

STATE OF MARYLAND DEPARTMENT OF THE ENVIRONMENT  
LAND AND MATERIALS ADMINISTRATION

TENTATIVE DETERMINATION TO RE-ISSUE PERMIT  
**General Discharge Permit for Animal Feeding Operations**

The Maryland Department of the Environment (MDE) has made a tentative determination to renew, with modifications, the General Discharge Permit for Animal Feeding Operations, NPDES # MDG01, State Discharge Permit #14AF (AFO Permit).

The permit is necessary to protect water quality and to comply with federal requirements under Code of Federal Regulations 40 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 surface or ground water, or both, as defined in COMAR 26.08.03.09A must be covered under the AFO Permit. Other AFOs may be required to be covered under the AFO Permit at the discretion of MDE and the United States Environmental Protection Agency (EPA).

**Currently Registered AFOs:** All AFOs currently registered under the AFO Permit must reapply for coverage under the renewal permit by submitting a request for continuing coverage to MDE, in writing, at least sixty (60) calendar days prior to the expiration of the current permit (by October 1, 2019). This request must be submitted on a Notice of Continued Operation (NOCO) form. Once the NOCO has been filed, the expired AFO Permit (14AFA) will continue in force and effect until coverage under the new general permit is issued and any deadline for opportunity to register under the renewal permit is reached or the general permit is revoked or withdrawn. All registered AFOs that have submitted a NOCO by October 1, 2019 will be administratively extended under the current AFO Permit (14AF, MDG01) until MDE registers them under the new AFO Permit (19AF, MDG01). Registrations of those AFOs that have not submitted a timely NOCO will be allowed to expire on November 30, 2019 without being administratively extended.

Within sixty (60) calendar days after the renewal and reissuance of the AFO Permit with new effective and expiration dates, the current registrant is required to either submit to MDE a written notice if the operation will no longer need the general permit or a new Notice of Intent (NOI) form. This is the deadline for submittal of an NOI by a currently registered AFO and is necessary to continue permit coverage. Also, recent legislation requires CAFOs to submit a NOI fee based on the size of the AFO. Applications will not be processed without the fee.

**CAFOs/MAFOs Not Currently Registered:** All existing AFOs required by the regulations to be covered by the AFO Permit that are not covered by the current AFO Permit must submit a NOI and any fee required by the new AFO Permit immediately, but no later than sixty (60) calendar days prior to the expiration of the current AFO Permit. All new AFOs that anticipate being in operation during the effective dates of the renewed AFO Permit, must submit their NOI, required plans, and fee at least one-hundred-sixty (160) calendar days prior to commencing operations.

The proposed modifications to the current AFO Permit are listed below and the draft AFO Permit is at least as stringent as the existing AFO Permit. Most of the changes are to eliminate requirements that are no longer applicable in the third round of the permit, such as many of the deadlines. Also, some editorial changes were made to provide consistency and reflect current standards (throughout). Other than these, specific changes include:

**Part I**

- a. Removed Certification of Conformance due to regulation change in 2018; and
- b. Added clarification of the conditions under which existing and new source CAFOs can discharge [B.2 and B.3].

**Part II**

- a. Added EPA's new source dates to CAFO definition [F];
- b. Removed definition of Certification of Conformance due to regulation change in 2018; and
- c. Added EPA definition of "land application area".

**Part III**

- a. Added that a change in ownership or operator terminates the registration unless it is a transfer [A.1];

- b. Clarified that NOI requirements must include, at minimum, the information specified in the federal requirements in 40 CFR §§ 122.21 and 122.28 [A.4]; and
- c. Clarified that permit coverage is not issued until after the public participation process up to the end of the administrative process [C.3].

**Part IV**

- a. Added that in addition to NRCS practices, the Department, in consultation with NRCS and MDA, would consider practices designed and certified by a professional engineer [A.1.b.i and v];
- b. Converted land application logbook and no-land logbook sections into two tables to be clearer. Clarified that land permittees must implement the requirements in Table 3, and no-land permittees must implement the requirements in Table 4 [A.5 and A.6];
- c. Clarified that “other circumstances” warranting alternative mortality management would be allowed at the Department’s discretion [B.2];
- d. Added that if outdoor air quality is a resource concern on poultry operations, NRCS practices should be used to address the concern [D.2];
- e. Added best management practices for organic poultry operations, defined a “poultry pasture” and included a requirement for the poultry pasture to be vegetated during the normal growing season and for required plans to account for manure deposited on the poultry pasture. Also, prohibited any discharge of manure, litter, or process wastewater from the poultry pasture to waters of the State [D.3]; and
- f. Consolidated new source performance standards and added reference to “New Source Performance Design Criteria for Poultry Operations” [E.3].

**Part V**

Clarified that the purpose of any monitoring at AFOs should be to determine the effects of the operation of the AFO on water quality above background/legacy levels [A.1].

**Part VII**

- a. Clarified/streamlined closure requirements, removing the letter of recommendation from the Soil Conservation Service or MDA [M.6];
- b. Clarified continuation requirements to allow administrative extension of coverage under this permit [N];
- c. Clarified permit renewal requirements [O]; and
- d. Revised and clarified transfer requirements to allow a transfer to proceed with the existing CNMP, but require a new CNMP within 90 days [P].

**NOTE: Two public hearings on the tentative determination are scheduled:**

Location	Address	Time
Thurmont Regional Library, Community Room	76 East Moser Road, Thurmont, Maryland 21788	October 15, 2019 6:00-7:30 PM
Wicomico Civic Center	500 Glen Avenue, Salisbury, Maryland 21804	October 21, 2019 6:00-7:30 PM

Written comments concerning the tentative determination will be considered in the preparation of a final determination if submitted to MDE, to the attention of Mr. John Sullivan at Maryland Department of the Environment, Land and Materials Administration, 1800 Washington Blvd., Suite 610, Baltimore, Maryland 21230-1719 Attn: Mr. John Sullivan, or by email at [john.sullivan1@maryland.gov](mailto:john.sullivan1@maryland.gov). The submittal must include the name, address and telephone number (home and work) of the person making the comments and the party whom the person making the comment may represent. Please include the AFO Permit number (19AF; MDG01) on the comment document. Comments must be submitted no later than October 28, 2019.

The fact sheet for the tentative determination and a copy of the renewal AFO Permit for AFOs may be viewed on the MDE website, [www.mde.maryland.gov](http://www.mde.maryland.gov). Persons may also review the supporting documentation by contacting Mr. Gary Kelman at 410-537-3314 or [gary.kelman@maryland.gov](mailto:gary.kelman@maryland.gov) to make an appointment or by written request to Mr. Kelman at the above address. Copies of documents may be obtained at a cost of \$0.36 per page.