

## **Final Determination for GD Permit 14AF/MDG01**

The Code of Maryland Regulations (COMAR) 26.08.04.01-3A(2) requires publication of a Final Determination if (b) "Comments adverse to the tentative determination were received in writing at, or within 5 days after, a public hearing held according to Regulation .01-2B(5) of this chapter;

(c) Comments adverse to the tentative determination were received at the public hearing conducted under this section and the Department prepared a transcript of the comments made at the hearing; or (d) The final determination is substantively different from the tentative determination and all persons who may be aggrieved by the final determination have not waived, in writing, their right to request a contested case hearing.

The Maryland Department of the Environment (MDE) held a public hearing on the [Tentative Determination](#) at the University of Maryland Eastern Shore on October 14, 2014. Oral comments were received at the hearing and written comments were received prior to the expiration of the 5-day post hearing comment period on October 20, 2014. MDE published the [Final Determination for the General Discharge Permit for Animal Feeding Operation \(GD Permit\)](#) on this website and in the Delmarva Farmer, Salisbury Daily Times, the Record Observer, and Frederick News Post once per week for two consecutive weeks starting November 25, 2014 and following:

### **DEPARTMENT OF THE ENVIRONMENT**

### **LAND MANAGEMENT ADMINISTRATION**

#### **Final Determination to Reissue**

#### **General Discharge Permit for Animal Feeding Operations**

In accordance with § 1-604(b) Environment Article, Annotated Code of Maryland, the Maryland Department of the Environment (the "Department" or "MDE") has made a [Final Determination](#) to renew, with revisions, the [General Discharge Permit for Animal Feeding Operations](#), NPDES # MDG01, State Discharge Permit # 09AF ("GD Permit"). The [new GD Permit](#) will continue to carry NPDES # MDG01, but the State Discharge Permit number will be changed to Permit # 14AF. The [new GD Permit](#) will be effective on **December 1, 2014**.

The permit is necessary to protect water quality and to comply with federal requirements under 40 Code of Federal Regulations ("CFR") Parts 122, 123, 124, 125, and 412, as well as State requirements under Code of Maryland Regulations ("COMAR") 26.08.04.09N. All large and medium animal feeding operations ("AFOs") that discharge or propose to discharge to waters of the State must be covered under the GD Permit. Other AFOs may be required to be covered under the GD Permit at the discretion of MDE or the United States Environmental Protection Agency ("EPA").

As required by COMAR 26.08.04.08H, MDE conducted a Public Hearing on October 14, 2014 at the Richard A. Henson Center, University of Maryland Eastern Shore, 30665 Student Services Center Lane, Princess Anne, Maryland 21853. In addition to the proposed revisions to the previous GD Permit, which were included in the [Tentative Determination](#) issued by the Department on September 5, 2014, MDE has made the following additional revisions in response to comments received as part of the public participation process:

Part I.A.5.b: Reworded to clarify that the deadlines listed for submitting an updated notice of intent and required plans for existing MAFOs that have become CAFOs applies only to MAFOs that are designated as CAFOs under 40 CFR §122.23(c).

Part III.F: Reduced the annual permit fees for small, medium, and large CAFOs to \$60, \$300, and \$800, respectively.

Part IV.A.1.a(1) and (2): Clarified that the provision allowing use of other NRCS Practice Standards for stockpiling to develop required plans is in addition to and not an alternative to the requirement to form piles of litter in conformance with NRCS Practice Standard 633.

Part IV.A.6: Changed the requirement to document inspections of animal waste storage areas once annually for dry animal waste operations to once every three months. Changed the requirement to document inspections of storm water routing structures once annually for dry animal waste operations to once weekly.

Part V.A: Added “total phosphorus” and “any other constituents as may be required by the Department” to the list of constituents that must be analyzed when the Department requires a permittee to collect samples of surface discharges.

Part V.C: Added to the list of items to be included in the CAFO annual report “any other information required to be reported under federal or State law.”

MDE has also made the following typographical corrections to the GD Permit:

Part I.A.5.a: The missing word “or” was added between Part I.A.5.a.i(a) and I.A.5.a.i(b). The improper capitalization of “is” was fixed in I.A.5.a.i(b). The references to I.A.5.a were revised to reference Part I.A.5.a.i(a).

Part I.A.5.b: Comprehensive Nutrient Management Plan (CNMP) was replaced with “required plan” to reflect the deletion of the CAFO-only requirement for submission of a CNMP.

Part II.E: The State general discharge permit number was updated to 14AF.

Part IV.A.1: Deleted extra spaces.

Part IV.A.1.b: Added a space between “plan” and “must” in the first sentence.

Part IV.A.7.a: Deleted extra periods after items 1) through 5).

As provided by § 1-601(c) of the Environment Article, a Final Determination by the Department on the issuance, denial, renewal, or revision of this permit is subject to judicial review at the request of any person that: (1) Meets the threshold standing requirements under federal law; and (2) (i) Is the applicant; or (ii) Participated in the public participation process through the submission of written or oral comments, unless an opportunity for public participation was not provided. Judicial review is based on the administrative record before the Department and limited to objections raised during the public comment period unless the petitioner demonstrates that: (i) The objections were not reasonably ascertainable during the comment period; or (ii) Grounds for the objections arose after the comment period. Md. Code Ann., Envir. § 1-601(d). A person petitioning for judicial review shall file the petition in accordance with Title 1, Subtitle 6 of the Environment Article and the Maryland Rules. Md. Code Ann., Envir. § 1-605 (a), (c). A party submitting a petition for judicial review shall file the petition within thirty (30) calendar days after publication of a notice of Final Determination. Md. Code Ann., Envir. § 1-605 (b).

A document entitled “[Response to Public Comments Regarding General Discharge Permit for Animal Feeding Operations, NPDES Permit # MDG01, State Discharge Permit # 14AF, November 20, 2014](#)”, as well as the [new GD Permit](#) may be viewed on the MDE website at [www.mde.maryland.gov](http://www.mde.maryland.gov). Copies of these documents may be obtained from MDE at a cost of \$0.36 per page by contacting Mr. Gary Kelman at (410) 537-4423 or [gary.kelman@maryland.gov](mailto:gary.kelman@maryland.gov).