

AFO Public Participation Process

All AFO registrations and substantial modifications of existing registrations must undergo a public participation process. The status of that process can be found on the AFO Public Information Search Tool site and is as follows:

Pending: During the time that AFOs are in the process of submitting their NOIs and Required Plans and the Department is reviewing the submission, the listing for the AFO will show a “Status” of “Pending”.

Preliminary Approval: Once a [NOI](#) and the required plans are received, reviewed by MDE to assure that they meet the requirements of the [GD Permit](#), and preliminarily approved, the listing for that particular AFO on the public information search function page is updated to include a Notice of Preliminary Approval of the required plans. This requirement is satisfied when there is a date under “Deadline to Request Hearing” and “Deadline to Submit Written Comments”. The “Status” changes from “Pending” to “Notice of Preliminary Approval”

CAFOs: A public hearing will be held upon request to review MDE’s preliminary approval of the required plan(s) if a written request is received on or before twenty (20) calendar days of the publication of notice of MDE’s preliminary approval on the MDE website. The request should indicate the name, address, and daytime telephone number of the person making the request, the name of any party whom the person making the request may represent, and the name of the operation. Interested parties may also submit written comments whether or not a hearing is requested. Any written comments concerning the preliminary approval must be received by the close of business, thirty (30) calendar days after the publication of notice on MDE's website. Requests for a public hearing or written comments should be sent to: Ms. Kaley Lalekar, Acting Director, Land and Materials Administration, 1800 Washington Blvd., Baltimore, MD 21230-1719. Upon prior request, MDE will provide an interpreter for the deaf or hearing-impaired persons.

MAFOs: Public hearings regarding MAFOs may be held at MDE's discretion. However, interested parties may submit written comments. Any written comments concerning the preliminary approval must be received by the close of business, thirty (30) calendar days after the publication of the notice on the MDE website. Written comments should be sent to: Ms. Kaley Lalekar, Acting Director, Land and Materials Administration, 1800 Washington Blvd., Baltimore, MD 21230-1719.

CAFOs and MAFOs: The submitted [NOI](#) and required plan(s) will be available for review at the location indicated in the search on the MDE website as “Plan Review Location”, and at MDE by appointment. For further information regarding this notice, to schedule an appointment to review the NOI or the required plan(s), or to request an interpreter, please contact Mr. Gary Kelman, Chief, AFO Division, at (410) 537-3314.

CAFOs will NOT be registered until the end of the public process as stated in the GD Permit Part IIIB(3). The public process includes the public hearing and a contested case hearing if requested. The end of the public process is once the fifteen day period subsequent to the publication of the Notice of Final Approval has ended without a request for a Contested Case Hearing. If a Contested Case Hearing is requested, the end of the public process is once the

Final Decision Maker confirms that the proposed decision by the Administrative Law Judge is correct and this decision does not stay the registration.

Public Hearing: If a Public Hearing is requested during this period, the hearing will be scheduled and a date and location will appear on the public information search results for a particular AFO. The date will be listed under “Public Hearing Date”, a location will be listed under “Public Hearing Location” and the Status will be listed as “Public Hearing Scheduled.

Final Approval: If no comments are received during the 30 calendar day public comment period, the preliminary approval becomes a final approval and the AFO is registered. The public information search results for such an AFO will indicate a date under “AFO Registered Date” and “AFO Application Number” changes to “AFO Registration Number”. The “Status” changes from “Notice of Preliminary Approval to “Registered”.

MDE will prepare and provide notice of its final approval of the required plans if:

- Written comments adverse to the preliminary approval are received by MDE within 30 calendar days after publication of the notice of preliminary approval;
- Comments adverse to the preliminary approval were received in writing at, or within 5 calendar days after, a public hearing held according to COMAR 26.08.04.01-2B(5);
- Comments adverse to the preliminary approval were received orally at the public hearing conducted in accordance with COMAR 26.08.04.01-2B(5); or
- The final approval is substantively different from the preliminary approval, i.e. there have been substantive modifications to the required plans, and all persons who may be aggrieved by the final approval have not waived, in writing, their right to request a contested case hearing.

The public will be apprised of the final approval of the required plans through the public information search function under the listing for the particular AFO and a listing on the AFO webpage.

- If MDE determines that no modification of the required plans were necessary based on the comments received, a person aggrieved by MDE's final approval can request a Contested Case Hearing, in writing, within fifteen (15) calendar days. The public information search function listing for a particular AFO will provide a date under “Deadline to Request a Contested Case Hearing” and the “Status” will change from “Notice of Preliminary Approval” to “Notice of Final Approval and Opportunity to Request a Contested Case Hearing”. If no Contested Case Hearing is requested during this period, the AFO will be registered. This is indicated by a date under “AFO Registered Date” and “AFO Application Number” changes to “AFO Registration Number. The “Status” will change from “Notice of Final Approval and Opportunity to Request Contested Case Hearing” to “Registered”.
- If MDE determines that it was necessary to have the planner perform a substantial modification of the required plans, the public information search function listing for a particular AFO will indicate a second thirty (30) calendar day opportunity for public comment on the modified plans by listing a date under:
 - “Required Plan(s) Review Location”;
 - “Deadline to Request Hearing”;
 - “Deadline to Submit Written Comments”.

- The procedure will then be repeated as if this was a Preliminary Approval.
- The “Status” will change from “Notice of Preliminary Approval” to “Notice of Final Approval and Opportunity to Request Contested Case Hearing”.
- If no Contested Case Hearing is requested during this period, the AFO will be registered. This is indicated by a date under “AFO Registered Date” and “AFO Application Number” changes to “AFO Registration Number. The “Status” will change from “Notice of Final Approval and Opportunity to Request Contested Case Hearing” to “Registered”.

Contested Case Hearing: Notwithstanding COMAR 26.08.04.08K(1), which states that “a person may not request a contested case hearing on an individual discharge covered under a general permit adopted under the provisions of this chapter”, a person aggrieved by MDE’s final approval of the required plans, may request a contested case hearing. The form and content of a request for a contested case hearing shall be consistent with COMAR 26.08.04.08K(2) and (3). A contested case hearing conducted under these requirements shall be limited to contesting the terms of the approved plans. The public will be apprised of the contested case hearing through the public information search function listing for a particular AFO.

- If a Contested Case Hearing is requested during this period, the hearing will be scheduled and a date and location will appear on the public information search results for a particular AFO. The date will be listed under “Contested Hearing Date”, a location will be listed under “Contested Hearing Location” and the Status will be listed as “Contested Hearing Scheduled.
- As stated earlier, if a Contested Case Hearing is requested during this period, the AFO will NOT be registered until the end of the administrative process, once the decision rendered by the Administrative Law Judge and the Final Decision Maker allows the registration to proceed.