



Animal Feeding Operations (AFOs) Frequently Asked Questions

The Maryland Department of the Environment (the "Department") General Discharge Permit for AFOs (GD Permit) was renewed/reissued on December 1, 2014 and will expire on November 30, 2019. A new permit will become effective December 1, 2019. All Concentrated Animal Feeding Operations (CAFOs) and Maryland Animal Feeding Operations (MAFOs) are required by Federal and/or State regulations to apply for coverage under the GD Permit. The GD Permit is revised and reissued every five years. New CAFOs and MAFOs, as well as those already permitted, must apply for the renewed permit. This fact sheet answers questions about CAFOs and MAFOs and how they are regulated by the Department.

What is an AFO?

An AFO is an Animal Feeding Operation. To be considered an AFO, the operation must confine its livestock for at least 45 days per year and not grow crops or forage where the animals are confined.

When does an AFO become a CAFO or MAFO?

CAFOs or MAFOs are AFOs with at least 37,500 or more chickens with dry manure handling per flock; 25,000 or more laying hens with dry manure handling per flock; 200 or more dairy cattle; 300 or more cattle (including heifers); 750 or more swine weighing greater than 55 pounds each; or 3,000 or more swine weighing less than 55 pounds each. The regulations also include limits on the numbers of horses, veal cattle, sheep and lambs, ducks and turkeys that constitute a CAFO or MAFO.

The operation is a CAFO if it is designed, constructed, and operated or maintained such that a discharge of manure, litter, or process wastewater could or does occur to surface waters of the State during wet weather events. The presence of a man-made ditch, flushing system, or other similar man-made device (e.g. pipes, ditches, swales, etc.) to remove water from the production area indicate that it proposes to discharge during wet weather events. A discharge means the addition, introduction, leaking, spilling, or omitting of any pollutants to waters of the State, or the placing of a pollutant in a location where it is likely to pollute.

A MAFO is an AFO that is designed, constructed, and operated or maintained such that a discharge of manure, litter or process wastewater will NOT occur to surface waters of the State during wet weather events. A MAFO does NOT discharge contaminated storm water to surface waters of the State. A large AFO that does not discharge to surface waters of the State, but discharges to ground waters of the State, is considered a MAFO.

Why do AFOs need discharge permits?

Discharge permits specify the minimum measures or best management practices that are needed to protect water quality and prevent the violation of water quality standards. The GD Permit includes standardized conditions that have been established to protect surface and ground water from the impacts of discharges from CAFOs and MAFOs. AFOs have the potential to discharge manure, litter, or process wastewater from production areas that contains nitrogen and phosphorus. Excessive levels of nitrogen and phosphorus that enter the waters of the State are the main cause of algae blooms, which deplete dissolved oxygen, impede the growth of aquatic grasses, and cause fish kills. The GD Permit allows an AFO to discharge to surface and ground waters of the State under certain circumstances. Without coverage under the GD Permit, these discharges are illegal.

What are the environmental issues associated with CAFOs and MAFOs?

AFOs can pose risks to water quality and public health due to the amount of animal manure and wastewater they generate. Manure, litter and process wastewater from AFOs have the potential to contribute pollutants to the environment including nutrients such as nitrogen and phosphorous, sediment, pathogens, heavy metals, hormones, and antibiotics. If designed, constructed, operated, and maintained properly and in accordance with regulations, AFOs can reduce the potential for environmental harm.

Why is Maryland focusing on AFOs? What about other sources such as sewage treatment plants and industries?

To restore the Chesapeake Bay and its tributaries, Maryland must control all significant sources of nitrogen and phosphorus that are polluting the Chesapeake Bay. Maryland has been aggressively working to reduce pollution from other sources such as: sewage treatment plants, industries, urban and suburban storm water runoff, septic systems, emissions from power plants, cars and trucks. The agriculture industry is similarly being addressed, with the largest animal producers being one of the major sources of nitrogen and phosphorus from agriculture.

Who determines whether or not my operation is a CAFO?

The federal and State regulations require the owner or operator of an AFO to determine whether or not their operation is a CAFO and is subject to this regulation. During the processing of the permit application, the Department will advise the owner/operator whether their determination should be modified.

If I am a CAFO or MAFO, how do I apply for coverage under the GD Permit?

Obtain and complete a NOI form and the required plan(s) for your operation. To request a NOI form, call (410) 537-3314 or download the form from our website: www.mde.maryland.gov (search for "AFO").

You may mail the completed form(s) to:

Maryland Department of the Environment
Land and Materials Administration
1800 Washington Blvd, Suite 610
Baltimore, MD 21230

What is a required plan?

A required plan is a Comprehensive Nutrient Management Plan (CNMP) for both CAFOs and MAFOs. Make sure that the CNMP contains an implementation schedule.

A CNMP is a Conservation Plan combined with a Nutrient Management Plan. It is a specific plan that is developed to ensure that producers make the best use of manure and poultry litter while also protecting water quality.

A CNMP guides the management of the production, handling, storage and/or treatment of all nutrients at the operation, from feed to manure. The CNMP is individually designed, considering the unique land, labor, and equipment resources of your operation. The U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) or a NRCS certified technical service provider (TSP) works with you to develop a CNMP that best meets your management objectives and environmental concerns, while meeting NRCS technical standards. CNMPs include a description of manure storage structures, handling methods, application rates, erosion control practices, guidance on when and where to apply manure and litter, and a record-keeping tool.

A CNMP is the starting point to minimizing any potential discharge of nutrients or other pollutants from the production area and the land application area to waters of the State.

What do I do if I don't have a required plan?

The Department realizes that many AFOs do not have CNMPs and that there are not many TSPs certified by the NRCS to develop CNMPs. If you are an existing CAFO or MAFO, it is still important that you submit your NOI for AFO coverage to the Department as early as possible, especially if you are building a new AFO or expanding an existing, registered operation. If you do not have a required plan, submit your NOI without the plan and the Department will contact you. In the meantime, please contact the Soil Conservation District office about developing a plan.

How do I obtain a CNMP?

Contact the NRCS. They will help you design a CNMP specifically for your operation. Assistance to develop your CNMP may also be available from certified Technical Service Providers (TSPs). A list of TSPs certified to write CNMPs in Maryland can be found by searching the NRCS website, www.nrcs.usda.gov, and clicking "Technical Assistance". You may qualify for financial assistance for CNMP development under the NRCS Environmental Quality Incentives Program (EQIP). For more information on how to have a CNMP developed for your operation, contact your local USDA Field Office Service Center: <http://www.md.nrcs.usda.gov/contact/directory>. You can also contact the Maryland Department of Agriculture (MDA).

I have two poultry operations. Do I need to submit an NOI and required plan for each?

From the regulations: "Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals or house capacity at an operation, if they adjoin each other or if they use a common area or system for the disposal of waste."

- If the two operations adjoin each other, they are considered a single operation.
- If the two operations do not adjoin each other, and they take their manure/litter to a farm that they do not control, then they are separate operations and must send in an NOI and required plan for each operation.

- If two non-adjointing operations take their manure/litter to farms owned or leased by the same owner/operator as the animal growing operations, then these two non-adjointing operations can be considered a single operation and can submit a single NOI and required plan. If a single required plan is used, then each operation must have a separate section in the plan to make it clear for the Department to review. The final decision is made by the Department.

How long will it take the Department to process my application?

Once your application is complete (contains the NOI and current required plans that meet the Department's requirements), the published permit turnaround times to process the application are:

- Previously registered AFOs: 3 years
- New AFOs: 160 calendar days

New AFO constructions and expansions of existing, registered AFOs are given a top priority for the Department's review. Processing time may be reduced provided that the NOI and required plans are complete and meet the Department's requirements.

Do I have to do anything during the permitting process?

Staff from the Department's AFO Division will contact you to verify the information you submitted. They may need additional information or may require corrections to the required plans. A site visit may also be conducted in order to verify the information is correct. Once your application is considered complete and meets the Department's requirements, the Department will publish an "opportunity for public comment" on the Department's preliminary approval of your NOI and required plans. The notice and the NOI and required plans will appear on the Department's AFO website for thirty (30) calendar days. Your NOI and the required plans will also be made available at the Department's main location in Baltimore.

Do I have to pay a fee?

The regulations establish a CAFO annual permit fee for different size categories, however, fees are currently waived for the 14AF Permit.

During recent legislation, the Maryland General Assembly passed Chapter 760, which made changes related to permitting fees for CAFOs. Beginning Oct. 1, 2019, the legislation set minimum application and annual fee amounts for CAFOs with house capacities of 350,000 square feet or more. For all other CAFOs, MDE intends to propose a fee to be paid only once per permit cycle with the application. The legislation also prohibited MDE from waiving permit fees.

There are no fees for MAFO coverage under the GD Permit.

If this is a "general permit" how can it apply to a particular operation and why is there a public comment period?

A general permit is a permit that applies the same conditions to a category of facilities, in this case, CAFOs and MAFOs. As required by the Department's regulations, the permit goes through a public participation period and is issued for a period of five years. Applicants for coverage under the permit submit a NOI and the required plans, and any applicable fees, and are registered/covered under that permit. This GD Permit is unique as it has the elements of a general permit with respect to the terms and conditions of the permit, and the elements of an individual permit with respect to public participation and that the required plans become terms and conditions of the permit. These terms and conditions are as

enforceable as the general conditions in the permit itself. The inclusion of the conditions in the required plans in the permit make each registration specific to that operation. Therefore, no two AFO registrations are exactly the same. Each permit coverage is tailored to that specific facility.

When my required plan (CNMP, NMP) is updated, do I have to send the update to the Department?

You must notify the Department in writing when you modify your operation. This may be done by sending the Department an updated plan, a letter outlining the modification, or a new NOI. The extent of the modification will determine the means of notification in accordance with the permit. It is important for the Department to be made aware of any changes to your operation such as increasing or decreasing the number of animals, building new structures, or adding fields that receive manure or litter. If you have applied for the GD Permit, this is required whether or not you have been registered under the GD Permit.

If I close my AFO, do I have to notify the Department?

Yes. When you cease operating as an AFO, the Department must be notified if you have sent us an NOI or have been registered under the GD Permit. Please send us the date that the AFO was closed so that we can cancel the registration and relinquish you of its obligations. Permittees are required to remove and manure, litter, and other pollutants from the facility before coverage can be terminated.

If I sell my AFO, do I have to notify the Department?

Yes. When you sell your operation, the Department must be notified of the date that you sell it and to whom you sold it. Otherwise, you may still be held responsible for any problems found at the operation. The registration does not automatically transfer to the new owner. If you sell the operation and the Department is not notified, then the new owner/operator is operating without a permit and will be subject to enforcement action.

Can I transfer my AFO GD Permit registration to the new owner?

Yes. Part VII Q of the 14AFA permit allows transfers to another person if all of the following conditions are met:

- a. the permit under which your operation is registered has not expired;
- b. the current registrant notifies the Department in writing of the proposed transfer;
- c. a written agreement is submitted to the Department that is signed by both parties indicating the specific date of the proposed transfer of permit coverage which acknowledges the responsibilities and liabilities of the current and new permittees for compliance with the terms and conditions of the permit;
- d. the new permittee submits a new NOI with updated required plan(s);
- e. neither the current permittee nor the new permittee receives notification from the Department, within 30 days of receipt of these items, of its intention to revoke the existing registration or modify the terms of the exiting approved plans.

A transfer form is available on the Department's website that will satisfy the above requirements.

I've heard a lot about "new sources". What are they?

EPA's/the Department's requirements are different for "existing sources", or operations that are built by a certain date and "new sources", or operations that are constructed after that date. New sources have the ability to include the latest pollution prevention practices in

their design more economically than existing sources, which would have to retrofit their older operations with these practices. AFO Division personnel will help you determine whether you are a new source.

To be a new source, you would have to have constructed your operation (a chicken house, manure storage shed or complete operation) after April, 2003. The operation would also have to totally replace the existing source of the discharge or be "substantially independent" of the existing operation. For example, if you are just replacing one of several chicken houses on the same foundation with a poultry house of the same size as the old one, it may not be a new source. The Department will help you determine whether your operation is a new source.

For EPA CAFOs, the new source performance standard is zero discharge of manure, litter, or process wastewater from the production area (animal confinement, manure storage and feed storage areas) into surface waters of the State. A list of best management practices for poultry new sources (New Source Design Criteria) was developed that could be included in an operation's required plans by the planner to assure that the performance standard is met for new sources.

The primary requirement is that any new poultry structures (houses, manure sheds, composters, feed bins, etc.) be located at least 100 feet from waters of the State. "Waters of the State" include the Chesapeake Bay and its tributaries, and all ponds, lake, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, public drainage systems, and the flood plain of free-flowing waters on the basis of the 100-year flood frequency.

To receive loans to construct a new source, Farm Credit requires that you be permitted by the Department, so submitting your NOI and the required plan to the Department is necessary. Have Farm Credit contact the Department to confirm that your application has been received. The Department will notify the Farm Credit of the receipt of your application, if requested.

I am planning to start a new poultry operation. What MDE permits do I need in addition to the General Discharge Permit for AFOs?

Planning for new poultry facilities should begin at the local level. Under State law, the Department considers poultry houses to be Animal Feeding Operations (AFOs). Anyone planning the construction of facilities for a new AFO must comply with applicable State and Federal regulatory requirements. Construction of these facilities typically involves grading and earth disturbances. When this construction will disturb over 5000 square feet of soil, the County will require **soil erosion and sediment control plan** approvals from the County Soil Conservation Districts, in accordance with Maryland regulations, as well as **storm water management plan approval** from the local County approving authority.

Any construction that involves the disturbance of one or more acres of land also requires the submission to the Department of a federally-mandated Notice of Intent (NOI) application for coverage under the **General Discharge Permit for Storm Water Associated with Construction Activity** ("Construction Activity Permit"). This permit is required to ensure that sediment in storm water discharges from grading and construction activity is minimized. The Construction Activity Permit requires that the permittee obtain approval from the above local authorities for the erosion and sediment control plan and storm water management plan.

In addition, site planning for any new construction should consider potential impacts to **wetlands and waterways**. Tidal wetlands, nontidal wetlands, the nontidal wetland 25-foot buffer and waterways, including the 100-year non-tidal floodplain, are regulated by the Department and the US Army Corp of Engineers, and both agencies require impacts to these resources to be identified prior to construction activity, avoided and minimized to the greatest extent possible, and direct impacts to be mitigated. This regulatory process would

typically require input from a site design engineer experienced in the wetland permitting process. Permit approvals for projects that have significant impacts to wetlands and waterways typically take 12 months and require public notice and hearing opportunities as well as a plan to replace any lost wetlands. Sites with wetlands, streams, or other sensitive resources should contact the Department's **Wetlands and Waterways program** early in the planning process to arrange a pre-application site visit. Minor projects that propose less than 5,000 square feet of impact to nontidal wetlands do not require public notice from MDE but may require this from the U.S. Army Corps of Engineers. This typically takes less time than permit authorizations.

If water supply requirements for the new poultry houses are at least 10,000 gallons per day, a **Water Appropriations Permit** is needed in order to ensure that the groundwater aquifer has adequate yield for the use in the area of the project.

Beginning on October 1, 2019, a new law (Chapter 760, Acts of 2019) enacted by the General Assembly of Maryland in 2019 requires a person to be issued coverage under a discharge permit by the Department before the person may begin construction on any part of a new CAFO. Construction does not include the clearing or grading of land. This new law also prohibits the Department from issuing coverage under a discharge permit to a person who began construction of a new CAFO before being issued permit coverage on or after October 1, 2019.

Who do I contact for more information?

For the **General Discharge Permit for Animal Feeding Operations**, you can contact:

Animal Feeding Operation Division at 410-537-3314

For the **General Permit for Storm Water Associated with Construction Activity**, you can contact:

Wastewater Industrial Program at 410-537-3019

For the **Wetlands and Waterways Program** to determine impact on wetlands, you can contact:

Tidal Wetlands Division at 410-537-3837

Non-Tidal Wetlands Division at 410-537-3571

Waterway Construction Division at 410-537-3571

For the **Water Appropriation or Use Permit**, you can contact:

Water Supply Program at 410-537-3702