



# Animal Feeding Operation (AFO) FAQs

## What You Need to Know

**The Maryland Department of the Environment (MDE) 19AF General Discharge Permit for AFOs (GD Permit) was reissued, with changes, on July 8, 2020 and will expire on July 7, 2025. 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. This fact sheet answers questions about CAFOs and MAFOs and how they are regulated by MDE.**

### What is an AFO?

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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 (does not need to be consecutive) and not grow crops or forage where the animals are confined.

### When does an AFO become a CAFO or MAFO?

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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. 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. 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. A large-size 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?

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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 contain 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.

## Who determines whether my operation is a CAFO?

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The federal and State regulations require the owner or operator of an AFO to determine whether their operation is a CAFO and is subject to this regulation. During the processing of the permit application, MDE 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?

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1. Obtain and complete a Notice of Intent (NOI) form- this form may be found on the AFO webpage, <https://mde.maryland.gov/programs/land/recyclingandoperationsprogram/pages/afoinfo.aspx> or requested to be mailed;
2. Submit current required plan(s) for your operation. This includes a Comprehensive Nutrient Management Plan (CNMP), a Nutrient Management Plan (NMP), and a Soil Conservation and Water Quality Plan (CP).

These items may be mailed to the following address:

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

## What is a required plan?

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A CNMP is a Conservation Plan combined with a Nutrient Management Plan that 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.

## How do I obtain a CNMP?

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Contact your local NRCS office. 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 on the NRCS website under "Technical Assistance", then by selecting the "Find a TSP" tool.

## What are the new requirements under the 19AF GD Permit?

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The GD Permit requires additional information to be included in the CNMP in order for MDE to issue a permit. All new and existing CNMPs must include this information (contact your planwriter to ensure this additional information is included). These new requirements are stated in the GD Permit Part III.B.5 (p.13) and Parts IV.D.2-D.3 (p.23) and are as follows:

1. Name and distance to the nearest waterbody;
2. 12 digit watershed name and number (where the farm is located);
3. The water quality status of the watershed (If there is a TMDL impairment for bacteria, nitrogen, phosphorus, and/or sediment);
4. Whether the facility is located in a Tier 2 watershed;
5. If outdoor air quality is determined to be a resource concern, indicate the appropriate NRCS practice standards used;
6. For organic poultry, make sure the poultry pasture is accounted for;
7. The Resource Concern Evaluation Worksheet.

If your CNMP is/was developed by a TSP, this additional information may be attached as an addendum signed by both the operator and the planwriter.

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

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If the two operations adjoin each other, or if they use a common area or system for the disposal of waste, they are considered a single operation, and will only need one NOI and required plan to be submitted.

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.

## How long will it take MDE to process my application?

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Once your application is complete (contains the NOI and current CNMP that includes the additional information), and applicable fees have been received, MDE will begin to process your application in a timely manner.

New AFOs (which includes new constructions, modifications, and new owner/operators) are given top priority for MDE's review.

## While I am waiting for my permit renewal to process, do I still have coverage?

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Coverage is extended from the previous permit if the applicant submitted a timely and complete re-application, which includes:

1. Notice of Continuation of Coverage form;
2. NOI received within the specified 60-day timeframe;
3. An updated CNMP that includes the additional information required by the 19AF GD Permit;
4. Applicable fees.

The terms and conditions of the previous permit are automatically continued and remain fully effective and enforceable until the date your registration under the current permit is effective.

## Do I have to do anything during the permitting process?

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Contact your planwriter to ensure the additional information required by the 19AF GD Permit is included in your CNMP. Staff from MDE'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 required plans are representative of the operation.

## Do I have to pay a fee?

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According to state law and regulation, MDE is legally required to collect fees for CAFOs. The following fees will be applicable to CAFOs applying for the GD Permit:

CAFOs with Total House Capacity of 350,000 ft<sup>2</sup> or more:

- A proposed new CAFO or modification of an existing CAFO to expand its house capacity to 350,000 ft<sup>2</sup> or more must pay a one-time application fee of \$2,000 upon submission of the Notice of Intent (NOI) form;
- An existing CAFO must pay an annual permit fee of \$1,200

CAFOs with Total House Capacity of LESS than 350,000 ft<sup>2</sup>:

- A CAFO must pay an annual permit fee in the amount below, based upon the size category:

CAFO Size	Fee
Small	\$120
Medium	\$600
Large	\$1200

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

## If I close my AFO, do I have to notify MDE?

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Yes. When you cease operating as an AFO, MDE 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 any manure, litter, and other pollutants from the facility before coverage can be terminated.

## If I sell my AFO, do I have to notify MDE?

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Yes. When you sell your operation, MDE 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 MDE is not notified, then you are operating without a permit and will be subject to enforcement action.

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

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Yes. Part VII P of the 19AF permit allows transfers to another person if all of the following conditions are met:

1. The permit under which the operation is registered has not expired;
2. The current permittee notifies MDE in writing of the proposed transfer;
3. A transfer form is submitted to MDE that is signed by both parties indicating the specific date of the proposed transfer of permit coverage;
4. The new permittee submits a new NOI, signs the existing required plan(s), and sends the signed cover page(s) of the required plan(s) to MDE and MDA;
5. The new permittee submits a new required plan to MDE within 90 calendar days of the submission of the transfer form and NOI;
6. Neither the current nor the new permittee receives notification from MDE, within 30 days of receipt of these items, of MDE's intention to revoke the existing registration or require modification of the terms of the existing approved plans.

The transfer form may be found on the AFO webpage, or requested to be mailed.

## What are “New Sources”?

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New source means any building, structure, facility, or installation from which there is or could be a discharge of pollutants, and the construction of which began after the promulgation of standards of performance under the Clean Water Act (CWA) section 306 (April 2003).

A source is a new source if it meets the following criteria (as defined in 40 CFR part 122.2):

- It is constructed at a site at which no other source is located; or
- It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- Its processes are substantially independent of an existing source at the same site.

MDE will help you determine whether your operation is a new source.

New sources are subject to more stringent requirements than are existing sources. This is because new sources have the ability to include the latest pollution prevention practices in their design more economically than existing sources. These “New Source Performance Standards” may be found in the GD Permit Part IV.E.2-E.3 (p.23).

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

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Planning for new poultry facilities should begin at the local level. Under State law, MDE considers poultry houses to be 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 MDE of a federally-mandated 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 MDE and the US Army Corp of Engineers, and both agencies require impacts to these resources to be identified prior to construction activity. 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 MDE’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.

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 MDE 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 MDE 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?

- General Discharge Permit for Animal Feeding Operations:  
Animal Feeding Operation Division  
410-537-3314
- General Permit for Storm Water Associated with Construction Activity:  
Wastewater Industrial Program  
410-537-3019
- Wetlands and Waterways Program:  
Tidal Wetlands Division at 410-537-3837  
Non-Tidal Wetlands Division at 410-537-3571  
Waterway Construction Division at 410-537-3571
- Water Appropriation or Use Permit:  
Water Supply Program  
410-537-3702