

Tentative Determination for GD Permit 14AF/MDG01

The Code of Maryland Regulations (COMAR) 26.08.04.08 requires publication of a Tentative Determination and a notification of a public hearing when a permit is renewed. Following is the publication as it appeared in the Maryland Register on September 5, 2014. The Tentative Determination also was published in the Demarva Farmer, Salisbury Daily Times, the Record Observer, and Frederick News Post once per week for two consecutive weeks between September 5, 2014 and September 19, 2014.

DEPARTMENT OF THE ENVIRONMENT

LAND MANAGEMENT ADMINISTRATION

Tentative Determination to Reissue 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 # 09AF (GD Permit). If renewed, the GD Permit will continue to carry NPDES # MDG01, but the State Discharge Permit number will be changed to State Discharge Permit # 14AF.

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 GD Permit. Other AFOs may be required to be covered under the GD Permit at the discretion of MDE and the United States Environmental Protection Agency (EPA).

All AFOs currently registered under the GD Permit must reapply for coverage under the renewal permit by notifying MDE, in writing, at least sixty (60) calendar days prior to the expiration of the current permit. Once a request for continuing coverage has been filed, the expired GD Permit will continue in force and effect until 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and any deadline for opportunity to register under the renewal permit is reached or the general permit is revoked or withdrawn.

Within sixty (60) calendar days after the renewal and reissuance of the [GD 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 \(NOI\)](#).

All existing AFOs required to be covered by the [GD Permit](#) who are not covered by the [current GD Permit](#) must submit a [new NOI](#) and any fee required by the [new GD Permit](#) immediately, but no later than sixty (60) calendar days prior to the expiration of the current GD Permit. All new AFOs that will be in operation during the effective dates of the renewed GD Permit, must submit their [NOI](#) and required plans at least one-hundred-eighty (180) calendar days prior to commencing operations.

The proposed modifications to the current GD Permit are primarily minor in nature and the draft GD Permit is at least as stringent as the existing GD Permit. Most of the changes are to eliminate requirements that are no longer applicable in the second 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 (Page numbers refer to draft permit.):

1. Part IA5: Clarification of "Certification of Conformance" (Page 2) – This section has been re-written to clarify this requirement.
2. Part IVA6: Logbooks/Recordkeeping (Pages 12, 13, and 14) - This section was expanded to clarify recordkeeping requirements for both land and no-land operations in fulfillment of the recordkeeping requirement of 40 CFR Part 122.42(e)(1)(ix).
3. Part IIIA2/Part IIIB2/Part IVA1: Removal of the CAFO-only requirement to fulfill the application requirement to submit a NMP and Conservation Plan by the submission of a CNMP (Pages 7, 8, and 10) – CAFOs will now have the same requirements as MAFOs – to submit either a CNMP or a combination of a NMP and Conservation Plan – “the required plan” provided that it complies with the requirements in COMAR 26.08.04.09N(3)(b) and the federal regulations in 40 CFR Part 122.42(e)(1). These regulations address the requirement of the nine minimum standards to protect water quality. This requirement is at least as stringent as the current GD Permit and will result in AFOs being able to timely obtain and make updates to plans.
4. Part IIIB5: Required plan incorporation into permit (Page 8) – This section reinforces that requirements in a required plan are also permit terms as required by federal regulations, 40 CFR Part 122.42(e)(5).
5. Part IIIC: Addition of NOI requirement for “the total square footage of all poultry houses” (Page 9) – This information is necessary to determine whether an operation that has no discharge may apply for a Certification of Conformance or must apply for coverage under the GD Permit as a MAFO.
6. Part IIIF: Removal of explanation of when fee is deemed paid and relation to effective date of payment (Page 10) – The deleted provision is not necessary and is related to internal MDE business operations rather than a condition to discharge.
7. Part IVA(1)(a)(3): Requirement for the NMP to be prepared by a certified and licensed nutrient management consultant (Page 11) – This Section is required to comply with COMAR 15.20.04, 15.20.07 and 15.20.08.
8. Part IVB(6)(a)/Part IVB(8)(a): Clarification of existing permit requirement that field ditches are included in the setback requirement of standard 6 of the nine minimum standards (Pages 14 and 15) – This Section clarifies the existing provision.

9. Part IVD2 to Part IVA(6)(b)(4) and Part IVA(7)(a)(v): Move of weekly animal waste storage and storm water routing structure inspection requirement from Page 16 to Pages 13 and 14. – This is a clarification of the existing requirements. Current permit requires these inspections, but not documentation of the inspections.

10. Part IVF: Clarification of the obligations of permittees when they modify their operation. Requirements are split into those that require a new NOI and those that require only notification (Page 17) – A new NOI will be required for all substantial modifications to operations.

11. Part VC(2)(b)/Part VC(2)(c): Reduction of the requirement to collect waste generated data and field-specific land application data from per month to per year, to be reported on the annual report (Page 19) – This provision is to make permit requirements consistent with industry practices.

12. Part VIIB: Addition of “United States Environmental Protection Agency” under the “Right of Entry” general condition (Page 22) – This provision was added at EPA’s request.

13. Part VIIH: Addition of a statement that the Department may impose additional requirements on the permittee by the Oil Control Program and Emergency Planning and Community Right to Know Act (Page 23). – This provision was added to address other requirements that may be applicable to AFOs.

14. Part VIIK: Added statement/text requiring the permittee to implement BMPs required to satisfy the Chesapeake Bay Watershed Implementation Plan (WIP) and reserving the right of the Department to impose additional BMPs to minimize phosphorus and nitrogen transport (page 24). – This provision was added per EPA’s request.

NOTE: A public hearing on the tentative determination is scheduled to be held in Princess Anne, Maryland on October 14, 2014 at 6:00 PM at the Richard A. Henson Center, University of Maryland Eastern Shore, 30665 Student Services Center Lane, Princess Anne, MD 21853.

Written comments concerning the tentative determination will be considered in the preparation of a final determination if submitted to MDE by the close of business on October 20, 2014 to the attention of Mr. Horacio Tablada at Maryland Department of the Environment, Land Management Administration, 1800 Washington Blvd., Suite 610, Baltimore, Maryland 21230-1719 Attn: Mr. Horacio Tablada and 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 GD Permit number on the comment document (i.e., NPDES # MDG01, State Discharge Permit # 14AF.)

The fact sheet for the tentative determination and a copy of the renewal GD Permit for AFOs may be viewed on the MDE website, www.mde.maryland.gov. Persons may also review the supporting documentation by contacting Mr. Gary Kelman at 410-537-4423 or 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.