

**DEPARTMENT OF THE ENVIRONMENT
LAND MANAGEMENT ADMINISTRATION**

**Tentative Determination to Modify
General Discharge Permit for Animal Feeding Operations**

The Maryland Department of the Environment (the “Department”) has made a tentative determination to modify the General Discharge Permit for Animal Feeding Operations, NPDES # MDG01, State Discharge Permit # 14AF (“GD Permit”). If modified, the GD Permit will be identified as NPDES # MDG01A and the State Discharge Permit number will be # 14AFA.

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 the Department and the United States Environmental Protection Agency (EPA).

Three modifications are proposed:

1. The first proposed modification to the current GD Permit is as follows:

Part IV.A.6(b)(4)(ii) and Part IV.A.7(a)(5)(ii): Animal waste storage and storm water routing structure inspection requirement (pp. 13 and 14) - This requirement was modified from “Once every three months for dry animal waste operations” to “Weekly for dry animal waste operations” under each section.

This proposed modification is the same as the original permit requirement with regard to dry animal waste inspections to ensure consistency with 40 CFR Part 412.37(a)(1)(iii). This modification also provides consistency with the Effluent Limitations Guideline (“ELG”) under 40 CFR Part 412.45 and 40 CFR Part 412.46 that requires zero discharge from production areas of poultry CAFOs. The Chesapeake Bay Total Maximum Daily Load Watershed Implementation Plan supports this ELG by requiring zero discharge from CAFOs. More frequent inspections of dry manure storage structures would discover any problems early enough to prevent any unauthorized discharge to surface waters of the State.

The Chesapeake Bay Total Maximum Daily Load (“Bay TMDL”) describes CAFO loads as being “discharges from parts of the production area at some CAFOs or other discharges from CAFOs not covered by the “no discharge” standard; e.g., precipitation-based discharges that come in contact with dust, dander, feathers, and/or manure on the ground between the buildings or in ventilation systems.” The document goes on to state that, “[t]he nutrient and sediment controls, or Best Management Practices (“BMPs”), in the permit are the effluent limits of the permit. Therefore, it is required that the permittee be in compliance with implementing nutrient and sediment controls, which are consistent with the assumptions of the Bay TMDL”. The Phase II Watershed Implementation Plan (“WIP”) specifies a variety of practices that are required for CAFOs handling animal waste such as: streamside grass buffers; mortality composting; heavy use livestock area pads on farms that have been determined to have severe erosion and existing or the potential for water quality issues; 100 foot or 35 foot required setbacks for CAFO manure application; manure transport; poultry litter storage structures; livestock waste storage structures; and barnyard runoff control systems. Since these practices are specified in the GD Permit, the effluent limits in the permit would be consistent with the Bay TMDL.

2. The second proposed modification to the current GD Permit is as follows:

Change the definition: S. “Required Plan(s)” (Page 6) - to – means those plans that CAFO and MAFO applicants are required to submit to the Department pursuant to COMAR 26.08.04.09N(3)(b) and the federal regulations in 40 CFR 122.42(e). These plans include, but are not limited to, CNMPs or NMPs and Conservation plans. To obtain coverage under the GD Permit, and maintain compliance thereunder, all portions of the required plan must be current or unexpired at the time of NOI submission, and remain current or unexpired throughout the duration of GD Permit coverage.

This proposed modification ensures GD Permit consistency with State and federal regulations with regard to need for and implementation of a current or unexpired required plan. This proposed modification also clarifies the requirement

that both CAFOs and MAFOs must submit either a current or unexpired CNMP or a combination of a current or unexpired NMP and Conservation Plan with the NOI to satisfy the application requirements for the GD Permit.

3. The third proposed modification to the current GD Permit is as follows:

Switch the numbering of two provisions in Part VII of the GD Permit (Pages 26 and 27): Section O, "Permit Renewal" with Section P, "Continuation of an Expired General Discharge Permit".

This modification will eliminate the possibility of any confusion by placing these provisions in sequential order.

Written comments concerning the tentative determination will be considered in the preparation of a final determination if submitted to the Department within thirty (30) calendar days following the Department's notice of tentative determination and directed to the attention of Ms. Hilary Miller, Director, Maryland Department of the Environment, Land Management Administration, 1800 Washington Boulevard, Suite 610, Baltimore, Maryland 21230-1719. Written comments 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 # MDG01A, State Discharge Permit # 14AFA.)

The Department will hold a public hearing on the tentative determination when a written request for a public hearing is made by a person within twenty (20) calendar days of the publication of the notice of tentative determination. Any written request for a public hearing must be sent to the attention of Ms. Hilary Miller, Director, Maryland Department of the Environment, Land Management Administration, 1800 Washington Boulevard, Suite 610, Baltimore, Maryland 21230-1719.

If the Department does not receive any adverse comments, this tentative determination shall become a final determination. The fact sheet for the tentative determination and a copy of the modified GD Permit for AFOs may be viewed on the Department's 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 Department's address. Copies of documents may be obtained at a cost of \$0.36 per page.