



February 24, 2009

Dear Maryland Poultry Grower:

The Maryland Department of the Environment (MDE) and the Maryland Department of Agriculture (MDA) want to update you regarding the proposed regulations and General Permit for Animal Feeding Operations (AFOs). The regulations became effective January 12, 2009, however, the final Maryland general permit for AFOs has been delayed due to two requests for a contested case hearing, one by the Waterkeeper Alliance and another from an individual farmer. The contested permit is being reviewed by an Administrative Law Judge at the Maryland Office of Administrative Hearings. MDE and MDA will provide updates to the affected parties when significant decisions are made regarding this case.

Together, the regulations and permit are designed to control nutrients from Maryland's largest agricultural animal operations and are a significant step forward in protecting the Chesapeake Bay, local waterways, and our drinking water. The AFO regulations and permit are just one part of a comprehensive, statewide effort to address all sources of pollution that are impairing our waterways: wastewater treatment plants, industrial discharges, septic systems, urban/suburban stormwater runoff and air emissions from power plants, cars and trucks. Maryland cannot protect our waters and restore Chesapeake Bay without reducing pollution from all of these sources significantly.

The regulations, which are in effect now, require that all Concentrated Animal Feeding Operations (CAFOs), including dry manure poultry operations that discharge or propose to discharge to the waters of the State must apply to the Maryland Department of the Environment for a discharge permit by February 27, 2009. That application must include a copy of the AFO's Comprehensive Nutrient Management Plan (CNMP). For those operations that do not have a plan ready by the required submittal date, the applicant must provide additional information detailing their efforts to comply with the CAFO rule and a timetable for completing a plan.

The new regulation incorporates the federal rules that require a case-by-case evaluation by the CAFO owner or operator to determine whether the CAFO discharges or proposes to discharge based on the facility's design, construction, operation, and maintenance. The Environmental Protection Agency recently has been providing guidance to farmers in a series of meetings in Maryland and Delaware regarding whether a facility will be considered to be a discharger under the federal rule. A copy of the EPA's fact sheet regarding what constitutes a discharge is enclosed with this letter. The Maryland Department of the Environment will not be able to

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provide written confirmation that a specific large or medium animal feeding operation is exempt from needing a permit because the EPA has determined that the individual owner or operator who is most familiar with the drainage patterns at the specific AFO site is best equipped to make the determination of whether or not a discharge may occur.

MDE has waived the permit application fee requirement until Maryland's general permit becomes effective. The Department will notify all permit applicants when the permit becomes effective and will notify applicants if fees will be required at that time. The attached table shows what constitutes a small, medium or large sized CAFO. The Department has determined in consultation with EPA that submission of the form for general permit 09AF/MDG01, provided in the enclosure, with required attachments listed on the form meets the federal CAFO discharge application submittal requirements.

Funding for conservation practices to help farmers meet the new requirements is available through federal funding (including an additional \$5.1 million in Farm Bill funding this year above the \$6.4 in already allocated federal funds, and more in future years). State funding continues through the Chesapeake 2010 Trust Fund and a variety of other sources. These funds are provided as usual through MDA and NRCS.

Please review the above information and attachments carefully to determine if your operation is required to submit a permit application at this time. For information on obtaining a Comprehensive Nutrient Management Plan (CNMP) contact your local USDA-Natural Resources Conservation Service at the number on the attached list.

The deadline for submitting permit applications for Maryland Animal Feeding Operations (MAFO) will not be established until the permit challenge has been resolved. However, the proposed general permit requirements for Maryland Animal Feeding Operations (MAFOs) include a number of requirements that may require considerable effort for some operations to fully implement the environmental improvements. For those facilities defined under the new regulation as a MAFO, we recommend you take advantage of this delay in permitting requirements and become thoroughly familiar with the proposed final permit and immediately begin to obtain the required plans while preparing to implement all of the new requirements including buffers, setbacks, field storage, and documents.

Additional information can be found at www.mde.state.md.us/Permits/WaterManagementPermits/cafo.asp or by calling Ms. Patsy Allen, General Permits Coordinator at 800-633-6101 x 3599.

Sincerely,



Shari T. Wilson
MDE Secretary



Roger Richardson
MDA Secretary