

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 798 (Delegate Jalisi)
Environment and Transportation

Community Healthy Air Act

This bill establishes the Committee on Air Quality, composed of specified subject matter experts, which must develop an air quality sampling and monitoring protocol for the collection of air quality and public health data associated with large animal-feeding operations (AFOs) by January 1, 2023. The Maryland Department of the Environment (MDE) must provide staff for the committee and, by October 1, 2023, (1) use the protocol to assess air pollutants and public health risks associated with all large AFOs in the State and (2) use those assessments to evaluate whether all large AFOs in the State comply with applicable federal and State air pollution emissions laws and regulations. By December 15, 2023, MDE must (1) post a report of its findings on its website and (2) report its findings to the Governor and the General Assembly. **The bill takes effect July 1, 2022, and terminates June 30, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase significantly (perhaps by millions of dollars) in FY 2023 and 2024. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The required protocol must establish a methodology for MDE to use to (1) quantify the amount of air pollutants emitted from large AFOs, as specified, and

(2) assess the public health risks associated with those air pollutants. When preparing the protocol, the committee must identify (1) all air pollutants emitted from large AFOs in the State and (2) the potential public health risks associated with those pollutants. The protocol must be submitted for public comment and peer review, as specified. By April 1, 2023, the committee must review the comments received and incorporate them into the protocol as appropriate. Also by April 1, 2023, MDE must publish the final protocol on its website.

Committee members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations.

Current Law:

Maryland Regulation of AFOs

AFOs in Maryland are not subject to air quality permits issued by MDE. However, AFOs are generally subject to wastewater discharge permits, depending on the size of the facility and whether the facility discharges to waters of the State. 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. Regulation defines whether an operation is considered small, medium, or large based on the number of animals per AFO.

Federal Clean Air Act

The federal Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, the law authorizes the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards to limit levels of “criteria pollutants” to protect public health and public welfare and to regulate emissions of hazardous pollutants.

In 2009, a group of petitioners requested that EPA list concentrated animal feeding operations (CAFOs, which are similar to AFOs as defined in Maryland) as a category of sources under CAA, promulgate standards of performance for new CAFOs, and prescribe regulations for state-performance standards for existing CAFOs. In December 2017, EPA denied the petition because the interactive and highly complex nature of CAFO emissions requires new, more accurate methodologies for estimating those emissions. However, EPA noted that the agency is taking steps to establish and implement a regulatory strategy to address air emissions from CAFOs.

State Expenditures: MDE advises that there are 223 large AFOs in the State and that all but 12 are poultry related.

Although a reliable estimate of the increase in general fund expenditures resulting from the bill cannot be made at this time, general fund expenditures increase significantly, perhaps by several million dollars, in fiscal 2023 and 2024, for MDE to (1) conduct the required assessment of air pollutants and public health risks associated with all large AFOs in the State and (2) evaluate compliance with applicable federal and State laws. Given the short timeframe established by the bill, MDE likely needs to hire contractors to conduct the assessments and evaluations. Actual expenditures depend on several unknown factors, including the actual protocol developed by the committee, the methods used to assess air emissions from AFOs, and whether MDE must assess and evaluate *all* of the 223 large AFOs in the State. Regardless, given the large number of AFOs in the State, and the compressed timeframe within which MDE must collect and analyze data and submit the required report, expenditures are likely significant. For context, MDE estimates that contractual costs could be several million dollars.

MDE can provide staff for the committee with existing budgeted staff and resources.

Additional Information

Prior Introductions: HB 1642 of 2020 was referred to the House Rules and Executive Nominations Committee, but no further action was taken. HB 26 of 2018 received a hearing in the House Environment and Transportation Committee, but no further action was taken. Its cross file, SB 133, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; U.S. Environmental Protection Agency; Department of Legislative Services

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