



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Gary F. Kelman, Chief
Animal Feeding Operation Division
Resource Management Program
Land Management Administration
Maryland Department of the Environment
1800 Washington Blvd., Suite 610
Baltimore, Maryland 21230

JAN 17 2017

Re: Maryland's General Discharge Permit for Animal Feeding Operations (MDG01/14AF) and Nutrient Management Plans (NMPs)

Dear Mr. Kelman:

The purpose of this letter is to provide the Maryland Department of the Environment (MDE) with a summary of the United States Environmental Protection Agency (EPA) Region III review of Maryland's National Pollutant Discharge Elimination System (NPDES) general permit for Concentrated Animal Feeding Operations (CAFOs) (MDG01/14AF) and four Nutrient Management Plans (NMPs) that were developed and submitted by CAFOs as part of their notices of intent seeking authorization to discharge under the general permit in the State of Maryland.

As part of EPA's oversight responsibilities under the Clean Water Act (CWA) NPDES Permit Program and the Chesapeake Bay Total Maximum Daily Load (TMDL), EPA has conducted comprehensive assessments of animal agriculture programs in the six Chesapeake Bay watershed jurisdictions. In addition, these assessments related to Chesapeake Bay watershed state animal agriculture programs satisfy commitments EPA made in a settlement agreement that resolved the lawsuit *Fowler et al. v. EPA*¹, No. 1:09-cv-0005-CKK (D.D.C.).

MDE administers an authorized program to issue NPDES permits for point source wastewater discharging to waters of the State of Maryland, including from CAFOs. EPA retains general oversight of MDE's NPDES permit program. As part of its oversight role, EPA has authority under Section 402(d) of the CWA to review those permits and program, which are submitted by MDE pursuant to a Memorandum of Agreement (MOA). Under this MOA, MDE is required to submit the general permit to EPA for its review.

¹ <http://www.agri-pulse.com/uploaded/0530EPACAFOagreement.pdf>



Following review and acceptance by EPA, Maryland issued the general permit on December 1, 2014, and a subsequent amendment on August 1, 2016. The general permit, as written, conforms to federal NPDES regulations, and requires that CAFOs develop and implement an NMP pursuant to Section 122.42(e)(1) of the Title 40 of the Code of Federal Regulations.

In its oversight capacity, as described above, EPA has reviewed Maryland's general permit and four NMPs and evaluated whether the permit and NMPs, taken together, (1) are enforceable and consistent with applicable legal requirements, and (2) are effectively implementing the Bay TMDL and Maryland's Watershed Implementation Plan (WIP). Overall, the four NMPs were generally complete with respect to the general permit requirements. Therefore, EPA finds that the general permit and the NMPs, taken together, are consistent with federal NPDES regulations and are supportive of the best management practices required by Maryland's WIP in order to achieve reductions necessary under the Chesapeake Bay TMDL. EPA is currently working with MDE to optimize MDE's NPDES CAFO permitting quality assurance controls, such as NMP review check lists, to ensure that NMPs receive consistent scrutiny to meet regulatory requirements.

We appreciate the extensive work and close communication between us in the process to protect human health and the environment, and we look forward to continuing our cooperation as MDE works to meet its responsibilities of implementing its NPDES CAFO program.

If you have any questions, please do not hesitate to contact me by email at trulear.brian@epa.gov or by phone at (215) 814-5723 and/or contact Mr. Joel Blanco-González of the NPDES Permits Branch by email at blanco-gonzalez.joel@epa.gov or by phone at (215) 814-2768.

Sincerely,



Brian P. Trulear, Chief
NPDES Permits Branch
Water Protection Division

cc: C. John Sullivan III, MDE
Hilary Miller, MDE
Dwight Dotterer, Maryland Department of Agriculture
Jon A. Mueller, Chesapeake Bay Foundation, Inc.