Maryland Department of the Environment

FACT SHEET SUPPLEMENT

General Discharge Permit for Animal Feeding Operations; NPDES Permit No. MDG01; State Discharge Permit No. 25AF

GENERAL FEDERAL AND STATE INFORMATION

Section 301(a) of the Clean Water Act (CWA), 33 USC § 1311(a), prohibits the discharge of pollutants to waters of the United States in the absence of authorizing permits, including National Pollutant Discharge Elimination System (NPDES) permits. The Maryland Department of Environment (MDE) is the State agency with the authority to administer the Federal NPDES Program in Maryland pursuant to Section 402 of the CWA, 33 USC § 1342. The United States Environmental Protection Agency (EPA) maintains concurrent enforcement authority with authorized States for violations of the CWA.

Code of Maryland Regulations (COMAR) 26.08.03.09B(1) incorporates by reference the Federal Concentrated Animal Feeding Operations (CAFO) requirements. COMAR 26.08.04.09N(3) includes public participation requirements thus providing consistency with the Federal requirements regarding Nutrient Management Plans (NMPs). To be registered under Maryland's General Discharge Permit (discharge permit) for Animal Feeding Operations (AFOs) and to comply with 40 CFR 122.42(e), an AFO (CAFO or Maryland Animal Feeding Operation (MAFO)) owner or operator must submit to MDE a Required Plan as defined in COMAR 26.08.04.09N(3)(b) (Comprehensive Nutrient Management Plan (CNMP), or an NMP and Soil Conservation and Water Quality Plan ("CP") .

Maryland AFO Permit sets forth requirements and procedures that are consistent with applicable Federal requirements and procedures for CAFOs including but not limited to 40 CFR 122 and 40 CFR 412. Code of Maryland Regulations 26.08.03.09 sets forth applicable requirements for Maryland AFOs that do not need to obtain coverage under the AFO permit or a separate State permit.

Under the CWA, the Permitting Authority may issue discharge permits to regulate facilities which have similar discharges and are subject to the same conditions and limitations within a specified geographic area [40 CFR 122.28]. Using discharge permits conserves resources and reduces the paperwork burden associated with obtaining discharge authorization for both the regulated community and the Permitting Authority. Therefore, MDE has determined that a discharge permit is the appropriate mechanism to regulate the majority of Maryland's CAFOs that are subject to the requirements of the State NPDES Program and the CWA. MDE also regulates MAFOs under the discharge permit, although these operations are not regulated under the CWA.

MDE's public comment period will be from October 3, 2025 to November 2, 2025. The written comments concerning the tentative determination will be considered in the preparation of a final determination if submitted to MDE, to the attention of Alexis Capes at Maryland Department of the Environment, Land and Materials Administration, 1800 Washington Blvd., Suite 610, Baltimore, Maryland 21230-1719 Attn: Alexis Capes, or by email at alexis.capes1@maryland.gov. The submittal must include the name, address and telephone number (home or work) of the person making the comments and the party whom the person making the comment may represent. Please include the AFO Permit number (25AF; MDG01) on the comment document. Comments must be submitted no later than November 2, 2025.

NOTE: Three public hearings on the tentative determination are scheduled:

Location	Address	Time
Thurmont Regional Library, Community Room	76 East Moser Road, Thurmont, Maryland 21788 (301) 600-7205	October 15, 2025 (6-8pm)
University of Maryland Eastern Shore (UMES)	Princess Anne, Maryland 21853 (410) 651-7747	October 21, 2025 (6-8pm)
Talbot Community Center Curling Rink	10028 Ocean Gateway, Easton, Maryland 21601 (410) 770-8050	October 29, 2025 (6-8pm)
Virtual On-line Meeting		October 30, 2025 (6-8pm)

Supplementary information in this Fact Sheet is organized as follows:

I. Modifications to existing AFO Permit
II. AFO Permit Area and Coverage
III. Effluent Limitations and Standards
IV. Special Conditions
V. Annual Report
VI. Standard AFO Permit Conditions

I. MODIFICATIONS TO EXISTING AFO PERMIT

A. General

Throughout the AFO Permit, requirements not applicable to this round of the AFO Permit have been removed. In addition, based on the Department's experience with the existing AFO Permit, language was adjusted to be more consistent and clearer.

B. Primary Modifications

1. Whenever there was a reference to NRCS Practice Standards, the wording was changed to Maryland NRCS Practice Standards. This was to make it clear that the Practice standards are specific to Maryland. There may be NRCS Practice Standards that are not approved in the State of Maryland.
2. Page 1: Identified Code of Federal Regulations (CFR) that are incorporated by reference.
3. Page 2, D.2: Created separate section for "feathers and other particulates".
4. Page 2, D.3: Created separate section for "Outdoor Air Quality".
5. Page 2: Removed text from New Source Performance Standards (NSPS): "for Swine, Poultry, and Veal Calves"
6. Page 2, E.3: Added section for animal specific NSPS.
7. Page 5, Table 2: Changed "Cattle (includes heifers)" to "Cattle, other than mature dairy cows or veal calves (includes heifers steers, bulls, and cow/calf pairs)" to align with applicable Federal regulations.
8. Page 5, Table 2: Changed "Dairy Cattle" to "Mature Dairy Cows (whether milked or dry)" to align with applicable Federal regulations.
9. Page 6, B2: Added reference to NRCS Practice Standard 313.
10. Page 6, B7: Defined NPDES as National Pollutant Discharge Elimination System.
11. Page 6, Part II.A: Clarified that the 45 calendar days and 12-month period could mean if the animal is confined for any portion of the day, it is considered to be on the facility for a full day and the 45 days do not have to be consecutive nor the same animals confined in any 12-month period. This is consistent with EPA's NPDES Permit Writers Manual on determining whether an operation is an AFO or not.
12. Page 7, Part II.F: Update 19AF to 25AF
13. Page 9, Part II.AA: Added additional criteria to the definition of "Process Wastewater".

14. Page 10, Part II.CC: Added Conservation Plan to "Required Plans" to align with COMAR 26.08.04.09(N)(3)(b).
15. Page 10, Part II.FF Added a definition for "Site".
16. Page 10, Part II.GG: Added litter and process wastewater to what is applied on the land application area.
17. Page 11, Part III.A.1: Clarified this section applies to a CAFO owner or operator who was previously registered. Changed 14AFA and MDG01A to 19AF and MDG01, respectively. Added "A CAFO or MAFO owner or operator who has properly followed the transfer process in Part VII.P of this permit, is not a new operation".
18. Page 11, Part III.A.3: Clarified that this section could apply to the owner or operator. Clarified responsibilities when the registration is not terminated.
19. Page 12 Part III.A.6: Added email address for submittals. Replaced applicable fees with application fees and CAFO annual fees.
20. Page 13, Part III.B.1: Added "and applicable State and Federal requirements".
21. Page 13, Part III.B.2: Added "The resource concern evaluation worksheet shall adequately address current on-site conditions". Replaced on-site with "production area and applicable land application area"
22. Page 13, Part III.B.3: Added "applicant". Removed separate timeframe for implementation plan submittal and added it to the submittal as a part of the required plan.
23. Page 13, Part III.B.4: Added "applicant". Added "or reasonable" to business hours.
24. Page 13, Part III.B.5: Added that recommendations could also be for the production area.
25. Page 13, Part III.B.7: Added "applicant".
26. Page 15, Part IV.A.1.b.v: Clarified requirements for CAFOs that choose to use incinerators or composters for mortality management.
27. Page 16, Part IV.A.1.b.iii: Added "silage leachate".
28. Page 16, Part IV.A.1.b.vii: Added requirement for pothole management and preventing commingling of stormwater with manure, litter, and process wastewater.
29. Page 16, Part IC.A.1.f: Clarified information needed in the nutrient management plan for the land application area.
30. Page 17, Part IC.A.1.g: Clarified information needed for the conservation plan.
31. Page 17, Part IV.A.2. Added reference to NRCS Practice Standard 313

32. Page 17, Part IV.A.2: Removed the language (for swine, poultry, and veal calves after new sources.
33. Page 17, Part IV.A.3: Added that MDE shall be notified prior to any land application while winter restrictions are in place. Changed title to Winter Application Requirements. Referenced COMAR 15.20.07.02.
34. Page 19, Table 3.e: Added facility name, owner/operator, and management unit. Added language referencing the NMP and what records must document.
35. Page 19, Table 3.f: Added calibration methodology
36. Page 19, Table 3.g: Added types of storm water routing structures.
37. Page 19, Table 3.h: Included other information that needs to be documented during the inspection and that inspections still need to occur between flocks.
38. Page 19, Table 3.i: Added reference to NRCS Practice Standard 313.
39. Page 19, Table 3.g: Updated to say including but not limited to.
40. Page 19, Table 3.l: Added additional types of recordkeeping activities.
41. Page 19, Table: Applicable changes to Table 3 are also reflected in Table 4.
42. Page 21, Part IV.B: Added “applicant”.
43. Page 21, Part IV.B.1: Added reference to NRCS Practice Standard 313
44. Page 21, Part IV.B.2: Added language on the use of incinerators for mortality management and language on restrictions associated with liquid manure management and process wastewater.
45. Page 21, Part IV.B.3: Clarified that waterline inspections must also occur in between flocks. Added different types of diversion features.
46. Page 22, Part IV.B.5: Added fertilizers to list of chemicals.
47. Page 22, Part IV.B.6.a: Clarifying that this section does not apply to new source AFOs since they have different setback requirements.
48. Page 25, Part IV.D.2: Created separate section for feathers and other particulates.
49. Page 26, Part IV.E.1-2: Modified NSPS section to include references to CFRs. Expanded New Source Performance Design Criteria to all animal types.
50. Page 27, Part IV.F.1.b: Clarified that a change in house square footage can also change an operation size from medium to large.
51. Page 27, Part IV.F.1.d: Added that a change from non-organic to organic would need to be subject to this paragraph.

52. Page 27, Part IV.F.2.e-f: Added that a change in the number of animals, but no change from a medium to large operation, would be a modification and subject to the requirements in this paragraph. Added that a change from a large to medium operation would be a modification and subject to the requirements in this paragraph.
53. Page 27, Part IV.F.7: Added that permittees must notify the department of mailing address changes.
54. Page 27, Part V.A: Changed plan to sampling plan.
55. Page 28, Part V.A.2.g: Added Chain(s) of Custody to the list of items needed to accompany samples.
56. Page 30, Part V.E.1: Added "or other pollutants" after process wastewater.
57. Page 30, Part V.E.2: Added an email address for noncompliance notifications.
58. Page 32, Part VI.C-D: Updated with the most recent information in the criminal statute.
59. Page 34, Part VII.K: Added other pollutants and non-tidal to the first paragraph.
60. Page 35, Part VII.M.5.h: Added that the Department may terminate coverage if there are fees or final penalties owed to the Department.
61. Page 36, Part VII.M.6: added language to clarify that the Department must determine there is no remaining potential for a discharge of animal waste that was generated while operating as a MAFO or CAFO.
62. Page 36, Part VII.M.6.a: Replaced site with production area. Added owner or operator after AFO.
63. Page 36, Part VII.M.6.a: Replaced operation with permittee.
64. Page 36-37, Part VII.N-O: Updated continued coverage and permit renewal language.
65. Page 37, Part VII.P: Clarified that a person that does not follow the transfer process, cannot operate as a CAFO or MAFO. Added that the permittee shall notify the Department at least 30 days prior to a transfer. Added that the permit fee must be submitted to the Department with the NOI (required by COMAR 26.08.04.09-1.J.1). Clarified that the required plans for the new owner/operator need to be submitted to MDE within 90 days of the transfer date.

C. Modifications after public comment period

1. Page 2, Table of Contents: Fixed page number references.
2. Page 11, Part III.A.2: Updated date from 2025 to 2028.

3. Page 16, Part IV.A.1.b.vii: Fixed spelling of “commingling”.
4. Page 21, Part IV.B.3: Fixed spelling of “ponds”.
5. Page 23, Part IV.B.8: Clarified that “wastewater” is “process wastewater”
6. Page 29, Part V.B.1: Changed date from 2025 to 2028.
7. Page 35, Part VII.M.1.d: Fixed spelling of “ensure”.
8. Page 36, Part VII.N: Fixed typo from “renewal” to “expiration”.
9. Page 36, Part VII.N: Removed “or modifications of existing registrations” from the last sentence.
10. Page 19, Table 3.h: Clarified “Water line inspections must continue to be conducted between flocks unless animals are not present in the production area and the water lines are turned off or are not in service.
11. Page 20, Table 4.e: Clarified “Water line inspections must continue to be conducted between flocks unless animals are not present in the production area and the water lines are turned off or are not in service.
12. Page 21, Part IV.B.3: Clarified “Water line inspections must continue to be conducted between flocks unless animals are not present in the production area and the water lines are turned off or are not in service.

II. PERMIT COVERAGE

A. AFO Permit Coverage

This AFO Permit provides coverage for any eligible operation that discharges or proposes to discharge animal waste, including manure, poultry litter, and process wastewater and meets the definition of a CAFO at 40 CFR 122.23 or the definition of a MAFO at COMAR 26.08.01.01B(42-1). CAFOs are point sources subject to the NPDES permitting program. A discharge permit is required for any CAFO that discharges animal waste, including manure, poultry litter, and process wastewater to surface waters of the United States [40 CFR Part 122.21(a) and 122.23(d)(1)]. Under Maryland law, a discharge permit is required for any CAFO that discharges or proposes to discharge animal waste, including manure, poultry litter, and process wastewater to surface or ground waters of the State [COMAR 26.08.03.09B(3)]. A CAFO proposes to discharge if it is designed, constructed, operated, or maintained such that a discharge to waters of the State (which includes both surface and groundwater) may occur. MAFOs are AFOs that are not CAFOs and meet the COMAR definition and are designed,

constructed, operated, and maintained such that a surface water discharge will not occur. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes [COMAR 26.08.03.09A(2)(b)].

B. Eligibility for Coverage

The AFO Permit is required to fulfill the NPDES permitting requirements of 40 CFR 122.28(a) and the permitting requirements under COMAR 26.08.04.01. Eligible CAFOs and MAFOs may apply for authorization to discharge under the terms and conditions of this AFO Permit by submitting a Notice of Intent (NOI) to be covered by this AFO Permit.

C. Limitations on Coverage

In accordance with 40 CFR 122.28(a)(4)(ii), the AFO Permit may exclude specified sources or areas from coverage. Large Category Duck CAFOs are excluded from coverage under this AFO Permit and are required to obtain coverage under an individual permit.

D. Application for Coverage

Any large or medium AFO that is required to seek permit coverage must seek coverage as a CAFO when the AFO "proposes to discharge" [COMAR 26.08.03.09B(1)(c)] or if the AFOt actually discharges to waters of the State [40 CFR 122.23(f)]. MAFOs are required to seek permit coverage if they meet the COMAR definition of MAFO [COMAR 26.08.01.01B(42-1)]. Consistent with requirements under 40 CFR Parts 122.21(i)(1)(x) and 122.28(b)(2), and COMAR 26.08.03.09B(3) and C(1), owners or operators of CAFOs and MAFOs, respectively, seeking coverage under this AFO Permit must submit a signed copy of the Department's AFO NOI Form and Required Plans to MDE. Upon receipt, MDE will review the NOI and Required Plans to ensure that all application and permit requirements are fulfilled. MDE may request additional information from the CAFO or MAFO owner or operator if additional information is necessary to complete the NOI or Required Plan.

Applications will be required to be submitted to MDE electronically after December 25, 2025 per the Electronic Reporting Rule. MDE has formally asked the EPA to extend this deadline. NOIs must be submitted electronically unless a waiver is granted, at the Department's discretion.

If MDE determines that the NOI is complete, MDE will prepare a preliminary approval. The NOI, and Required Plan, which address the nine minimum standards for water quality protection, will be made available at the MDE's office and on the MDE website for a 30 calendar day public review and comment period, and information regarding the NOI will be posted on MDE's website at:

https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Pages/AFOInfo.aspx.

MDE will respond to comments received during this period and, if necessary, require the CAFO or MAFO owner or operator to revise the Required Plan. The public may request a hearing during the first 20 calendar days of a CAFO comment period [COMAR 26.08.04.09N(k)(i)]. The Department will provide the public with 30 calendar days' notice prior to the date of the hearing. A public hearing for a MAFO may be scheduled at the Department's discretion [COMAR 26.08.04.09N(k)(ii)].

At the end of this process, if no adverse public comments are received or if the final approval is not substantially different from the preliminary approval, the preliminary approval becomes the final approval and the applicant will be granted coverage under this AFO Permit only upon written notification by MDE. If comments are received, the Department will prepare responses to the comments and provide public notice on the Department's website. Persons adversely affected are offered an opportunity to request a contested case hearing on the content of the Required Plan(s) for 15 calendar days. If no request is made, the applicant will be registered under the AFO Permit once the final administrative decision is rendered. Upon final approval, the terms and conditions of the Required Plan are enforceable as terms and conditions of the AFO Permit [COMAR 26.08.04.09N(3)(l)(iv)].

E. Requiring an Individual Permit

In accordance with 40 CFR Part 122.28(b)(3)(i) and COMAR 26.08.04.09N(1)(a), MDE may determine that providing coverage under this AFO Permit is not adequate for a particular CAFO and may require the facility to obtain an individual NPDES Permit.

F. Continuation of this Permit

In accordance with 40 CFR Part 122.46(a) and COMAR 26.08.04.08E, this AFO Permit has a term of five years from the effective date. If this AFO Permit is not reissued or replaced prior to the expiration date and the applicant has submitted a timely and complete reapplication, it will be

administratively extended in accordance with 40 CFR 122.6 and COMAR 26.08.04.06A(3) and the terms and conditions of the existing permit will continue and will remain in full force and effect.

III. RATIONALE FOR EFFLUENT LIMITATIONS AND STANDARDS

A. Production Areas

Under the terms and conditions of this AFO Permit, large and medium CAFOs must meet the requirements of the effluent guidelines found at 40 CFR 122.42(e)(1)(i), 412.31 and 412.43. Limitations for medium CAFOs are based on 40 CFR 412 for large CAFOs. MAFOs are required to meet the requirements in COMAR 26.08.03.09C(5) and the general and MAFO-specific requirements in the AFO Permit. This AFO Permit requires that the production area of the CAFO or MAFO be operated in a manner consistent with the requirements of 40 CFR 412.37(a) and (b). Areas within the production area not specifically included in the definition of production area, i.e. the areas between the poultry houses, are subject to best professional judgment limitations.

Outdoor storage piles of manure at any location at a CAFO or MAFO fall within the Federal and State definition of a production area and are therefore subject to the AFO Permit requirements of no discharge consistent with 40 CFR Part 412 for CAFOs and in the AFO Permit for MAFOs. Additional requirements apply to manure piles stored more than 14 calendar days in the field for CAFOs and more than 30 calendar days in the field for MAFOs.

B. Land Application Areas

The AFO Permit requirements to develop and implement an NMP for land application areas are based upon requirements found at 40 CFR 412.4(c), 40 CFR 122.42(e), and 412.37(c) and COMAR 15.20.07 and .08. Large CAFOs that spray irrigate are subject to both Federal NPDES and State groundwater regulatory requirements. Any AFO that spray irrigates is regulated under this AFO Permit [COMAR 26.08.03.09E].

Prohibitions regarding field application of animal waste in certain weather conditions are specified under Part IV.A.3 and 4 of the AFO Permit. Other Required Plan requirements for land application of animal waste are included in Part IV.B.8 of the AFO Permit, including following

protocols required in the Maryland Department of Agriculture (MDA) regulation in COMAR 15.20.07 and 15.20.08. While some, but not all, of the requirements applicable to land application of animal waste were repeated in Part IV.C as a means of emphasis, the purpose of

Part IV.C is to establish additional operational parameters for liquid discharges to groundwater via automated spray irrigation systems as defined in Definition HH of the AFO Permit. The exception process for animal waste in Part IV.A.3, which includes process wastewater, remains applicable to the process wastewater referenced in Part IV.C.2. of this AFO Permit.

IV. SPECIAL CONDITIONS

A. Required Plan

1. Schedule: AFOs seeking coverage under this AFO Permit must submit the completed Required Plan to MDE along with the NOI, along with any applicable fees. Currently registered AFOs must submit a completed NOI and any applicable fee. MDE will determine whether the Required Plan on file is current. If so, it is not necessary for the permittee to submit a copy of the Required Plan. If modification of the Required Plan is needed to reflect the current operation, MDE will notify the permittee and the updated Plan will be due within 90 calendar days of the request. The permittee shall implement its Required Plan and modify it as necessary upon authorization under this AFO Permit in accordance with 40 CFR 122.23(h) and COMAR 26.08.03.09B(1).

2. Required Plan Review and Terms: Each permittee must develop, submit with its NOI, and implement a site-specific Required Plan. The Required Plan must comply with the requirements in COMAR 26.08.04.09N(3)(b) and Federal regulations in 40 CFR 122.42(e). The Required Plan must specifically identify and describe the practices that will be implemented to assure compliance with the effluent limitations and special conditions in this AFO Permit. The Require Plan must also be consistent with all requirements of MDA regulations at COMAR 15.20.07 and 15.20.0 8 and Federal effluent guidelines at 40 CFR 412.31. In addition, condition Part IV.B of the AFO Permit requires the permittee's Required Plan to comply with the nine minimum standards which are listed in 40 CFR 122.42(e)(1) and enumerated in the AFO Permit. The AFO Permit requires that the Required Plan be developed based upon Natural Resources Conservation Service (NRCS) National Planning Procedures Handbook (NPPH), Part 600.60 A(1), Component Planning Technical Guidance, Subpart G, Amendment 6, November 2014, which requires the following:

"Meet all applicable local, Tribal, State, and Federal regulations. When applicable, ensure that USEPA-NPDES or State permit requirements (i.e., minimum standards and special conditions) are addressed."

3. Any effluent guideline requirements not currently addressed in NRCS standards have been included in this AFO Permit. For example, conservation practice 634 for manure transfer does not currently require that an AFO provide the recipient with a nutrient analysis. Instead, that Federal requirement is specifically listed as an AFO Permit requirement at Part IV.A(6) and is also one of the nine minimum standards for record keeping (IV.B(9)). Upon receipt of the Required Plan, MDE will review the Required Plan. MDE can request additional information if needed. MDE will use the Required Plan to identify site-specific permit terms and conditions. The enforceable terms and conditions of the Required Plan are incorporated by reference into the AFO Permit. [40 CFR 122.23(h)]. MDE will identify the enforceable terms and conditions of the CNMP and make that determination subject to public comment consistent with Federal rules and COMAR 26.08.04.09N(3)(i) and (3)(l).

   Once the NOI and Required Plan are complete and have been reviewed by MDE, MDE will notify the public of MDE's preliminary approval to grant coverage under this AFO Permit. MDE will publish the NOI submitted by the CAFO or MAFO, including the CAFO's or MAFO's Required Plan, on the MDE website (www.mde.maryland.gov). The notice will also provide the opportunity to request a public hearing on the NOI and the Required Plan for CAFOs in accordance with 40 CFR 124.11 and 12. The public is provided 30 calendar days to comment and request a public hearing on MDE's preliminary approval of the NOI and Required Plan for CAFOs. MAFOs do not have the opportunity for a public hearing, but only the public comment period. MDE will respond to comments and can require revision of the Required Plan, if necessary. [40 CFR 122.23(h)]. A public hearing will be scheduled after 30 calendar days notice if requested within the first 20 calendar days of the public comment period. The preliminary approval becomes a final approval once all comments have been addressed. If modification to the Required Plans is necessary based on the comments, a notice of final approval will be published on the website listing those modifications. When comments are received, the public is provided 15 calendar days from publication of the final notice for persons adversely affected to request a contested case hearing on the content of the Required Plan(s). [COMAR 26.08.04.09N(l)(ii)]

MDE will notify the applicant that coverage as a CAFO or MAFO under this AFO Permit has been authorized and of the applicable terms and conditions of this AFO Permit. When MDE authorizes coverage under this AFO Permit, the terms and conditions of the

Required Plan are incorporated by reference into the terms and conditions of this AFO Permit for the CAFO. [40 CFR 122.23(h)]

4. Required Plan Content: The proposed renewal of the AFO Permit specifies that each Required Plan must, at a minimum, include practices and procedures necessary to implement the applicable effluent limitations and standards. In addition, each Required Plan must meet measures required under 40 CFR 122.42(e)(1)(i-ix) and specified in the AFO Permit. Resource concerns must also be identified in the required plans. Resource concerns are generally identified by the plan writer while drafting the plan. MDE may also identify resource concerns during its review of the application. Resource concerns could be identified while reviewing the required plans or by conducting a site visit. Once a resource concern is identified, appropriate Maryland NRCS practices must be implemented. Practices may be put into the implementation schedule with aggressive and reasonable time frames. These requirements include the following:

   a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities. [40 CFR 122.42(e)(1)(i)].

   b. Ensure that clean water is diverted, as appropriate, from the production area. [40 CFR 122.42(e)(1)(iii)].

   c. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless that system is specifically designed to treat such chemicals or contaminants. [40 CFR 122.23(1)(v)].

   d. Identify appropriate site-specific conservation practices to be implemented, including, as appropriate, buffers, or equivalent practices to control runoff of pollutants to waters of the State and specifically, to minimize the runoff of nitrogen and phosphorus. [40 CFR 122.23(1)(vi)].

e. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil. [40 CFR 122.23(1)(vii)].

f. Establish protocols to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater. [40 CFR 122.23(1)(viii)].

g. MDE may accept application rates expressed in Required Plans consistent with the Linear Approach or the Narrative Rate Approach provided in 40 CFR 122.42(e)(5). Both approaches have been incorporated by reference in COMAR 26.08.03.09B(1) to provide Maryland the authority to allow for either approach in the development of a Required Plan. Current NMP practices in Maryland rely upon the Linear Approach. To the extent that those practices begin to rely on a Narrative Rate Approach they will be required to be consistent with 40 CFR 122.42(e)(5)(ii).

   i. CAFOs and MAFOs that use the Linear Approach must calculate, at least once each year, the maximum amount of manure, litter, and process wastewater to be land applied using the results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application; [40 CFR 122.42(e)(5)(i)].

   ii. The "Narrative Rate Approach" expresses the field-specific rate of application as a narrative rate prescribing how to calculate the amount of manure, litter, and process wastewater allowed to be applied. CAFOs and MAFOs that use the Narrative Rate Approach must calculate, at least once each year, the maximum amounts of manure, litter, and process wastewater to be land applied using the methodology required in 40 CFR 122.42(e)(5)(ii) before land applying manure, litter, and process wastewater.

h. Identify and maintain all records necessary to document the development and implementation of the Required Plan and compliance with this AFO Permit. [40 CFR 122.42(e)(5)(ix)].

5. Signature: The Required Plan must be signed by the applicant (owner/operator) or other signatory authority in accordance with the Signatory Requirements of this AFO Permit. [40 CFR 122.41(k)] and the Plan writer.

6. Required Plan Retention: A current copy of the Required Plan must be kept on-site at the permitted facility in accordance with Part IV.B.9 of the AFO Permit and provided to the permitting authority upon request. [40 CFR 412.37(c)].

7. Changes to the Required Plan:

   a. This AFO Permit allows for a CAFO or MAFO owner/operator or operator to make changes to its Required Plan. When a CAFO or MAFO owner/operator or operator covered by this AFO Permit makes changes to their Required Plan previously approved by MDE, the CAFO or MAFO owner/operator or operator must provide MDE with the most current version of the CAFO's or MAFO's Required Plan and identify changes from the previous approved version. [40 CFR 122.42(e)(6)(i)].

   b. The CNMP writer must identify on a form provided by MDE the resources evaluated and identify all specific resource concerns at an AFO. This form must be completed by the CNMP writer and provided to MDE by the CNMP writer or an AFO owner or operator along with the AFO's CNMP. When submitting a Notice of Intent (NOI) for coverage under the Permit for a proposed, renewed, or modified Animal Feeding Operation (AFO), the Required Plan must identify the distance to and the name of the nearest waterbody(s), the 12-digit watershed name and number, the water quality status of the watershed(s) by identifying if there are any TMDL impairments for nitrogen, phosphorus, bacteria or sediment and if the facility is located in a Tier 2 watershed(s).

   c. MDE will review the revised Required Plan. If MDE determines that the changes to the Required Plan require revision of the terms or conditions of the Required Plan incorporated into the permit issued to the CAFO or MAFO, MDE will then determine whether such changes are significant/substantial. [COMAR 26.08.04.09N(3)/40 CFR 122.42(e)(6)(ii)] Substantial changes to the terms of a Required Plan incorporated as terms and conditions of a permit include, but are not limited to:

      i. Addition of new land application areas not previously included in the CAFO's or MAFO's Required Plan, except that if the added land application area is covered by the terms of a Required Plan incorporated into an existing NPDES permit and the permittee complies with such terms when applying manure, litter, and process wastewater to the added land [40 CFR 122.42(e)(6)(iii)(A)];

ii. For Required Plans using the Linear Approach, changes to the field-specific maximum annual rates of land application (pounds of N and P from manure, litter, and process wastewater). For Required Plans using the Narrative Rate

Approach, changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop [40 CFR 122.42(e)(6)(iii)(B)];

iii. Addition of any crop or other uses not included in the terms of the CAFO's or MAFO's Required Plan [40 CFR 122.42(e)(6)(iii)(C)]; and

iv. Changes to site specific components of the CAFO's or MAFO's Required Plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the U.S. [40 CFR 122.42(e)(6)(iii)(D)]

d. If the changes to the terms or conditions of the Required Plan are not significant or substantial, MDE will include the revised Required Plan in the CAFO's record and notify the permittee and the public of any changes to the terms or conditions of this AFO Permit based on revisions to the Required Plan. [40 CFR 122.42(e)(6)(ii)(A)]

e. This AFO Permit requires that significant or substantial changes be subject to the public participation requirements of permit Section III.C.3 (see also COMAR 26.08.04.09N(3)) of this AFO Permit. If MDE determines that the changes to the terms or conditions of the Required Plan are significant or substantial, MDE will notify the public, make the proposed changes, and make the information submitted by the CAFO or MAFO owner or operator or operator available for public review and comment. MDE will also respond to all comments received during the comment period. MDE may require the permittee to further revise the Required Plan, if necessary. Once MDE reviews and approves the Required Plans, these plans are incorporated into this discharge permit and posted online [40 CFR 122.42(e)(6)(ii)(B)]

8. Certified Specialists to Develop Required Plans: Although a certified specialist may be used, CAFO and MAFO owners/operators or operators are solely responsible for assuring their Required Plans comply with all the terms and conditions of this AFO Permit and are properly implemented.

B. Requirements for the Transfer of Manure, Litter, and Process Wastewater to Other Persons

Under the AFO Permit, where CAFO orMAFO-generated manure, litter, or process wastewater is sold or given away, the permittee must comply with specific requirements that document the transfer and promote proper management. [40 CFR 122.42(e)(3)].

V. ANNUAL REPORTING

Under this AFO Permit, the permittee must submit an annual report to MDE. By March 1 of every year, each CAFO and MAFO must submit to the Department an annual report on a form provided by MDE. Annual Implementation Reports (AIRs) are generally submitted electronically first to the Maryland Department of Agriculture, and then subsequently to MDE through a shared format.

Annual reporting requirements include applicable Federal and State requirements.

VI. STANDARD CONDITIONS

The AFO Permit incorporates the standard conditions applicable to permits issued under Maryland's NPDES Program. These conditions consist of general conditions, operation and maintenance requirements, monitoring and records, reporting requirements, signatory requirements, certification, availability of reports, and penalties for violations of permit conditions (consistent with both Federal and State penalty requirements).