any medium AFO may also be designated as a MAFO if the Department determines that the type or location of animal waste storage or animal access to surface water is likely to cause a discharge of pollutants to ground or surface waters of the State.
7. Any MAFO automatically becomes a CAFO upon the occurrence of a discharge of pollutants to surface waters of the State or when the MAFO proposes to discharge to surface waters of the State. A MAFO that has automatically become a CAFO shall submit a new Notice of Intent (NOI) and required plans, and shall comply with all CAFO permit requirements contained herein.
8. A MAFO that is designated as a CAFO under 40 CFR §122.23(c) must begin to comply with all CAFO permit requirements contained herein, including submission to the Department of an updated NOI within 15 calendar days of being designated by the Department, and submission of a current required plan within 90 calendar days of being designated as a CAFO by the Department.

9. Table 2: AFO Categories:

Animal Type	Circumstances under which Animal Feeding Operations Require Permit Coverage		
	CAFO or MAFO Registration Required	CAFO/MAFO Registration Required under Certain Circumstances	Registration Needed Only if Designated
	Large	Medium	Small
Cattle (includes heifers)	1000 or more animals	300—999 animals	less than 300 animals
Dairy cattle	700 or more animals	200—699 animals	less than 200 animals
Horses	500 or more animals	150—499 animals	less than 150 animals
Veal	1000 or more animals	300—999 animals	less than 300 animals
Swine ≥ 55 pounds	2500 or more animals	750—2499 animals	less than 750 animals
Swine < 55 pounds	10,000 or more animals	3,000—9,999 animals	less than 3,000 animals
Sheep and lambs	10,000 or more animals	3,000—9,999 animals	less than 3,000 animals
Ducks with liquid manure handling**	5,000 or more animals	1,500—4,999 animals	less than 1,500 animals
Chickens with liquid manure handling	30,000 or more animals	9,000—29,999 animals	less than 9,000 animals
Ducks with dry manure handling	30,000 or more animals	10,000—29,999 animals	less than 10,000 animals
Laying hens with dry manure handling	82,000 or more animals	25,000—81,999 animals	less than 25,000 animals
Chickens (other than laying hens) with dry manure handling	125,000 or more animals or greater than or equal to total house size of 100,000 ft <sup>2</sup>	37,500—124,999 animals and less than total house size of 100,000 ft <sup>2</sup>	less than 37,500 animals
Turkeys	55,000 or more animals	16,500—54,999 animals	less than 16,500 animals

\*\* A separate discharge permit is required for large category duck CAFOs.

10. A CAFO or AFO located outside of the State of Maryland may be designated a CAFO and required to obtain a Maryland discharge permit if animal waste storage or any other part of its production or land application area is located in Maryland.

11. An AFO of any size that utilizes a spray irrigation system for wastewater application is required in COMAR 26.08.04 to obtain permit coverage under an individual or general permit and may apply for coverage under this General Discharge Permit.

## **B. Authorized Discharges.**

1. Discharges to waters of the State via application of animal waste to the soil are authorized under this General Discharge Permit provided such application is performed in accordance with an approved required plan as required herein.
2. Existing CAFOs: No discharge of pollutants, including manure, litter, or process wastewater, to surface waters of the State from CAFO production areas shall be permitted unless the discharge results from a storm event greater than the 25-year, 24-hour storm, as specified in Part IV.B.1 of this Permit, and the production area is designed, constructed, operated, and maintained in accordance with the applicable measures in Part IV.A and IV.B of this General Discharge Permit.
3. New Source CAFOs: No discharge of pollutants, including manure, litter, or process wastewater to surface waters of the State from CAFO production areas shall be permitted unless the operator demonstrates that an upset, as described in Part V.F, occurred. The production area shall be designed, constructed, operated, and maintained in accordance with the applicable measures in Part IV.A and IV.B of this General Discharge Permit.
4. MAFOs: No discharge of pollutants, including manure, litter, or process wastewater, to surface waters of the State from MAFO production areas, regardless of the intensity of the storm event, is authorized under this permit, and no discharge of pollutants to ground water shall be permitted unless the discharge results from operations in accordance with the requirements in Part IV.A and IV.B of this General Discharge Permit.
5. This permit does not authorize discharges of pollutants, including manure, litter, and process wastewater, to surface waters during dry weather conditions from land application areas or production areas.
6. The required plan(s) are essential parts of this permit, and failure to implement those plans in accordance with the approved specifications and schedules in those plans is a violation of this permit.
7. The permit authorization for a CAFO constitutes a NPDES discharge permit authorization under the federal act. The permit authorization for a MAFO does not require and does not constitute a NPDES discharge permit authorization under the federal act.

## **Part II. Definitions**

**A. "Animal Feeding Operation" or "AFO"** means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (1) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals or house capacity at an operation, if they adjoin each other or if they use a common area or system for the disposal of waste.

**B. “Animal Waste”** means liquid and/or solid waste from animal feeding, milking, holding, or other animal operations. Animal waste includes all manure, poultry litter, offal, and process wastewater.

**C. “Approved Alternative”** means, in reference to setbacks, a 35-foot vegetated filter strip or other best management practices or systems described in the “Maryland Setback Standards and Approved Alternatives” document on the Department’s website or as jointly approved by the Maryland Department of Agriculture (MDA), the Department, and the NRCS, in consultation with the University of Maryland Extension and listed on the Department’s website.

**D. “COMAR”** means Code of Maryland Regulations.

**E. “Comprehensive Nutrient Management Plan” or “CNMP”** describes and documents a conservation system that is unique to an AFO. The CNMP addresses all aspects of the AFO including animal waste handling, nutrient management, and conservation practices as described in the NRCS National Planning Procedures Handbook (NPPH), Part 600.60 A(1) – Component Planning Technical Guidance, Subpart G, Amendment 6, November 2014, which is consistent with all requirements of COMAR 15.20.07 and 15.20.08 and federal effluent guidelines at Title 40 CFR 412.31. A CNMP satisfies the requirement for a “required plan” for both CAFOs and MAFOs, as defined in Part III.B of this permit. A CNMP includes a nutrient management plan portion and a conservation plan portion, along with an implementation schedule in addition to other NRCS requirements.

**F. “Concentrated Animal Feeding Operation” or “CAFO”** means an AFO that is designated as a CAFO in accordance with Part I.A, Sections 1 through 4, I.A.9 and I.A.10 of this General Permit. A CAFO is required to obtain authorization to discharge pollutants to waters of the State under this General Permit or an individual permit. CAFOs are authorized to discharge under State General Discharge Permit No. 19AF and federal NPDES General Permit No. MDG01, the requirements for both of which are included herein as a single document (referred to as the General Permit).

1. An “existing CAFO” is a CAFO production area structure other than a new source CAFO;
2. A “new source CAFO” is a CAFO production area structure built on or after December 4, 2008 for poultry, swine, and veal calves, or on or after April 14, 2003 for animals other than poultry, swine, and veal calves. In accordance with 40 CFR 122.29, a CAFO production area structure is considered a “new source” if it meets the definition of “new source” in 40 CFR 122.2, and
  - a. It is constructed at a site at which no other source is located;
  - b. It totally replaces the process or production equipment that causes or may cause the discharge of pollutants at an existing source; or
  - c. Its processes are substantially independent of an existing source at the same site.

**G. “Critical Areas”** means all lands and waters defined in Natural Resources Article, §8-1807, Annotated Code of Maryland.

**H. “Department”** means the Maryland Department of the Environment (MDE).

**I. “Discharge”** means (a) the addition, introduction, leaking, spilling, or emitting of any pollutant to waters of this State; or (b) the placing of a pollutant in a location where the pollutant is likely to pollute.

**J. "Fecal coliform"** means a group of bacteria found in the intestinal tract of warm-blooded animals and used as an indicator of pathogens, as measured by the analytical method described in Title 40 CFR § 141.74(a), by the procedure defined in Title 40 CFR § 141.21(f).

**K. "Field ditch"** means a perennial or intermittent man-made drainage ditch that was never a natural stream. For purposes of this regulation, a field ditch will be distinguished from a natural stream by its landscape position and associated soil mapping unit(s), as found in the United States Department of Agriculture ("USDA") soil survey for the county. A field ditch is:

1. Not within a floodplain soil-mapping unit;
2. Not within a hydric soil that is mapped as a narrow, elongated feature in a fluvial or floodplain position; and
3. Not within a soil-mapping unit that has a "B" slope class or steeper.

**L. "Frozen ground"** for the application of wastewater means that 1 ½ inches or more of the top 6 inches of soil is frozen, or the ground is frozen ½ inch deep and the air temperature is below 32 degrees Fahrenheit.

**M. "General Permit"** means a discharge permit issued to a category of dischargers within a geographical area. This General Permit, as a single document, includes requirements for AFOs in Maryland, including CAFOs and MAFOs.

**N. "Ground water"** means underground water in a zone of saturation.

**O. "Includes" or "including"** means includes or including by way of illustration and not by way of limitation.

**P. "Land Application Area"** means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

**Q. "Maryland Animal Feeding Operation" ("MAFO")** means an AFO requiring a State discharge permit as designated in Parts I.A.5 through I.A.8 of this permit.

**R. "Natural Resources Conservation Service ("NRCS") Practice Standard"** means the latest edition of the NRCS Conservation Practice Standard for the practice specified. The conservation practice standard contains information on why and where the practice is applied, and sets forth the minimum quality criteria that must be met during the application of that practice in order for it to achieve its intended purpose(s). Maryland Conservation Practice Standards are available through the eFOTG (Electronic Field Office Technical Guide). If no State Conservation Practice Standard is available in the eFOTG, the NRCS National Practice Standard applies.

**S. "New Source Performance Standards"** means additional CAFO discharge standards in Part IV.E.2 of this General Permit applicable to "new sources" as defined in COMAR 26.08.01.

**T. "Notice of Intent"** or NOI means an application notifying the Department of an operation's intention to comply with the terms of this General Permit.



**U. “Nutrient Management Plan (NMP)”** means a plan written by a nutrient management planner certified by the MDA that meets all requirements of COMAR 15.20.07 and 15.20.08.

**V. “Permittee”** means the person holding a permit issued by the Department.

**W. “Person”** means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind, and any partnership, firm, association, corporation, or other entity. Person includes the federal government, this State, any county, municipal corporation, or other political subdivision of this State or any of their units.

**X. “Poultry Litter Manure” or “litter”** means the fecal and urinary excretion of poultry, including poultry litter and materials used as bedding.

**Y. “Process wastewater”** means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

**Z. “Production area”** means that part of an AFO that includes, but is not limited to, the animal confinement area, the manure storage area, the raw materials storage area, the waste containment areas, any egg washing or egg processing operation, and any area used in the storage, handling, treatment, or disposal of mortalities. The animal confinement area includes open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storage, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes settling basins, and areas within berms and diversions, which separate uncontaminated storm water. The Production Area does not include the Poultry Pasture if vegetation is sustained in the normal growing season.

**AA. “Required Plan(s)”** means those plans that CAFO and MAFO applicants are required to submit to the Department pursuant to COMAR 26.08.04.09N(3)(b) and the federal regulations in 40 CFR 122.42(e). These plans include, but are not limited to, CNMPs and NMPs and any other plans deemed necessary to perform a proper review of the application by the Department.

**BB. “Setback”** means an area where no animal waste is applied between the fertilized field and waters of the State as defined in paragraph (1) of Part II.JJ of this General Permit.

**CC. “Sinkhole”** means a subsidence or collapse of the land surface in an area where the bedrock is comprised of carbonate rock.

**DD. “Soil Conservation Plan and Water Quality Plan” or “Conservation Plan”** means a plan developed by a Soil Conservation District, MDA, a NRCS planner, or a technical service provider certified by the NRCS that is coordinated with the NMP for the operation, and addresses the elements detailed in Part IV.A.1 of this permit. For land CAFOs and land MAFOs, each field included in the land application area that receives manure shall be addressed in the Conservation Plan in accordance with NRCS methodology.

**EE. "Spray irrigation"** means the distribution of wastewater by a pressurized sprinkler system, piped irrigation, or other systems of wastewater application that are designed to function for periods of time without requiring the presence of an operator. Irrigation via a truck or tanker is not spray irrigation under the terms and requirements of this permit.

**FF. "State discharge permit"** means a discharge permit issued under the Environment Article, Title 9, Subtitle 3, Annotated Code of Maryland.

**GG. "Surface waters"** means all waters of the State that are not ground waters.

**HH. "Upset"** means an exceptional incident in which there is unintentional and temporary noncompliance with a permit limit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

**II. "Vegetated Filter Strip" or "Vegetated Buffer"** means a setback consisting of a permanent strip of herbaceous vegetation where no animal waste is applied as described in an appropriate NRCS Practice Standard, to reduce sediment, particulate organics, sediment adsorbed contaminants, and dissolved contaminants in runoff. The area may be maintained as an alternative to the 100-foot setback from waters of the State.

**JJ. "Waters of the State"** includes:

1. Both surface and underground waters within the boundaries of this State subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of this State, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
2. The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.

### **Part III. Application Requirements**

#### **A. Notice of Intent (NOI).**

1. A new CAFO or MAFO or an existing AFO that was previously registered under the prior GD Permit and allowed the registration to expire by not following the continuance and renewal requirements in Maryland Permit 14AFA/NPDES Permit MDG01A, shall not continue operation (in the case of a poultry AFO, receive birds) prior to receiving written notification from the Department that the AFO is registered under this GD Permit.
2. CAFO and MAFO operators or owner/operators are required to submit to the Department a NOI on a form provided by the Department and a required plan as required in COMAR 26.08.04.09N(3)(b) and federal regulations in 40 CFR 122.42(e). After December 21, 2020, NOIs must be submitted electronically unless a waiver is granted, at the Department's discretion.
3. A change in ownership or operator terminates the registration of a CAFO/MAFO unless the current owner/operator complies with the transfer of authorization requirements in

Part VII.P of this permit. If permit coverage is terminated, the new owner shall submit a NOI prior to commencing operation of the CAFO/MAFO and submit a required plan within 90 calendar days of submission of the NOI to apply for registration under this permit. The permittee shall notify the Department of the name, address, and telephone number of the new owner or operator.

4. Contents of NOI: The NOI must include, at minimum, the following information specified in the federal requirements in 40 CFR §§ 122.21 and 122.28 and shall be applicable to all animal types:

- a. the name of the owner or operator;
- b. the operation's location and mailing addresses;
- c. latitude and longitude of the production area (obtained at the entrance to the production area);
- d. a topographic map of the geographic areas in which the AFO is located showing the specific location of the production area;
- e. specific information about the number and type of animals whether in open confinement or housed under roof using the animal types in the table in Part I.A.9 of this Permit;
- f. the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, under floor pits, above ground storage tanks, below ground storage ponds, concrete pad, impervious soil pad, other);
- g. total capacity for animal waste storage (tons/gallons);
- h. the total number of acres under control of the applicant that are available for land application of animal waste;
- i. estimated amounts of animal waste generated per year (tons/gallons);
- j. estimated amounts of animal waste transferred to other persons per year (tons/gallons); and
- k. For chickens (other than laying hens) with dry manure handling only:
  - i. the total square footage of all poultry houses;
- l. The Department may request additional information in the NOI.

5. Required Signatures:

- a) Certification. Any person signing a NOI shall make the following certification as part of the NOI: "By signing this form, I, the applicant or duly authorized representative, do solemnly affirm under the penalties of perjury that the contents of this application are true to the best of my knowledge, information, and belief. I hereby authorize the representatives of the Department to have access to the AFO and associated lots/facilities (farms) for inspection and to records relating to this application at any reasonable time. I acknowledge that depending on the type of permit applied for, other permits or approvals may be required."
- b) Signatories. All permit applications shall be signed as follows:
  - i. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

- ii. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - iii. For a municipal, State, Federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
    - (a) The chief executive officer of the agency; or
    - (b) A senior executive officer having responsibility for the overall operation of a principal geographic unit of the agency.
  - c) Consistency of Naming. All legal names between the NOI and required plan shall be consistent for the application to be considered complete.
  - d) Required Signatures. All signatures required by NRCS or other relevant agencies shall be included in the required plans submitted to the Department to consider the documents complete.
6. Where to Submit: Required submittal information (including signed copies of NOIs and required plans) for CAFOs and MAFOs shall be submitted to the following address:

**Maryland Department of the Environment  
Land and Materials Administration  
Resource Management Program  
1800 Washington Blvd., Suite 610  
Baltimore, MD. 21230-1719**

Any applicable fees, along with a signed copy of the NOI and required plans, shall be submitted to:

**Maryland Department of the Environment  
PO Box 1417  
Baltimore, MD. 21203-1417**

#### ***B. Required Plans.***

1. CAFOs and MAFOs are required to develop and implement required plans according to the terms of this permit.
2. To obtain coverage under the GD Permit, and maintain compliance thereunder, all portions of the required plan must be current or unexpired at the time of NOI submission, may be required to be updated if not current during application processing by the Department, and must remain current or unexpired throughout the duration of GD Permit coverage. Subsequent updates of the NMP portion of the required plan may be accomplished through a separate NMP document.
3. The Department may notify the permittee, at any time, that the required plan does not meet the requirements in COMAR 26.08.04.09N(3)(b) or the federal regulations in 40 CFR 122.42(e), or that its implementation schedule is not satisfactory. The permittee shall, within 90 calendar days from the date of the Department's notification, submit to the Department the required plan that complies with the requirements in COMAR

26.08.04.09N(3)(b) and the federal regulations in 40 CFR 122.42(e). A revised implementation schedule shall be submitted within 14 calendar days of notification.

4. The current required plan shall also be made available by the permittee at the operation during routine business hours for inspection by the Department after the required submittal date, and updated as required to reflect changes in operation at the CAFO or MAFO. The Department shall be notified of these changes in accordance with Part IV.F of this permit.
5. The Conservation Plan portion of the required plan shall include an analysis of resource concerns and any recommendations to resolve the concern for each field to which manure, litter, or process wastewater is anticipated to be applied for the life of the current permit in accordance with NRCS methodology. Each resource concern shall be listed in an implementation schedule with a practice to resolve the resource concern to be accomplished by a date certain. If fields are added or removed from receiving manure, litter, or process wastewater, then each new field shall be evaluated for resource concerns in accordance with NRCS methodology. This shall be reflected in a revised Conservation Plan and, if new resource concerns are discovered, these shall be added to a revised implementation schedule. The Department shall be notified of any changes to required plans within 30 days of the change.
6. Any CAFOs or MAFOs required to apply for this permit that are not covered by the current GD Permit are required to submit to the Department, for approval, a current required plan no later than 90 calendar days after the submission of the required NOI.
7. After review of the required plan, the Department may notify the permittee, at any time, that the plan does not meet one or more of the minimum requirements of this Permit, or that its implementation schedule is not satisfactory. After such notification from the Department, the permittee shall make changes to the required plan to address the objections of the Department and shall submit to the Department a written certification that the required changes have been made. Unless otherwise provided by the Department, the permittee shall have 90 calendar days after such notification to make the necessary changes.

### **C. Registration Process.**

1. After receipt and/or review of the submitted NOI, the Department may request additional information to determine whether or not the operation or proposed operation is in compliance with applicable regulations.
2. The CAFO/MAFO applicant shall be notified by the Department of the effective date of registration (permit coverage) after acceptance and final approval of the NOI, required plans, and payment of any applicable fees.
3. Prior to Department approval of the required plan(s), each NOI and required plan submitted to the Department will be available for public comment consistent with applicable public participation requirements in COMAR 26.08.04.09N(3), including public access to all submitted plans and opportunity to comment on all plans and NOIs. For CAFOs, the public may request a public hearing. CAFOs will not be issued permit coverage prior to completion of the public participation process up to and including the final administrative decision.

4. Any AFO which discharges or proposes to discharge pollutants to waters of the State, and which fails to submit the required plan(s) and information by the specified due dates will be in violation of federal and/or State regulations for discharging to waters of the State without a permit.
5. The required plans and any subsequent modifications to the required plans, including the implementation schedule, once approved by the Department, are incorporated into this General Discharge Permit.

#### **Part IV. Special Conditions**

##### **A. Animal Waste Storage and Distribution System Operation, Self-inspection, and Recordkeeping.**

1. Operation in Accordance with Required Plan: All CAFO and MAFO animal waste storage and distribution systems, including land application, shall be operated and maintained in accordance with a required plan developed for the production area and land application area in accordance with the NRCS National Planning Procedures Handbook and COMAR 15.20.07 and 15.20.08. Required plans for both CAFOs and MAFOs must address all production and land application areas associated with animal manure, chicken litter, and process wastewater as defined in this Permit.
  - a) The required plan shall take into account all animal manure, chicken litter, or process wastewater associated with animal production, regardless of the source of the animal manure, chicken litter, or process wastewater. The plans shall ensure that appropriate manure management measures are used to store, stockpile, and handle animal manure and waste nutrients associated with animal production to minimize the potential for nutrient loss or runoff. The manure management requirements shall encompass all land where animals are kept and all land used for manure storage, treatment, or utilization that is under the control of the permittee.
    - i. Piles of litter shall be formed in conformance with the Maryland Nutrient Management Guidelines in COMAR 15.20.07.02.
    - ii. Additional NRCS Practice Standards for stockpiling may also be used as guidance in developing the required plans until such time that Maryland completes an interim or national practice standard for stockpiling.
    - iii. The plans shall also address guidelines for manure management, including but not limited to requirements for temporary field storage. The NMP shall be prepared for the operation by a certified and licensed nutrient management consultant or a certified operator in accordance with the requirements of COMAR 15.20.04, and is in compliance with COMAR 15.20.07 and 15.20.08.
  - b) Assessment of Resource Concerns: For CAFOs and MAFOs, the Conservation Plan included in the CNMP must be based upon an assessment of possible resource concerns, as well as those the Department deems appropriate, and include scheduled practices that shall be implemented based on applicable NRCS conservation standards in effect upon the date of issuance of this General Permit, and any additional applicable Maryland interim or national NRCS

conservation standards at the time of permit registration (if such standards have also been approved by the Department for use in addressing the requirements of this permit). Resource concerns identified in the assessment that must be addressed, include, but are not limited to, the following:

- i. Storage for animal manure and litter, including the need for any additional storage and/or manure transfer, in accordance with an appropriate NRCS Practice Standard, as certified by NRCS, or equivalent as approved by the Department and certified by a professional engineer;
  - ii. Heavy use areas, including any recommendations to provide a stabilized surface in accordance with an appropriate NRCS Practice Standard;
  - iii. Diversion of storm water in accordance with an appropriate NRCS Practice Standard;
  - iv. Vegetation within less than or equal to 35 feet of the production area in accordance with an appropriate NRCS Practice Standard;
  - v. Mortality management in accordance with an appropriate NRCS Practice Standard as certified by NRCS or equivalent as approved by the Department and certified by a professional engineer; and
  - vi. If an existing production area is fewer than 35 feet from surface water, the use of a filter strip or water control structure, in accordance with an appropriate NRCS Practice Standard.
- c) In addition to the above requirements, a CNMP must meet the requirements of the NRCS National Planning Procedures Handbook (NPPH), Part 600.60 A(1) – Component Planning Technical Guidance, Subpart G, Amendment 6, November 2014.
- d) The CNMP must also implement the nine minimum standards specified under Part IV.B of this permit.
- e) For operations that include land application of animal waste, the applicable NMP or the nutrient management portions of the CNMP shall be in accordance with a NMP as required in COMAR 15.20.07 and 15.20.08. The NMP or CNMP shall also note each field that contains one or more sinkholes, wells, or tile drains.
- f) The permittee shall implement the applicable NMP in accordance with soil, manure, and wastewater testing requirements in the MDA's Nutrient Management Regulations (COMAR 15.20.07 and 15.20.08).
- g) The approved required plan(s) shall be submitted with a schedule of implementation for all best management practices required to resolve each applicable resource concern. The schedule of implementation shall be signed by the operator. The permittee shall comply with the schedule of implementation following the Department's approval of the schedule. This schedule may be modified to reflect unavoidable delays, at the Departments discretion.

2. Special Conditions for Liquid Manure Management Systems:

Any impoundment storing liquid animal waste shall be equipped with a depth measuring device visible from the outside or bank of the storage area which indicates the maximum depth at which the 25 year, 24-hour storm can be contained. The level of animal waste in the storage area shall be at least 12 inches lower than the maximum depth. In addition, the outer embankment and top of the berm for any earthen embankment structure shall be kept free of shrubs, trees, and animal activity. In the case of new sources (for swine, poultry, and veal calves), all open surface manure storage structures associated with such sources must include a depth marker which indicates the maximum depth necessary to contain the maximum runoff and direct precipitation associated with the design storm used in sizing the liquid animal waste impoundment for no discharge.

3. Application on Frozen Ground: Field application of animal waste shall not take place on frozen ground or snow covered ground without written permission from the Department, which may be granted to the extent allowed by applicable regulations if an imminent storage failure or other dire emergency exists. Emptying a liquid storage facility during frozen field conditions shall be coordinated between the Department and MDA.
4. Application near Sinkholes and Outcroppings: Animal waste shall not be applied within 100 feet of a sinkhole, or directly onto an outcropping.
5. Self-inspection and Recordkeeping for CAFOs/MAFOs that Land Apply (Land Operations): Data describing all land application of manure, chicken litter, or process wastewater shall be documented by the permittee and shall be maintained on-site for five years. The records shall be available for inspection by Department personnel upon request. The records shall include a notation of periods when the facility is not in operation (out of production), and shall describe the following information (indicated in Table 3 below) for all periods when the CAFO/MAFO is operating, with records of land application data for each day that land application occurs:

Table 3: Self - Inspection and Recordkeeping Requirements for Land Operations:

Parameter	Frequency	Applicable to Liquid/Dry Manure Handling or Both
Maintain Records of:		
a) Any transfers of manure, litter, and process wastewater, including the following information: <ul style="list-style-type: none"> <li>i. Name and address of recipient</li> <li>ii. Date and quantity transferred</li> </ul> The permittee shall supply the recipient of the animal waste with the most recent annual nutrient analysis of the manure, litter, or process wastewater. If the recipient performs the analysis, the permittee shall obtain a copy and maintain it as part of the permittee's records.	Each occurrence	Both



<p>b) Each application event where manure, litter, or process wastewater is applied:</p> <ul style="list-style-type: none"> <li>i. Fields where animal waste is distributed, using field names consistent with those in the required plan;</li> <li>ii. Application method, rate, time and date;</li> <li>iii. Soil conditions, including instances of ponding or runoff, saturated soil, and frozen ground or snow covered ground; and</li> <li>iv. Weather conditions, including precipitation and temperature at the time of application and precipitation 24 hours prior to, and following, application</li> </ul>	<p>Each land application event</p>	<p>Both</p>
<p>c) Mortality disposal including date, numbers of animals, and method of disposal</p>	<p>As necessary</p>	<p>Both</p>
<p>d) Inspections conducted, including date, of the animal waste storage areas</p>	<p>Weekly</p>	<p>Both</p>
<p>e) The results of manure samples and soil samples, including the following information:</p> <ul style="list-style-type: none"> <li>i. Date sample taken;</li> <li>ii. Test methods used to sample and analyze manure, litter, process wastewater, and soil;</li> <li>iii. Results from manure, litter, process wastewater, and soil sampling; and</li> <li>iv. Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied</li> </ul>	<p>Annually for manure samples, at least once every three years for soil samples</p>	<p>Both</p>
<p>f) Manure application equipment inspections, including the following information:</p> <ul style="list-style-type: none"> <li>i. Date inspection conducted;</li> <li>ii. Calibration date; and</li> <li>iii. Maintenance of equipment used for manure application</li> </ul>	<p>At least annually</p>	<p>Both</p>
<p>g) Inspections, including date, of the storm water routing structures</p>	<p>Weekly</p>	<p>Both</p>
<p>h) Inspections, including date, for all indoor and outdoor water lines, including drinking or cooling water lines</p>	<p>Daily</p>	<p>Both</p>
<p>i) The depth of manure and process wastewater, including date of reading, as indicated by the depth marker in all liquid animal waste impoundments</p>	<p>Weekly</p>	<p>Liquid</p>
<p>j) Inspections, including date, of all wastewater operations and pumps</p>	<p>Weekly</p>	<p>Liquid</p>
<p>k) All manure, litter, and wastewater storage structures including the following information:</p> <ul style="list-style-type: none"> <li>i. Date inspection conducted;</li> <li>ii. Volume for solids accumulation;</li> <li>iii. Design treatment volume;</li> <li>iv. Total design storage volume;</li> </ul>	<p>As necessary</p>	<p>Liquid</p>

v. Days of storage capacity; and vi. Structural stability inspection of all earthen embankment structures		
l) Any additional self – inspection and recordkeeping activities required by this General Permit	As necessary	Both

6. Self-inspection and Recordkeeping for CAFOs/MAFOs that DO NOT Land Apply (No-Land Operations): The permittee that transports all and/or some of its manure, litter, or process wastewater to an area that is not under the control of the owner or operator of the no-land operation shall maintain no-land operation records on-site for five years. The records shall be available for inspection by Department personnel upon request. The record shall include a notation of periods when the facility is not in operation (out of production), and shall describe the following information (indicated in Table 4 below) for all periods when the CAFO/MAFO is operating, with records of operational data for each day that the facility maintains animals:

*Table 4: Self - Inspection and Recordkeeping Requirements for No - Land Operations:*

Parameter	Frequency	Applicable to Liquid/Dry Manure Handling or Both
<b>Maintain Records of:</b>		
a) All transfers of manure, litter, and process wastewater, including the following information:  iii. Name and address of recipient iv. Date and quantity transferred  The permittee shall supply the recipient of the animal waste with the most recent annual nutrient analysis of the manure, litter, or process wastewater. If the recipient performs the analysis, the permittee shall obtain a copy and maintain it as part of the permittee's records.	Each occurrence	Both
b) Manure samples shall include the following information:  i. Date sample taken; ii. Test methods used to sample and analyze manure, litter, and process wastewater; and iii. Results from manure, litter, and process wastewater sampling	Annually	Both
c) Mortality disposal including date, number of animals, and method of disposal	As necessary	Both
d) Inspections conducted, including date, of the animal waste storage areas	Weekly	Both
e) Inspections, including date, for all indoor and outdoor water lines, including drinking or cooling water lines	Daily	Both
f) Inspections, including date, of the storm water routing structures	Weekly	Both

g) The depth of manure and process wastewater, including date of reading, as indicated by the depth marker in all liquid animal waste impoundments	Weekly	Liquid
h) Inspections, including date, of all wastewater operations and pumps	Weekly	Liquid
i) All manure, litter, and wastewater storage structures including the following information:  i. Date inspection conducted; ii. Volume for solids accumulation; iii. Design treatment volume; iv. Total design storage volume; v. Days of storage capacity; and vi. Structural stability inspection of all earthen embankments structures	As necessary	Liquid
j) Any additional self – inspection and recordkeeping activities required by this General Permit	As necessary	Both

**B. Nine Minimum Standards to Protect Water Quality.** The permittee's required plan(s) shall meet the following standards:

1. **Ensure adequate storage capacity.** Design, construct, operate, and maintain the production area and all animal waste storage structures to contain all animal waste removed from the animal confinement areas, and, in the case of liquid manure, including any runoff or direct precipitation from a 25-year, 24-hour storm. Store dry manure in a way that prevents polluted runoff. Properly operate and maintain all storage facilities.
2. **Ensure proper management of mortalities to prevent the discharge of pollutants into waters of the State.** Do not dispose of mortalities in an animal waste or other storage or treatment system that is not specifically designed to treat animal mortalities without written permission from the Department, which may be granted if the Department determines catastrophic or other circumstances exist that warrant alternative management, at the Department's discretion.
3. **Divert clean water, as appropriate, from the production area to keep it separate from process wastewater.** For CAFOs, conduct daily inspections of water lines, including drinking and cooling water lines, on all days the CAFO is in operation. Correct any deficiencies found as a result of the inspections as soon as possible, and maintain a log of deficiencies found and corrected. The log must contain records of any deficiencies not corrected within 30 days and an explanation of the factors preventing immediate correction.
4. **Prevent direct contact of confined animals with waters of the State.**
5. **Chemical Handling.** Ensure that chemicals and other contaminants handled on-site are not disposed in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants. No pesticides, cleaning agents, or fuels shall be stored in any animal operation area, unless directly necessary for animal care and public health. These products shall not be allowed to enter waters of the State. The permittee shall notify the

Department of any spills or other discharges as detailed under Part V.E.  
"Noncompliance Notification."

**6. Conservation practices to control nutrient loss, including site-specific conservation practices.**

- a) An AFO shall maintain a setback of 100 feet or a 35 foot vegetated filter strip between stored poultry litter and manure and waters of the State, as well as field ditches. For existing permanent storage structures, an alternative to this requirement is provided in paragraph IV.A.1.b.6 of this permit.
- b) Temporary Field Storage of Dry Poultry Litter:
  - i. CAFOs: In accordance with EPA's NPDES Permit Writers' Manual for Concentrated Animal Feeding Operations, (EPA 833-F-12-001 February 2012), a CAFO may stockpile dry poultry manure in the field where the manure will be applied under a NMP, as described in this subsection.
    - (a) Dry poultry manure may be field stockpiled for less than 14 calendar days;
    - (b) Dry poultry manure may be field stockpiled for greater than 14 days only in accordance with one of the following options:
      - 1. The manure may be stacked in compliance with An appropriate NRCS Practice Standard and applicable MDA nutrient management stockpiling requirements; or
      - 2. The manure may be separated from ground water and storm water by a plastic liner and cover at least 6 mils thick, or an equivalent method approved by NRCS and the Department that meets federal requirements to prevent leaching or runoff of pollutants.
  - ii. MAFOs: A MAFO may stockpile dry poultry manure in the field where the manure will be applied under a NMP, as described in this subsection.
    - (a) A MAFO is not authorized to discharge pollutants to surface waters of the state from field stockpiling areas.
    - (b) Dry poultry manure may be field stockpiled for less than 30 calendar days.
    - (c) Dry poultry manure may be field stockpiled for greater than 30 calendar days only in accordance with one of the following options:
      - 1. The manure may be stacked in compliance with an appropriate NRCS Practice Standard and applicable MDA nutrient management stockpiling requirements; or

2. The manure may be separated from ground water and storm water by a plastic liner and cover at least 6 mils thick, or an equivalent method approved by NRCS.
  - iii. In addition to the temporary field stockpiling requirements in this section of the GD Permit, temporary field stockpiling for CAFOs and MAFOs shall be consistent with MDA's Nutrient Application Requirements (COMAR 15.20.07.02) where these regulations do not conflict with the requirements in this permit.
  - iv. No-land CAFOs and MAFOs shall not stockpile poultry litter in the production area (immediately outside of the manure shed and poultry houses).
- 7. Protocols for manure and soil testing.** Identify specific animal waste sample collection and analysis protocols to include at least annual analysis for phosphorus and nitrogen content. Include analysis of soil samples for pH and phosphorus content at least once every three years for all fields where animal waste may be applied. Protocols shall be consistent with Maryland's technical standards at COMAR 15.20.07 and 15.20.08.
- 8. Protocols for the Land Application of Manure and Wastewater.** Follow protocols for development of a NMP and for the land application of animal waste in COMAR 15.20.07 and 15.20.08, which specify who is eligible to develop a NMP, determination of limiting nutrient, nutrient recommendations, acreage, and expected yield for each field. Animal waste shall not be applied at a rate higher than agronomic requirements in accordance with the Maryland Nutrient Management Manual. Animal waste shall be prevented from entering field ditches, adjacent properties, and other waters of the State, or conduits to waters of the State, except floodplains. In addition, the following requirements for setbacks shall be maintained:
- a) A setback of at least 100 feet from waters of the State, as well as field ditches, other conduits, intermittent streams, and drinking water wells, shall be maintained; or an approved alternative may be substituted for the 100 foot setback.
  - b) A setback of at least 100 feet from property lines shall be maintained, unless an approved alternative setback for property lines is established with the consent of the adjacent property owner.
  - c) *Alternative Setback Requirements Applicable to Poultry MAFOs:* For slopes of 2% or less, a MAFO may satisfy the land application setback and buffer requirements of this permit by maintaining:
    - i. A vegetated filter strip at least ten feet wide along field ditches and in the final 35 feet of the field ditches (applicable to ditch embankments and, to the maximum extent practicable, the channel) adjoining the receiving waters or the operation boundary, whichever occurs first; and
    - ii. A 35 foot vegetated filter strip or a 50 foot setback from all other surface waters of the State, as defined in Part II.JJ.1. In Critical Areas, other alternative setbacks may be required by the Department.

9. **Recordkeeping.** All records and information resulting from the monitoring, recordkeeping, application equipment inspection, and reporting activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and original recordings from continuous monitoring instrumentation, including records from the development and implementation of any CNMP or NMP, shall be retained for a minimum of five (5) years. This period shall be extended automatically during the course of litigation, or when requested by the Department.

**C. Additional Requirements for Operations Land Applying Process Wastewater.** For operations land applying process wastewater, the required plan shall be consistent with sections 1 through 3 below.

1. The annual average hydraulic loading rate shall not exceed two inches per week, and process wastewater applied shall not exceed the long-term soil infiltration rate or result in surface runoff or ponding.
2. Distribution of process wastewater shall not take place during periods of precipitation or high winds, or on frozen ground or snow covered ground or saturated soil and shall be consistent with COMAR 15.20.07 and 15.20.08.
3. The permittee shall provide adequate means to prevent spray droplets from entering adjacent properties, either by direct application or wind carry-over. These means shall include a setback that is:
  - a) Two hundred (200) feet from the wetted perimeter of the spray irrigation site to property lines in an open area or one hundred (100) feet in an area with a vegetated filter strip;
  - b) Five hundred (500) feet from the wetted perimeter of the spray irrigation site to houses or other occupied structures in an open area or two hundred fifty (250) feet in an area with a vegetated filter strip; and
  - c) One hundred (100) feet from down gradient surface waters of the State, including intermittent streams; or
  - d) Approved by the Department as suitable to control the movement of spray onto adjacent land.

**D. Other Best Management Practices.**

1. Odors: The facility shall be operated at all times to minimize nuisance odors associated with process wastewater treatment and storage operations from escaping the facility boundaries.
2. For poultry: If outdoor air quality is determined to be a resource concern, use appropriate NRCS Practice Standards to address the concern..
3. Additional Best Management Practices for Organic Poultry Operations:
  - a) "Organic" poultry means CAFOs/MAFOs that comply with the organic standards established by USDA National Organics Program standards at 7 CFR 205.

- b) "Poultry Pasture (PP)" means the confined area of an organic poultry CAFO or MAFO that chickens are permitted to occupy when allowed access outside of the poultry house. The PP must be managed to sustain vegetation in the normal growing season.
- c) The CNMP and NMP for an organic poultry CAFO or MAFO shall account for the uncollected manure that is deposited in the PP to assure that the vegetation on the PP is adequate to assimilate the manure nutrients deposited.
- d) The CNMP and NMP shall describe how the PP will be operated to ensure that there is no discharge of manure, litter, or process wastewater from the PP into waters of the State.

#### **E. New and Modified Operations.**

1. Design of Lagoon Bottoms and Embankments: Lagoon bottoms and the inner slopes of embankments designed, constructed, or modified after the effective date of the permit shall be designed and built in accordance with a required plan and all applicable NRCS standards and lined with material such as clay, bentonite, or other sealing material to preclude pollution of ground water by seepage. The permeability of the liner shall be  $10^{-7}$  cm/sec or less.
2. New Source Performance Standards for Swine, Poultry, and Veal Calves: No discharge of animal waste or other pollutants, including manure, litter, or process wastewater to surface waters of the State from CAFO production areas shall be permitted, unless the operator demonstrates that an upset, as described in Part V.F, has occurred. The production area shall be designed, constructed, operated, and maintained in accordance with the applicable measures in Part IV.A and IV.B of this AFO Permit. In the case of liquid manure operations, waste management and storage facilities must also be designed, constructed, operated, and maintained to contain runoff and direct precipitation.
3. New Source Performance Design Criteria: New source poultry CAFOs/MAFOs shall be designed, constructed, operated, and maintained in accordance with the Department's New Source Performance Design Criteria for Poultry Operations.

#### **F. Change in Permitted Operations.**

1. Documentation of Changes in Permitted Operations: The permittee shall submit to the Department a new NOI at least 30 calendar days prior to the change and a revised required plan within 90 calendar days after the change for any anticipated significant or substantial changes to the approved plan(s). These include, but are not limited to:
  - a) Changes in the ownership or control of the permitted operation except operations subject to Part VII.P of this General Discharge Permit;
  - b) Increases in animal numbers resulting in change from medium to large operation;
  - c) Change from MAFO to CAFO or CAFO to MAFO; or
  - d) Change from a no-land to a land operation or land to no-land.

- i. No-land AFOs shall not apply manure, litter, or process wastewater from any source to fields under the control of the operator. Manure, litter, or process wastewater generated by the AFO shall be exported to an operation that is not under the control of the operator of the permitted AFO; and
    - ii. Land AFOs may apply all or a portion of the manure, litter, or process wastewater to fields under the control of the operator based on the current NMP.
2. Documentation of Permanent Modifications: The permittee shall notify the Department, in writing, on a form approved by the Department, before making any permanent modifications to its operation not listed in section F(1), above, including, but not limited to:
  - a) Addition of new land application areas not previously included in the AFO's required plan(s) only when added cropland will receive manure, litter, or process wastewater;
  - b) Any changes to the field-specific maximum annual rates for land application;
  - c) Addition of any crop or other uses not included in the terms of the AFO's required plan(s); or
  - d) Changes to site-specific components of the AFO's required plan(s), where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the State.
3. Documentation of Unanticipated Changes to Required Plan: The permittee shall notify the Department in writing before making any changes not anticipated in the current approved required plans that have the potential to result in a violation of this permit. If changes are made in herd or flock size, animal waste handling methods, runoff management, or land available for application of animal waste, the permittee shall consult the local SCD about necessary adjustments in available storage, treatment and distribution facilities, or the operation of existing facilities. Any adjustments determined necessary by the SCD shall be implemented within 60 calendar days after being deemed necessary by the SCD.
4. Documentation of Anticipated Changes to Required Plan: If the permittee anticipates any changes not included in the approved required plans, excluding short term (less than 15 calendar days) reductions in animal numbers, such as decreases in the number of animals of 20 percent or more, process modifications or any other change that will not result in a violation of this permit, the permittee shall report the change to the Department in writing within 30 calendar days after the change.
5. Changing from CAFO to MAFO: If a CAFO has completed physical and/or operational improvements to prevent wastewater discharges to surface water, the permittee may request that the Department revise its discharge permit authorization. The Department shall reduce an AFO's permit authorization category from CAFO to MAFO only if it determines that there is no remaining potential to discharge animal waste to surface waters of the State.



6. Emergency or Catastrophic Loss: The permittee shall notify the Department immediately after an emergency or catastrophic loss that would affect the status of the AFO as described in Part IV.F.1 of this permit.
7. Department Decision: Based on its evaluation of the updated NOI and required plan(s), the Department may:
  - a) Continue to authorize the discharge under this General Permit; or
  - b) Require the permittee to apply for an individual State discharge permit.

**G. Water Quality Protection.** Any unauthorized discharges resulting from the operation of a facility covered by this General Permit shall constitute a violation of the Permit and shall be subject to applicable penalties. If the Department documents an unauthorized discharge or the potential for a discharge from the design or operation of the CAFO or MAFO not addressed in the approved required plans, the permittee shall immediately seek consultation with the local Soil Conservation District (SCD) or the NRCS for a review of the existing systems and practices and submit a plan of correction within 30 calendar days. If the permittee fails to submit an acceptable plan for revisions to the systems and practices within 30 calendar days, the Department may require the permittee to implement additional measures as necessary to monitor and protect water quality.

## **Part V. Monitoring and Reporting**

### **A. Monitoring.**

1. To evaluate the effectiveness of the required plan, the Department may notify the permittee and require submittal of a sampling plan to determine whether there is a discharge to waters of the State from land application areas or production areas. The plan shall address collection of grab samples of surface discharge, including overflows or spills from waste storage structures or spray fields. The purpose of the sampling is to determine discharges of pollutants that are the result of the operation of the permitted AFO above background/legacy levels. The samples shall be analyzed for fecal coliform bacteria, biochemical oxygen demand, total suspended solids, total nitrogen, total phosphorus, any pesticide which the permittee has reason to believe could be in the discharge, and any other constituents as may be required by the Department. The Department may also require the permittee to implement additional monitoring of effluent, soils, and/or monitoring wells either through the issuance of an individual discharge permit to the permittee or through formal noncompliance enforcement procedures where appropriate.
2. For each measurement or sample taken to satisfy the requirements of this part, the permittee shall record the following information:
  - a) The exact place, date, and time of sampling or measurement;
  - b) The person(s) who performed the sampling or measurement;
  - c) The dates and times the analyses were performed;
  - d) The person(s) who performed the analyses;

- e) The analytical techniques or methods used; and
- f) The results of all required analyses.

The sampling and analytical methods used shall conform to procedures for the analysis of pollutants as identified in 40 CFR Part 136 - "Guidelines Establishing Test Procedures for the Analysis of Pollutants" unless otherwise specified.

**B. Annual Report.**

1. Each registered CAFO and MAFO shall submit annually to the Department, by March 1, a report, either on a form provided or approved by the Department or via an electronic annual report provided by the Department. After December 21, 2020, annual reports must be submitted electronically, unless a waiver is granted at the Department's discretion. The annual report shall include a summary of data collected from the previous calendar year including the following information:
  - a) The type and maximum number of animals kept on site during the year on any given day, including any changes in the number of animals on site by 10% or more from the last calendar year;
  - b) The estimated amount of total manure, litter, and process wastewater generated by the animals during the previous calendar year;
  - c) The amount of animal waste that was land applied and the fields, identified by names consistent with the names used in the required plan, to which animal waste was land applied during the previous calendar year;
  - d) The amount of waste transported off site, listing each recipient with address, and the amount received;
  - e) For any operation with liquid impoundment(s), the amount of freeboard in the waste storage structure on the same day of each month;
  - f) Total number of acres used for land application, including total crop acres used for land application under the permittee's control;
  - g) Summary of manure, litter, and process wastewater discharges from the production area during the previous year;
  - h) Information that confirms that the current NMP was developed by a certified planner;
  - i) A copy of the manure analysis taken within 12 months of the date of land application or transfer of manure;
  - j) A list of the actual crop(s) planted and actual yield(s) for each field;
  - k) A list of actual nitrogen and phosphorus content, in pounds per acre, of the manure, litter, and process wastewater that was land applied; and
  - l) Any other information required to be reported under federal or State law.

**C. Signatures on Reports.**

1. All reports required by permits, and other information requested by the Department shall be signed by a person described in Part III.A.5.b of this permit or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a) The authorization is made in writing by a person described in Part III.A.5.b;
  - b) The authorization specifies either an individual or position having overall responsibility for environmental matters for the company; and
  - c) The written authorization is submitted to the Department.
2. If an authorization under this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the AFO, a new authorization satisfying the requirements of Part III.A.5.b must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

**D. Report Submission.** Required records and monitoring results shall be maintained on site. The annual report described in Part V.B shall be submitted to the address on the annual report or electronically, as described on the annual report application.

**E. Noncompliance Notification.**

1. Any discharge of manure, litter, or process wastewater to surface or ground waters of the State that is not in accordance with Part I.B of this permit is prohibited and shall be reported to the Department, including but not limited to, any discharge to surface waters from the production area for MAFOs, any discharge from the production area not resulting from greater than a 25 year storm event for existing CAFOs, any discharge from the production area for new source CAFOs, and any discharge from the land application area that is not related to a precipitation event. Such discharges shall be reported by telephone, within 24 hours of discovery of the noncompliance, to the Department at (410) 537-3314.
2. Within 5 days, the permittee shall also provide the Department with the following information in writing to:

**Maryland Department of the Environment  
Land and Materials Administration  
Resource Management Program  
1800 Washington Blvd., Suite 610  
Baltimore, MD. 21230-1719**

**Fax (410) 537-3321**

- a) A description of the violation, including the date, time, estimated discharge volume, name of receiving water, and impact on the receiving water;
- b) The cause of the violation;

- c) The anticipated time the cause of the violation is expected to continue, or, if the condition has been corrected, the duration of the period of the discharge or other violation;
  - d) Steps taken by the permittee to eliminate the discharge or correct the violation;
  - e) Steps planned or implemented by the permittee to prevent the recurrence of the discharge or other violation; and
  - f) A description of the permittee's accelerated or additional monitoring to determine the nature and impact of any discharge.
3. The permittee shall take all reasonable steps to minimize or prevent any adverse impact to the waters of the State or to human health from a violation of any permit conditions. In addition, any discharge of liquid manure to waters of the State that poses an imminent threat to the safety of a drinking water supply shall be reported to the office of the local county Environmental Health Director as soon as possible but not later than 24 hours.

**F. Demonstration of an Upset.** An upset shall constitute an affirmative defense to an action brought for noncompliance with the (technology-based) effluent limitations of this permit only if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and that the permittee can identify the specific cause(s) of the upset;
2. The permitted facility was, at the time, being operated in a prudent and workman-like manner and in compliance with proper operational and maintenance procedures;
3. The permittee submitted notification of upset within 24 hours. If the notification was given orally, the permittee submitted written notification to the Department including documentation to support and justify the upset within five calendar days following the oral notification; and
4. The permittee complied with any remedial measures required to minimize adverse impact.

#### **Part VI. Violation of Permit Conditions**

**A. Civil and Criminal Liability.** In issuing or reissuing this permit, the Department does not waive or surrender any right to proceed in administrative, civil, or criminal action for any violations of State law or regulations occurring before the issuance or reissuance of this permit. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any civil or criminal responsibilities, liabilities, or penalties for violation of Title 9 of the Environment Article, Annotated Code of Maryland or any local or other State law or regulation or the federal Clean Water Act.

**B. Penalties for Violations of Permit Conditions.** Title 9 of the Environment Article, Annotated Code of Maryland, provides that any person who violates a permit condition implementing the requirements of Title 9 is subject to criminal and civil penalties under Sections 9-342 and 9-343 for violations of State water pollution control laws. The required plan is an essential part of this permit, and failure to implement the plan in accordance with the approved specifications and schedules in the plan is a violation of this permit.

**C. Penalties for Tampering.** Section 9-343 of the Environment Article, Annotated Code of Maryland, provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**D. Penalties for Falsification of Reports.** Section 9-343 of the Environment Article, Annotated Code of Maryland, provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

### **Part VII. General Conditions**

**A. Compliance with This General Permit and Water Pollution Abatement Statutes.** The permittee shall comply at all times with the terms and conditions of this permit, the NMP and Conservation Plan, or the CNMP, the provisions of Title 7, Subtitle 2, and Title 9, Subtitles 2 and 3 of the Environment Article, Annotated Code of Maryland, and the federal Clean Water Act.

**B. Right of Entry.** The permittee shall permit the Secretary of the Department, or their authorized representatives, including researchers authorized by the Department and approved by MDA, and the United States Environmental Protection Agency (EPA), upon the presentation of credentials:

1. To enter, at reasonable times, upon the permittee's production and land application areas where a discharge's source is located or where any records are required to be kept under the terms and conditions of this permit;
2. To access and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
3. To inspect, at reasonable times, any monitoring equipment or monitoring method required in this permit;
4. To inspect, at reasonable times, any collection, treatment, pollution management, or discharge facilities required under this permit;
5. To sample, at reasonable times, any discharge of pollutants;
6. To install and collect samples from ground water monitoring wells;
7. To take photographs; and
8. To conduct research regarding the relative effectiveness of various alternative Best Management Practices for manure management, including establishing and maintaining on-site data collection and monitoring systems.

9. The Department and authorized representatives shall comply with appropriate biosecurity measures in accordance with the recommendations and guidelines established by the MDA.

**C. Property Rights/Compliance with Other Requirements.** The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of federal, State or local laws or regulations.

**D. Duty to Provide Information.** The permittee shall furnish to the Department, within the time frame stipulated by the Department, any information that the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

**E. Submitting Additional or Corrected Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Department, he or she shall submit, within 30 calendar days, the facts or information.

**F. Availability of Reports.** Except for data determined to be confidential under (§10-617 of the State Government Article, Annotated Code of Maryland), all submitted data must be available for public inspection at the offices of the Department.

**G. Toxic Pollutants.** The permittee shall comply with effluent standards or prohibitions for toxic pollutants established under Section 9-314 and Sections 9-322 to 9-328 of the Environment Article, Annotated Code of Maryland. Compliance shall be achieved within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

**H. Oil and Hazardous Substances Prohibited.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibility, liability, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act (33. U.S.C. § 1321), or under the Annotated Code of Maryland.

Permittees may be subject to additional requirements and regulations dictated by the Department's Oil Control Program and Emergency Planning and Community Right-to-Know Act (EPCRA) (Title 40 CFR 116). Any requirements listed in this permit which control grease, oil or fuel are to address potential pollutants not governed directly by Oil Pollution Prevention (Title 40 CFR 112), as the handling and storage of fuel and other petroleum products has a potential to cause negative impacts to waters of the State.

**I. Water Construction and Obstruction.** This permit does not authorize the construction or placing of physical structures, facilities, or debris or the undertaking of related activities in any waters of the State.

**J. Reopener Clause for Permits.**

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301, 304, and 307 of the Clean Water Act [33 USCS §§ 1311, 1314, 1317] if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in this permit; or
2. Controls any wastewater pollutant not limited in this permit. This permit, as modified or reissued under this section, shall also contain any other requirements of the Act then applicable.

**K. Total Maximum Daily Loads.** Permit requirements are consistent with existing Total Maximum Daily Loads (TMDLs) for impaired water bodies. Additional TMDLs and waste load allocations (WLAs) may be determined for nutrients in tidal waters. If the WLA assessment for nutrients in tidal waters or a later assessment of the wastewater discharged from these operations indicates that WLAs are required, additional or alternative controls or monitoring may be required.

1. Best management practices (BMPs) for AFOs are identified in the operation's Required Plan(s) which may include a CNMP, NMP, and Conservation Plan. At a minimum, the permittee shall implement these BMPs as specified in the Required Plan(s).
2. In order to ensure that this permit provides effluent discharge controls consistent with the assumptions and requirements of the Chesapeake Bay TMDL WLA, the Department may require, during the permit review process, and at any time after the issuance of the permit coverage, additional BMPs and controls to protect public health and to protect, maintain and restore water quality, and the existing and designated uses of waters of the State. For AFOs within the Chesapeake Bay watershed, this may include additional BMPs listed in Maryland's Watershed Implementation Plan (WIP) for Chesapeake Bay. These BMPs may include, but are not limited to, the agricultural practices set forth under the following categories contained in the WIP: Nutrient Management/Annual Practice; Other Practices; Additional BMPs, and; Pasture BMPs.

**L. Severability.** The provisions of this permit are severable. If any provisions of this permit must be held invalid for any reason, the remaining provisions shall remain in full force and effect. If the application of any provision of this permit to any circumstances is held invalid, its application to other circumstances must not be affected.

**M. Individual or General MAFO/CAFO Permit Coverage, Termination, and Closure.**

1. Each MAFO and CAFO shall be registered either under this General Discharge Permit or an individual, site-specific discharge permit. All applications for General Permit coverage shall be submitted in accordance with the requirements of Part III.A of this Permit.
2. If the Department, in its sole discretion, determines that this General Discharge Permit is not adequately protective of state waters at an operation, the Department may require any person authorized by this permit to apply for an individual State discharge permit. If a person fails to submit an application for an individual State discharge permit as required by the Department, the owner's authorization to discharge under this General Discharge Permit is automatically terminated at the end of the day specified by the Department as the deadline for individual permit application submittal.
3. Any person authorized by this General Discharge Permit may request to be excluded from the coverage of this permit by applying for an individual State discharge permit.

The request may be granted by issuing an individual State discharge permit if the reasons cited by the owner are adequate to support the request.

4. If an individual discharge permit for a MAFO or CAFO is issued to a person already covered under this permit, then coverage under this General Discharge Permit is automatically terminated on the effective date of the individual State discharge permit.
5. The Department may terminate coverage under this General Discharge Permit for an existing permittee by notifying the permittee of termination if the Department finds that:
  - a) The Notice of Intent (NOI) contained false or inaccurate information;
  - b) Conditions or requirements of the discharge permit have been or have the potential to be violated;
  - c) The MAFO or CAFO is not in compliance with requirements of the applicable required plan;
  - d) The Department has been refused entry to the site for the purpose of inspecting to insure compliance with the permit, or has been denied access to records or to take samples;
  - e) A change in conditions exists that requires temporary or permanent reduction or elimination of the permitted discharge;
  - f) Any State water quality stream standard has been violated as a result of the MAFO or CAFO's operation; or
  - g) Any other conditions at the site cause a water quality or public health concern.
6. *Former* MAFOs or CAFOs (Closure): A permittee shall maintain compliance with applicable permit requirements until the Department terminates the permit registration or a new permit for the same activity is issued to a succeeding person. The Department shall terminate permit registration if there is no remaining potential for a discharge of animal waste that was generated while the operation was a MAFO or CAFO.
  - a) If all animals and all animal waste have been removed from the site, and no additional animals are to be placed on the site, or the number of animals housed has been reduced and the AFO is no longer a MAFO or CAFO, then the permittee shall certify that fact to the Department, in writing. Upon receiving the closure certification from the permittee, the Department shall, within 30 calendar days, perform a site inspection to verify that the AFO no longer requires a permit. As a result of the inspection, the Department may:
    - i. Terminate the permit registration if all requirements have been met. Within 30 calendar days after the inspection, the Department shall notify the permittee in writing that the permit registration has been terminated; or
    - ii. The permittee must implement certain actions to eliminate the potential to discharge animal waste before the permit registration can be terminated.



- b) If the Department is unable to conduct a site inspection within 90 calendar days through no fault of the permittee, the permit will terminate within 90 calendar days of receipt of the certification, unless the permittee waives this provision in its request. Any such automatic termination does not relieve the operation from responsibility for any unauthorized discharges and the penalties associated with discharging without a permit.

**N. Continuation of an Expired General Discharge Permit.** A permittee wishing to continue to be covered by this General Discharge Permit after its renewal shall submit a request for continuing coverage in the form of a NOI at least 60 calendar days before the permit expires. Once a request for continuing coverage has been filed, the terms and conditions of this permit are automatically continued and remain fully effective and enforceable upon expiration of this permit until the date specified under a reissued general permit unless the permit or authorization is revoked or terminated by the Department. New registrations or modifications of existing registrations are not allowed after the expiration date of this permit.

**O. Permit Renewal.** To obtain permit coverage under a renewal of the General Discharge Permit, an existing AFO shall:

1. Comply with the requirement to submit a request for continuing coverage (NOI) under Section N of this part, along with any applicable fees; and
2. Within 30 calendar days of request by the Department, submit a current required plan.

**P. Transfer of Authorization.**

1. The authorization under this permit is not transferable to any person except in accordance with this section.
2. Authorization to discharge under this permit may be transferred to another person if:
  - a) The permittee is registered under the current permit;
  - b) Neither the permittee nor the new owner/operator receives notification from the Department, within 30 days of receipt of items P.2.c through f, of the Department's intent to revoke the existing authorization to discharge or to require modification of the terms of the existing approved plans;
  - c) The permittee notifies the Department, in writing, of the proposed transfer on a form approved by the Department (transfer form).
    - i. The form shall be signed by the permittee and the new owner/operator and indicate:
      - (a) the current legal name and physical address of the AFO;
      - (b) the Agency Interest Number of the AFO;
      - (c) the disposition of the facility (whether it was sold or whether only the operator changed);
      - (d) the specific date of the proposed transfer of permit coverage; and

- (e) the legal name, mailing address, telephone number, and email address of the new owner/operator.
  - ii. The form shall include a statement acknowledging the responsibilities and liabilities of the permittee and new owner/operator for compliance with the terms and conditions of this permit.
  - d) The new owner/operator signs the existing required plan(s) and sends the signed cover page(s) of the required plan(s) to the Department and MDA with the transfer form and a completed NOI;
  - e) The new owner/operator agrees to operate the facility in accordance with the existing required plan(s) until a new required plan is submitted; and
  - f) The new permittee submits a new required plan to the Department within 90 calendar days of the submission of the transfer form and NOI.
3. If a new NOI or required plan is not submitted by the new owner/operator within 90 calendar days, at the Department's discretion, coverage for this AFO under the current permit is terminated and the new owner/operator shall apply for coverage under the current permit as a new AFO, subject to the procedures required for a new AFO. Once terminated, the AFO is not authorized to discharge pollutants to waters of the State and shall cease operation of the AFO until a new registration is issued.

#### ***Part VIII. Authority to Issue General NPDES Permits***

On September 5, 1974, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters under Section 402 of the federal Clean Water Act, 33 U.S.C. Section 1342. On September 30, 1990, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a General Permit program.

Under the approvals described above, this general discharge permit is both a State of Maryland general discharge permit and an NPDES general discharge permit.

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Kaley Laleker, Director  
Land and Materials Administration