

BWB HB649 Favorable.pdf

Uploaded by: Alice Volpitta

Position: FAV



February 21, 2022

**Environment - Discharge Permits - Inspections and Administrative Continuations
(HB 649)**

Position: FAVORABLE

Dear Chair Barve and Members of the Environment and Transportation Committee:

Blue Water Baltimore is a nonprofit organization with a mission to restore the quality of Baltimore's rivers, streams, and Harbor to foster a healthy environment, a strong economy, and thriving communities. We write today in strong support of "Environment - Discharge Permits - Inspections and Administrative Continuations" (House Bill 649).

One of our essential functions as a Waterkeeper organization is to receive and respond to tips on our Pollution Reporting Hotline about pollution that is degrading Baltimore's waterways and harming community members. These are pollution issues elevated by the people who are most severely impacted; the people fishing downstream of factories illegally discharging chemicals into the Jones Falls, and the people swimming in the Herring Run downstream of toxic illegal landfills. These aren't just hyperbolic examples. These are real-world issues that I've responded to in my capacity as your Baltimore Harbor Waterkeeper, and they are the types of problems that become disasters in the absence of adequate inspections and law enforcement.

When I receive those tips on our hotline and I begin the process of investigating suspected polluters, a troubling pattern begins to emerge. These facilities are typically in "Significant Noncompliance" with their discharge permits – sometimes due to limit exceedances, but oftentimes for simply failing to submit their required discharge monitoring reports at all.

In a system that relies almost entirely upon self-reporting to identify potential problems at these facilities, a failure to submit the required discharge monitoring reports is among the most serious violations of a facility's permit. Without adequate self-reporting, the entire system falls apart. There must be commensurate actions taken by the Maryland Department of the Environment (MDE) every time a facility falls into such significant noncompliance, or else the pollution will snowball and public trust will be eroded. Unfortunately, after years of lackluster enforcement, this is exactly what has happened in the Baltimore region.

Roughly 70% of facilities with industrial stormwater permits in Maryland are not in compliance with pollution controls. While this is a problem across the state, there are dozens of these types of facilities clustered in the Baltimore region, many of which are located in lower-income areas where people have fewer resources to speak out against the pollution. Toxic heavy metals and sediment flow off of these sites during rainstorms,

contaminating the streams and rivers throughout our watershed. These are facilities that are chronically flying under the radar, conducting business as usual while in Significant Noncompliance with their permits simply because they can. Because it's cheaper to run the risk of getting caught than it is to implement real solutions that reduce pollution and protect communities. The first and easiest step to curb the onslaught of pollution is to require site inspections for facilities as soon as they fall into MDE's "Significant Noncompliance" category.

This year we're celebrating the 50th anniversary of the federal Clean Water Act. This bedrock piece of legislation, combined with state water pollution control laws, gives us the power to protect our local streams and rivers for the good of the people. But laws without enforcement are just good advice, and MDE has chronically under-enforced these laws for years. Inadequate enforcement against repeat offenders only serves to incentivize bad actors who take advantage of a broken system. In Baltimore, our local waterways and overburdened communities are paying the price, a price which these polluters only see as the cost of doing business.

House Bill 649 puts common-sense guardrails around existing laws to ensure that they are adequately enforced for the good of the environment and the people of Maryland. If polluters are brazen enough to stop submitting their discharge monitoring reports under the belief that MDE just won't do anything about it, it's time to call their bluff. It's time to give the lion back its teeth.

For these reasons, Blue Water Baltimore, on behalf of our thousands of members and supporters, respectfully urges a Favorable Report on HB 649. Thank you.

Alice Volpitta
Baltimore Harbor Waterkeeper
Blue Water Baltimore
avolpitta@bluewaterbaltimore.org

HB0649 1Support FHRP.pdf

Uploaded by: Anita Bryant

Position: FAV

KATE SCHERR-ADAMS

President

ANITA BRYANT

Vice President

CYNDI MURRAY

Secretary

AMANDA CUNNINGHAM

Treasurer

Directors

TAMI BUTLER

KEVIN CLEARY

LAURA GILLIS

BARBARA JACKSON

SCOTT JOHNSON

BESS KELLER

CHARLES MINOR

Staff

PATRICIA DOWD

February 16, 2022

House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Dear Chairman Kumar P. Barve, Vice-Chairman Dana Stein, and Members of the House Environment and Transportation Committee

Support for HB0649 – Environment - Discharge Permits – Inspection and Administrative Continuations

I am writing on behalf of the Friends of Herring Run Parks, Inc., a non-profit that works to preserve, protect, restore, and promote Herring Run Park and its stream valley for the benefit of present and future generations.

The current system which depends on self-reporting of discharge violations, and the current staffing of the Maryland Department of the Environment (MDE), are not adequate to protect the Herring Run Watershed and the people who enjoy its waters.

Our position is based on years of experience with the property at 4300 Shannon Drive in Baltimore that we call "Mt. Dirt". It operates under Industrial Planned Development Ordinance # 99-415, passed in 1999, that allows for a limited rock crushing operation, no more than four times a year, 15 days at a time, with tarpaulin-covered piles no more than 10 feet high. Instead, it has operated as a year-round illegal land fill that now towers over 120 feet above Herring Run Park which runs along its border.

For years the residents of nearby Armistead Gardens have been showered with dust blown off of this site with any strong wind. We have witnessed rockslides from Mt. Dirt that have destroyed the protective silt skirt around the perimeter and clogged Armistead Run, a tributary to the Herring Run. We have also witnessed young people on warm days swimming in Herring Run, just downstream from Mt. Dirt.

4300 Shannon Drive is now subject to its third enforcement action (CJ-21-2692) with MDE since 2012. We hope that with passage of HB0649, the stronger fines and greater enforcement capacity will finally bring and keep Mt. Dirt into compliance.

Sincerely,



Kate Scherr-Adams

President

Friends of Herring Run Parks Board of Directors

The Friends of Herring Run Parks, Inc. is recognized by the IRS as a 501(c)3 non-profit organization.
Donations to Friends of Herring Run Parks, Inc. are tax deductible as allowed by law

HB649 SB492.Sign On.pdf

Uploaded by: Anna Mudd Griffith

Position: FAV



FAVORABLE: HB649: Environment – Discharge Permits – Inspections and Administrative Continuations

Mr. Chairman and Members of the Committee,

We are writing in strong support of House Bill 649 on behalf of Waterkeepers Chesapeake and the undersigned 13 organizations. As we all depend on healthy clean waterways in our state, we are in support of ensuring the safety of Maryland’s waterways for our drinking water, recreational uses, seafood industries, community use and economic vitality. Currently, hundreds of facilities are polluting our local waterways, severely endangering public health through contamination of the drinking water supply that serves 5.5 million Marylanders, causing safety concerns with seafood products, property damage, illness in our communities, and loss of revenue. The Maryland Department of the Environment, the agency in charge of enforcement, is critically understaffed and is failing to identify, inspect, and enforce against pollution violations, consequently allowing them to continue for months or years. By passing this bill and requiring the MDE to react promptly in inspecting facilities with expired permits or in continual violation of their pollution limits, Maryland takes a massive step towards preventing a public health crisis like the tragedy in Flint, Michigan.

This past year has presented us with a number of significant, high-profile pollution incidents. For example, the two largest wastewater treatment plants in Baltimore illegally discharged millions

of gallons of sewage into tributaries of the Chesapeake Bay. These illegal discharges threaten not only the public health of Marylanders but put the health of aquatic life at risk as well. In fact, this past fall, 25,000 gallons of untreated sewage overflowed into the St. George Creek in St. Mary's County, consequently leading to dozens contracting food-borne illnesses from tainted oysters. Following this incident, a spokesman for the MDE acknowledged that the agency failed to act promptly after receiving a report of the overflow. We believe the passage of this bill will not only further our goal of protecting Marylanders from the dangers of unsafe drinking water and food-borne illnesses, but also help protect and maintain an essential part of Maryland's seafood economy.

According to the MDE's annual enforcement and compliance reports, the number of enforcement actions taken by MDE's water administration for the 2021 fiscal year (627) were the lowest in almost two decades, despite the number of violations from these facilities being on the rise. Currently, there is a backlog of more than a hundred expired and administratively continued water pollution control permits. Considering the extent to which the MDE is understaffed, this backlog cannot come as much of a surprise. Just two months ago, Attorney General Frosh released a statement warning Governor Hogan of the dramatic understaffing of the MDE and potential safety risk to Marylander's health as a consequence. The AG cited a report that found a "severe gap" between the available staffing and funding resources for the MDE's Water Supply Program (WSP) and those that would be required to run the program. To illustrate the severity of this gap, the report found that the MDE needs "approximately 187% more full-time employees than currently staffed, and 93% more funding than currently available to effectively implement the program and ensure safe drinking water for the public." The passage of this bill will help provide the MDE with the procedures necessary to assess the current need for additional personnel, and then require the department to fill these positions within three years in order to help clear the backlog and effectively run the program.

This bill will help to avoid costly litigation as inspection and notification allows for a quick response by a facility in violation to get the facility back in compliance. Fines under this bill are already provided in law and are capped at either \$5000 or \$10,000, as opposed to civil

enforcement which could drag out for many months or even years and results in penalties of hundreds of thousands or millions.

Maryland Department of the Environment has insufficient staff to properly oversee water quality and MDE inspectors have more than six times the national average of the number of facilities in their charge and simply cannot keep up. This bill requires MDE to assess the staffing needs and then fill these positions. Tens of thousands of gallons of untreated sewage have previously overflowed and not only threaten public drinking water systems but also the seafood that Marylanders have the privilege of enjoying. This bill will ensure timely notice of violations, opportunities for facilities to correct them, and timely issuance of permit renewals. The requirements of this bill will also help prevent our citizens from contracting food-borne illnesses and help protect and maintain Maryland's seafood economy.

Waterkeepers Chesapeake strongly believes HB 649 helps further the goal of providing all Marylanders with **safe access to drinking water, preventing food-borne illnesses, and ensuring the MDE can fulfill their responsibility to protect the health and welfare of all Marylanders.** From the monthly inspections of facilities in noncompliance, to the addressing of the severe understaffing of the MDE, House Bill 649 will provide the proper procedures to help reach these goals.

For these reasons, we urge a favorable report on HB 649.

Betsy Nicholas
Executive Director
Waterkeepers Chesapeake

Robin Clark
Maryland Staff Attorney
Chesapeake Bay Foundation

Kristen Harbeson
Political Director
Maryland League of Conservation Voters

Emily Ranson
Maryland State Director
Clean Water Action

Mark Southerland
Safe Skies Maryland

Ruth Berlin
Maryland Pesticide Education Network

Josh Tulkin
Chapter Director
Maryland Sierra Club

Nina Beth Cardin
Maryland Campaign For Environmental
Human Rights

Richard Deutschmann
Indivisible Howard County

Waterkeepers Chesapeake

Nancy Soreng
President
League of Women Voters of Maryland

Matt Pluta
Director of Riverkeeper Programs
Choptank Riverkeeper, ShoreRivers

Alice Volpitta
Baltimore Harbor Waterkeeper
Blue Water Baltimore

Gabby Ross
Assateague Coastkeeper
Assateague Coastal Trust

Katlyn Schmitt
Policy Analyst
Center for Progressive Reform

Environmental Enforcement Legislation HB649 SB492.

Uploaded by: Elizabeth Nicholas

Position: FAV



FAVORABLE: HB649: Environment – Discharge Permits – Inspections and Administrative Continuations

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Katlyn Schmitt
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Center for Progressive Reform

HB649_DCPG via F.Pomeroy_Fav.pdf

Uploaded by: Fred Pomeroy

Position: FAV



Committee: Environment and Transportation

Testimony on: HB649

Organization: Dorchester Citizens for Planned Growth (DCPG)

Submitted by: Fred Pomeroy, President

Position: Favorable

Hearing Date: February 23, 2022

Dear Chairman Barve and committee members:

Thank you for allowing our testimony in **support** of HB649 – Environmental – Discharge Permits – Inspections and Administrative Continuations. Dorchester Citizens for Planned Growth (DCPG) is an environmental organization located in Dorchester County. We urge you in the strongest possible terms to vote favorably on HB649.

I am writing to offer testimony about the urgent need to correct an ongoing environmental crisis in Maryland, namely the lack of oversight and strict enforcement by the Md. Dept. of Environment- which continues to cause degradation of our waterways and threatens public health. My testimony focuses on an example of this failure which I am sadly all too familiar with - the case of the illegal pollution discharge caused by the Valley Proteins chicken rendering plant in Linkwood, Dorchester County.

In 2014, our local citizen's group, DCPG, learned that Valley Proteins was applying to MDE to supersize its wastewater discharge permit for industrial dumping into the upper tributary of the Transquaking River. To us, the requested increase was staggering. We had been conducting periodic and independently analyzed water testing at six sites in Dorchester and while all of the sites were reflecting various degrees of pollution, the numbers from our testing of the Transquaking were by far the highest. The values for nitrogen and particularly phosphorus were way above what was considered an allowable baseline. The fecal coliform sampling was also dangerously high, and often there was virtually no dissolved oxygen present in the water. These numbers were undoubtedly contributing to events of toxic algal blooms, dead pet dogs, and fish kills we were hearing about anecdotally from residents of the watershed.

We expressed our concerns directly to MDE at an informational hearing held in 2014 at the Cambridge Public Library. Trying to wade through byzantine chemical flow charts presented by the industry at this meeting was daunting, but one underlying fact seemed indisputable: if the point source discharge flow from Valley Proteins was quadrupled - from approx. 150,000 gals/ day to the requested increase of 575,000 gals/day - a river that was already on the verge of dying would be completely overwhelmed.

*Dorchester
Citizens For
Planned
Growth*

Again, this was in 2014. We are now coming up on the eight year anniversary of this informational hearing and MDE has still not completed the process of determining safe discharge limits for the industry's effluent as called for under the Clean Water Act. In fact, MDE's record of regulation of this polluting industry has for the past eight years been governed by a vague process called "administrative continuance." **Administrative continuance has allowed VP to continue to pollute the Transquaking while their industrial operation has expanded. Administrative continuance has relied on self-reporting by VP, which has too often meant non-reporting. Administrative continuance is the equivalent of allowing the fox to guard the hen house, or in this case the offal from many hen houses.**

DCPG calls on the Maryland legislature to step in and stop this travesty. We also call on MDE to carry out their stated duty, which is to restore the environment and protect the public health of Marylanders, rather than acting as an enabler for irresponsible industry. **When passed, HB 649 will have an important remedial effect on a regulatory process that has gone dangerously awry.** This legislation is long overdue and should be passed in the current session. Thank you for your work on behalf of all Maryland citizens.

Fred Pomeroy
President
Dorchester Citizens for Planned Growth

2022-02-23 HB 649 (Support).pdf

Uploaded by: Hannibal Kemerer

Position: FAV

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

443-463-0751

February 23, 2022

To: The Honorable Kumar P. Barve
Chair, Environment and Transportation Committee

From: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

Re: HB 649 – Environment – Discharge Permits – Inspections and Administrative
Continuations – **Support**

The Office of Attorney General urges this Committee to favorably report HB 649. If enacted, HB 649 would prevent the Maryland Department of the Environment (“MDE”) from administratively continuing discharge permits (so-called “zombie permits”) for a period longer than 3 years on or after July 1, 2022; and after January 1, 2027, MDE would be precluded from administratively continuing a discharge permit for a period longer than 1 year. The bill requires MDE to conduct monthly inspections of (1) each permit holder operating under an administratively continued permit; and (2) each permit holder that the Department has determined to be in significant noncompliance of an applicable state or federal standard, effluent limitation, or other applicable requirement of the Department or the U.S. Environmental Protection Agency (“EPA”). The bill further provides for the Department to assess administrative penalties against permit holders found to be in significant noncompliance with applicable state or federal requirements. Penalties range from \$250 - \$2,500 for minor facilities and from \$1,000 to \$10,000 for major facilities.

MDE’s Water Supply Program’s (“WSP”) mission is to ensure safety of the State’s 3,300 public drinking water systems. These systems, in turn, supply drinking water to 5.5 million Marylanders. To assess MDE’s efforts in achieving these critical public health goals, in 2019 the EPA engaged CADMUS, a business management consulting firm, to conduct a workload analysis of the State’s WSP. The 2021 CADMUS report found that understaffing and underfunding of the WSP program called into question the adequacy of inspections of Maryland’s drinking water systems.¹ The report identified a “severe gap” between WSP’s

¹ See CADMUS Analysis of Maryland’s Drinking Water Program Resources and Needs (May 2021), available online at: [https://www.marylandattorneygeneral.gov/news%20documents/2020 MD Workload Analysis.pdf](https://www.marylandattorneygeneral.gov/news%20documents/2020_MD_Workload_Analysis.pdf).

available staffing and funding resources, and those that would be required to run the program. Specifically, it found that MDE “needs approximately. . . 187% more full-time employees (FTEs) than currently staffed, and 93% more funding than currently available to effectively implement the program and ensure safe drinking water for the public.”

The CADMUS report raises multiple concerns, including:

- The national average number of inspections a full-time employee performs in one year is 67. WSP inspectors supposedly conduct 240 inspections every year.
- Only 72% of the State’s public drinking water systems had a certified operator in 2020, down from 84% in 2015. Fully one-quarter of the State’s systems “are operating in violation of state and federal requirements.”
- The State risks losing enforcement responsibility and more than \$21.5 million in federal funding due to its lack of staffing and funding.
- These challenges will be made more acute as 350 new public water systems will be added to the State’s inventory, and the program must manage emerging contaminants including PFAS, Legionella, and harmful algal blooms.
- WSP currently has 27 vacancies out of a staff of 71 full-time positions, including 9 contractual positions. The Hogan Administration abolished approximately 12 FTEs vacated by retirement, left other vacant positions unfilled, and implemented hiring freezes.
- The Program has about \$8.1 million in annual funds, with 88% from federal sources and only 12% from the State’s general fund. The report concludes that in 2021, MDE’s WSP “needs 126 FTEs and approximately \$15.7 million in funding to carry out current program responsibilities, implement drinking water regulations, and uphold public health protection.”

These findings prompted Attorney General Frosh to write Governor Hogan on December 1, 2021,² saying at the time, “Marylanders expect the State to ensure our drinking water is safe. The EPA has warned the Administration that years of underfunding and understaffing of the Department of the Environment’s Water Supply Program have compromised its ability to conduct adequate inspections and oversight, threatening the health of millions of Marylanders.” To date, however, the Hogan administration’s response has been inadequate. That is why HB 649 is a necessary strategy to ensure that MDE conducts better oversight of water suppliers and discontinues the use of multi-year zombie permits.

For the foregoing reasons, the Office of the Attorney General urges a favorable report of House Bill 649.

cc: Committee Members

² See Brian E. Frosh letter to Lawrence J. Hogan, Jr. (Dec. 1, 2021), available online at: https://www.marylandattorneygeneral.gov/news%20documents/120121_MDE_Water_Supply_Program.pdf.

Jankowski_FAV_HB649

Uploaded by: Joe Jankowski

Position: FAV

Testimony in SUPPORT of HB0649 – Environment – Discharge Permits- Inspections
and Administrative Continuations

Dear Chairman Barve and members of the Environmental and Transportation Committee,

The Protectors of the St Martin River supports the Environment – Discharge Permits – Inspections and Administrative Continuations HB0649 / SB0492.

The coastal bays of the Eastern Shore of Maryland have degraded water quality caused by excess nutrients due in part to discharge from Animal Feeding Operations (AFO) exceeding their permitted discharge. This bill proposes actions which Maryland should be taking to enforce discharge permits and to properly manage the continuation of the permits which AFOs are operating under.

Our organization has undertaken numerous efforts to restore healthy waterways in the coastal bays of Maryland, through education of residents in critical areas as to environmentally sensitive land management and through an oyster gardening program to reduce excess nutrients in the coastal bays. This bill will provide a significant contribution to the health and well-being of the coastal bays of Maryland.

Respectfully,

Joseph Jankowski, Director
Protectors of the St Martin River

HB649_ShoreRivers via M.Pluta_Fav.pdf

Uploaded by: Matt Pluta

Position: FAV



Testimony in SUPPORT of HB649 – Environment - Discharge Permits – Inspections and Administrative Continuations

February 23, 2022

Dear Chairman Barve and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of HB649 on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with over 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

This bill includes a number of actions that will bring Maryland Department of the Environment back to the standard of protecting the state's water quality from permit holders who are failing to comply with their permits or operating on an expired permit. Specifically, HB649 will:

1. **Put a much-needed end to MDE's practice of administratively extending the terms of a discharge permit after it has reached its expiration date.** By allowing a facility to operate on an expired "*zombie permit*" MDE is waiving their responsibility to make sure that every facility discharging pollution to Maryland waterways is doing so in compliance with modern regulatory and technology standards. By administratively continuing an expired permit MDE is also taking away the public's statutory right to review and weigh-in on these permits at least every five years.

The worst of these *zombie permits* is Valley Proteins, a discharger on the Eastern Shore whose permit expired in 2006 but because of MDE's inaction it continues to govern the facility's discharge 15 years later. The discharge limits in this permit reflect those issued in the early 2000s and ignores technological advancements such as the use of Enhance Nutrient Removal (ENR) technology, which is the standard level of treatment for new wastewater operations.

Public input on this permit has been lacking since the early 2000s despite serious concerns from the surrounding community about the water and air pollution from the Valley Proteins facility. Discharges with high levels of nutrients have caused downstream algal blooms, fish kills, and even the death of someone's pet dogs, meanwhile air pollution is impacting the quality of life and presenting health concerns for communities over 5-miles away. MDE has essentially silenced the public on these issues by not granting them a regular opportunity to engage with the permit renewal process.

2. **Require monthly inspections for facilities that are operating on a zombie permit, or operating in significant non-compliance (SNC) of their discharge permit.** If MDE chooses to administratively continue an expired permit, then the burden needs to be placed on MDE to ensure that a bad situation isn't getting worse. As is the case with Valley Proteins, MDE administratively continued their permit since 2006 and Valley Proteins has been

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443.385.0511

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111A North Main St.
Galena, MD 21635
410.810.7556
shorerivers.org

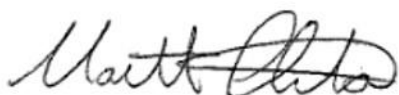
Regional Office
207 S. Water St.
Unit B
Chestertown, MD 21620
410.810.7556

in significant noncompliance with that permit for at least the last five years.¹ By executing monthly random inspections, MDE will be able to catch these violations before they become a greater issue for local water quality.

Aside from point source discharges, the Eastern Shore is scattered with groundwater discharge permits that allow the spraying of wastewater as irrigation on farm fields. This permitting program is flawed in many ways but primarily it jeopardizes the work under the Chesapeake Bay TMDL to reduce nutrient pollution because it assumes no pollution reaches waterways. However, MDE compliance and inspection data show that these facilities are commonly in violation of their permits. In the first half of fiscal year 2020, 23 of 41 (56%) inspections of groundwater permits resulted in a finding of “noncompliance” or “corrective action,” whereas only 29% of inspections results in a finding of full compliance. Examination of data from the past four fiscal years reveals similar findings, with only 80 of 317 inspections (25%) om compliance. And on the Eastern Shore the rate of noncompliance was similar, with 58 out of 108 (54%) inspections ending in noncompliance.²

This bill is necessary to prevent another environmental disaster like that at Valley Proteins from happening again in Maryland. This bill is necessary for MDE to recognize the resources and level of work needed for it to adequately administer and manage the pollution discharge permitting program. This bill is necessary to ensure proper oversight and protection of our state’s waterways. **For these reasons we ask the committee for a strong and favorable report of HB649.**

Sincerely,



Matt Pluta

Choptank Riverkeeper, on behalf of:

ShoreRivers

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Elle Bassett, Miles-Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

¹ <https://echo.epa.gov/detailed-facility-report?fid=110000340685>

² <https://www.chesapeakelegal.org/guides-resources/groundwater-permit-and-spray-field-advocacy-opportunities-in-maryland/>

Valley Proteins 3-year Compliance History.pdf

Uploaded by: Matt Pluta

Position: FAV

Detailed Facility Report

Facility Summary

**VALLEY PROTEINS INC-LINKWOOD
FACILITY**
5420 LINKWOOD DR, LINKWOOD, MD 21835

FRS (Facility Registry Service) ID: 110000340685
EPA Region: 03
Latitude: 38.555934
Longitude: -75.935505
Locational Data Source: TRIS
Industries: Food Manufacturing
Indian Country: N

Enforcement and Compliance Summary

Statute	CAA
Insp (5 Years)	11
Date of Last Inspection	10/21/2021
Current Compliance Status	Violation w/in 1 Year
Qtrs with NC (of 12)	1
Qtrs with Significant Violation	0
Informal Enforcement Actions (5 years)	2
Formal Enforcement Actions (5 years)	--
Penalties from Formal Enforcement Actions (5 years)	--
EPA Cases (5 years)	--
Penalties from EPA Cases (5 years)	--
Statute	CWA
Insp (5 Years)	9
Date of Last Inspection	11/05/2019
Current Compliance Status	Significant/Category I Noncompliance
Qtrs with NC (of 12)	12
Qtrs with Significant Violation	11
Informal Enforcement Actions (5 years)	--
Formal Enforcement Actions (5 years)	1
Penalties from Formal Enforcement Actions (5 years)	\$5,000
EPA Cases (5 years)	--
Penalties from EPA Cases (5 years)	--

Regulatory Information

Clean Air Act (CAA): Operating Synthetic Minor (MD0000002401900029)

Clean Water Act (CWA): Minor, Permit Admin Continued (MD0003247)

Resource Conservation and Recovery Act (RCRA): No Information

Safe Drinking Water Act (SDWA): No Information

Other Regulatory Reports

Air Emissions Inventory (EIS): 6117511

Greenhouse Gas Emissions (eGGRT): No Information

Toxic Releases (TRI): 21835STRNSRFD1X

Compliance and Emissions Data Reporting Interface (CEDRI): No Information

Known Data Problems

Facility/System Characteristics

Facility/System Characteristics

System	Statute	Identifier	Universe	Status	Areas	Permit Expiration Date	Indian Country	Latitude	Longitude
FRS		110000340685					N	38.555934	-75.935505
ICIS-Air	CAA	MD0000002401900029	Synthetic Minor Emissions	Operating	CAANSPS, CAASIP		N	38.555934	-75.935505
EIS	CAA	6117511					N	38.5565	-75.9362
ICIS-NPDES	CWA	MD0003247	Minor: NPDES Individual Permit	Admin Continued		02/28/2006	N	38.556111	-75.947222
TRI	EP313	21835STRNSRFD1X	Toxics Release Inventory	Last Reported for 2020			N	38.555934	-75.935505

Facility Address

System	Statute	Identifier	Facility Name	Facility Address	Facility County
FRS		110000340685	VALLEY PROTEINS INC-LINKWOOD FACILITY	5420 LINKWOOD DR, LINKWOOD, MD 21835	Dorchester County
ICIS-Air	CAA	MD0000002401900029	VALLEY PROTEINS, INC. - LINKWOOD	5420 LINKWOOD RD, LINKWOOD, MD 21835	Dorchester County
EIS	CAA	6117511	VALLEY PROTEINS, INC. - LINKWOOD	ATTN: TOM HIMMLER, LINKWOOD, MD 21835	Dorchester County
ICIS-NPDES	CWA	MD0003247	VALLEY PROTEINS, INC (FORMERLY ALLEN BIOTECH, LLC) - JCR ENTERPRISE INC.	5420 LINKWOOD ROAD, LINKWOOD, MD 21835	Dorchester County
TRI	EP313	21835STRNSRFD1X	VALLEY PROTEINS INC-LINKWOOD FACILITY	5420 LINKWOOD RD, LINKWOOD, MD 21835	Dorchester County

Facility SIC (Standard Industrial Classification) Codes

System	Identifier	SIC Code	SIC Description
TRI	21835STRNSRFD1X	2048	Prepared Feeds
TRI	21835STRNSRFD1X	2077	Animal And Marine Fats And Oils
ICIS-NPDES	MD0003247	2077	Animal And Marine Fats And Oils
NPDES	MD0003247	2077	Animal And Marine Fats And Oils

Facility NAICS (North American Industry Classification System) Codes

System	Identifier	NAICS Code	NAICS Description
TRI	21835STRNSRFD1X	311613	Rendering and Meat Byproduct Processing
EIS	6117511	311613	Rendering and Meat Byproduct Processing
ICIS-Air	MD0000002401900029	311613	Rendering and Meat Byproduct Processing

Facility Industrial Effluent Guidelines

Identifier	Effluent Guideline (40 CFR Part)	Effluent Guideline Description
No data records returned		

Facility Tribe Information

Reservation Name	Tribe Name	EPA Tribal ID	Distance to Tribe (miles)
No data records returned			

Statute	Program/Pollutant/Violation	Type	QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12	QTR 13+	
CWA	BOD, 5-day, 20 deg. C E	001 - A Effluent Gross	Mthly			22%				3%	178%	265%	46%		409%	28%
CWA	BOD, 5-day, 20 deg. C E	001 - A Effluent Gross	NMth	3%		249%	87%			67%	217%	407%	21%		726%	27%
CWA	Coliform, fecal general E	001 - A Effluent Gross	Mthly				97%									
CWA	Nitrogen, ammonia total [as N] E	001 - A Effluent Gross	Mthly							291%	2518%	291%				
CWA	Nitrogen, ammonia total [as N] E	001 - A Effluent Gross	NMth							163%	587%	73%				
CWA	Nitrogen, total [as N] E	001 - A Effluent Gross	Mthly							56%	177%	106%				
CWA	Nitrogen, total [as N] E	001 - A Effluent Gross	NMth							104%	74%	114%				
CWA	Phosphorus, total [as P] E	001 - A Effluent Gross	Mthly		10%			20%								
CWA	Phosphorus, total [as P] E	001 - A Effluent Gross	NMth		61%			107%								
CWA	Solids, total suspended E	001 - A Effluent Gross	NMth												34%	
Late or Missing Discharge Monitoring Report (DMR) Measurements																
Counts of Late DMR Measurements						3	14		4	8	36	47	3			
Counts of Missing DMR Measurements			3													

Informal Enforcement Actions (5 Years)

Statute	System	Source ID	Type of Action	Lead Agency	Date
CAA	ICIS-Air	MD0000002401900029	Notice of Violation	State	09/07/2021
CAA	ICIS-Air	MD0000002401900029	Notice of Violation	State	09/10/2018

Entries in italics are not counted as "informal enforcement actions" in EPA policies pertaining to enforcement response tools.

Formal Enforcement Actions (5 Years)

Statute	System	Law/Section	Source ID	Action Type	Case No.	Lead Agency	Case Name	Issued/Filed Date	Settlements/Actions	Settlement/Action Date	Federal Penalty Assessed	State/Local Penalty Assessed	Penalty Amount Collected	SEP Cost	Comp Action Cost
CWA	ICIS-NPDES	OTHER	NPDES/MD0003247	Administrative - Formal	MD-PS-19-2586	State	Valley Proteins, Inc.	04/30/2019	1	04/30/2019	\$0	\$5,000	\$5,000	\$0	\$0

Environmental Conditions

Watershed(s)

12-Digit WBD (Watershed Boundary Dataset) HUC (RAD (Reach Address Database))	WBD (Watershed Boundary Dataset) Subwatershed Name (RAD (Reach Address Database))	State Water Body Name (ICIS (Integrated Compliance Information System))	Beach Closures Within Last Year	Beach Closures Within Last Two Years	Pollutants Potentially Related to Impairment	Watershed with ESA (Endangered Species Act)-listed Aquatic Species?
020700010304	Whitehorn Creek-Thorn Creek	TRANSQUAKING R	No	No	Solids, total suspended	Yes

HB 649_CBF SUPPORT.pdf

Uploaded by: Robin Jessica Clark

Position: FAV



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 649

Environment - Discharge Permits - Inspections and Administrative Continuances

Date: February 23, 2022

Position: Support

To: Environment & Transportation Committee

From: Robin Clark, Maryland Staff Attorney

Chesapeake Bay Foundation (CBF) **SUPPORTS** HB 649, which will provide the Department of Environment with additional tools to support and ensure well-functioning wastewater treatment facilities and industrial stormwater sites throughout Maryland, protecting Maryland's residents from harmful pollution discharges into local streams and rivers and the Chesapeake Bay.

Water pollution control permits do not serve their purpose if their terms are not followed.

Water pollution control permits create the terms by which businesses and wastewater treatment plants in Maryland may operate while limiting discharges and pollution overflows into Maryland's waterways.

When a permit's five-year term expires and is not properly renewed, that outdated permit may be allowed to continue in effect through an administrative continuance. A number of administrative continuances now burden our State, meaning that in some cases new technologies and pollution reduction methods are not incorporated into facilities' operating requirements. This legislation seeks to give the Department of Environment the staff needed to address the backlog of these so-called "zombie" permits and eventually reduce the practice of extensions beyond one year.

A notice of significant noncompliance with a permit's terms can indicate a failure of a facility to report its monitoring data, or a violation of one of the permit's limits for a particular pollutant. While a failure to report may not be a clear indication of an issue, without reporting there is no way to know whether the failure to report is masking an issue. In the case of a violation of a pollution limit, the underlying cause of the issue needs to be addressed as soon as possible to bring the facility back into compliance. This legislation requires monthly inspections of significant noncompliance findings by the Department of the Environment or as recorded in the U.S. Environmental Protection Agency's ECHO database.¹ These inspections should encourage more regular reporting and expedite corrective actions.

HB 649 takes reasonable steps to increase oversight to confront discharge issues as they arise, and to address the backlog of outdated permits.

This legislation will require that the Maryland Department of Environment inspects facilities in significant noncompliance with their pollution permits within a month's time. It seeks to encourage those facilities to

¹ United States Environmental Protection Agency, *Enforcement and Compliance History Online* ([ECHO](#)), last visited February 21, 2022.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403
Phone (410) 268-8816 • Fax (410) 280-3513

develop a plan for remediating any issues and employs reasonable fines to motivate compliance. Through prompt attention to issues at a facility, remedies may be accomplished earlier, likely reducing costs, harm, and liability. The legislation also requires the Department to report to the General Assembly on the number of employees needed to help clear the backlog of outdated permits, and to work towards hiring those staff.

CBF urges the Committee's FAVORABLE report on HB 649. For more information, please contact Robin Jessica Clark, Maryland Staff Attorney at rclark@cbf.org and 443.995.8753.

EHE Water Supply Program.final.pdf

Uploaded by: Sara Love

Position: FAV

MDE's Oversight of the State's Drinking Water Systems

Dramatic Understaffing and
Inadequate Inspections

Education, Health, and Environmental
Affairs Committee

January 17, 2022



Maryland Department of the Environment's (MDE) Water Supply Program (WSP)

- Mission to ensure safety of State's 3,300 public drinking water systems;
- Supply drinking water to 5.5 million Marylanders;
- Prevent public health crises like tragedy in Flint, Michigan.



CADMUS REPORT:

Commissioned by Environmental Protection Agency, May 2021

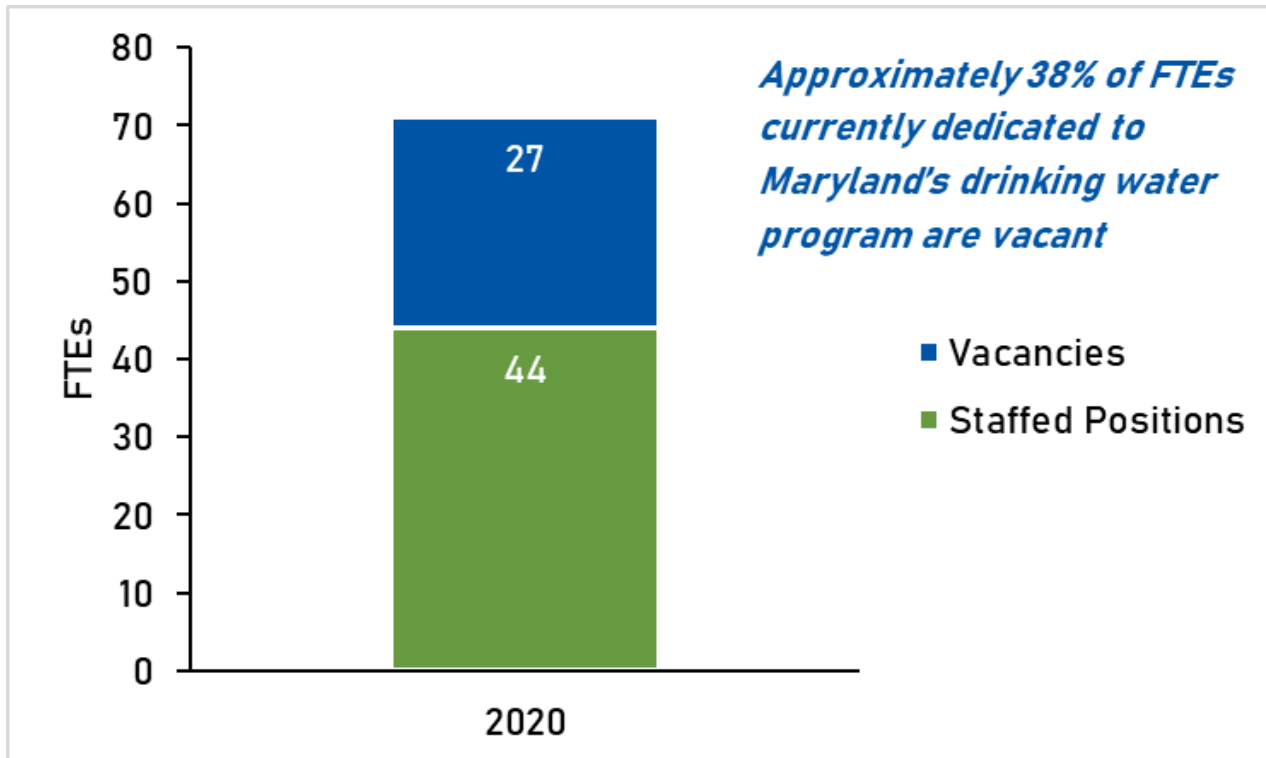
- Maryland once had a “robust drinking water program and was able to go above and beyond the minimum federal requirements . . .”
- By contrast, now “due to declining resources, increasing demands, and the need to make cutbacks . . . MDE may not be able to meet the minimum requirements needed to maintain primary enforcement responsibility.”
- MDE’s “ability to meet all demands and requirements is greatly compromised.”



CADMUS REPORT

- “Severe gap” between available staffing and funding and what’s necessary to run the program.
- **187%** more full-time employees (FTEs) needed; **93%** more funding.
- **27** vacancies out of **71** positions; 12 FTEs abolished, vacant positions unfilled, and hiring freezes perpetuated.

Current FTEs – Staffed and Vacant



CADMUS REPORT:

May 2021

Decline in WSP Staffing

YEAR	FTEs	Comment
2011	62	
2016	47	
2018	34*	
2020	44	Increase due primarily to transfer of boards and labs certification staff



*Staffing decrease despite additional new responsibility over 800 transient non-community water systems, 350 new public water systems, oversight of lead testing in public schools, and emerging contaminants like PFAS, *Legionella*, harmful algal blooms.

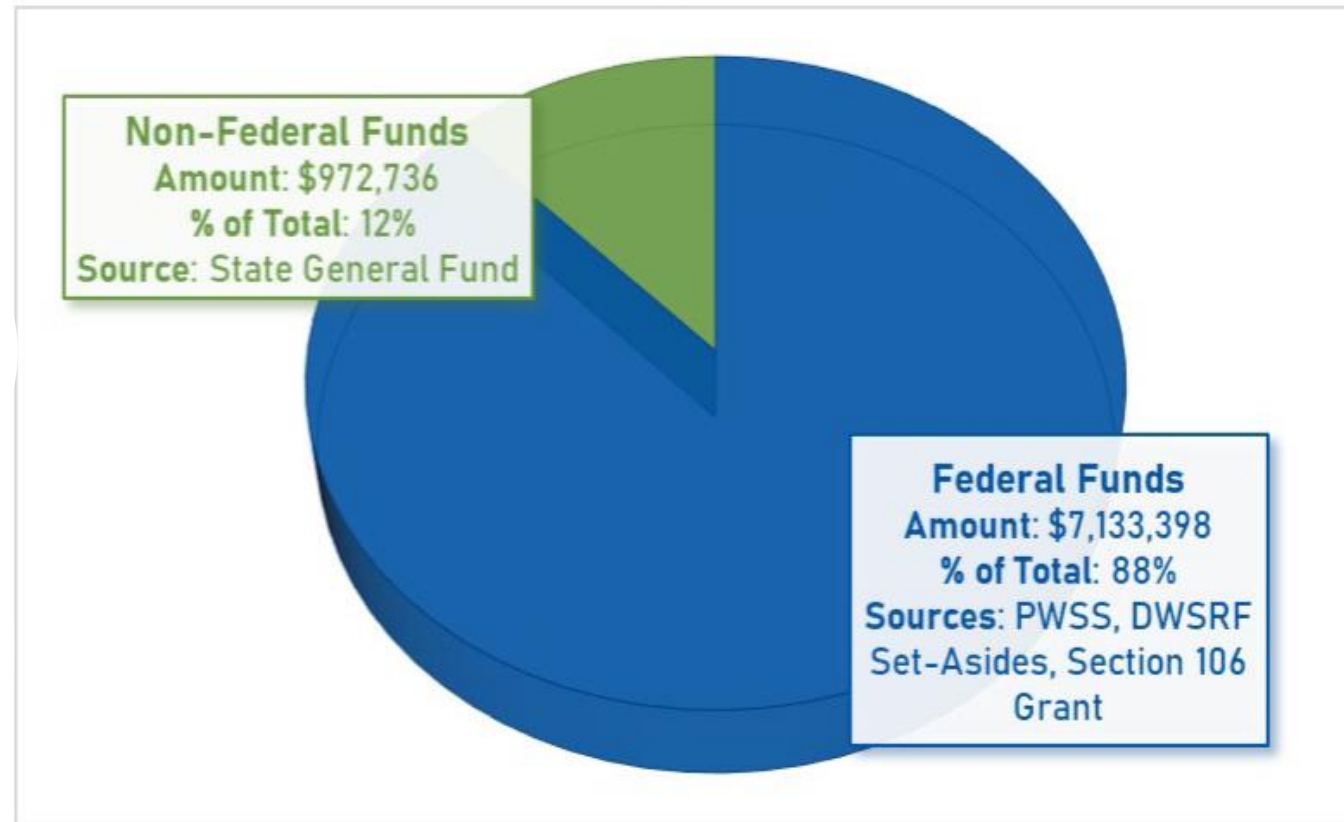
CADMUS REPORT:

May 2021



- WSP underfunding: \$8.1 million in annual funds: 85% federal and only 12% state.
- Average federal/state balance nationwide closer to 58% federal funds and 42% non-federal (state general fund and fee programs).
- In 2021, WSP needs **126 FTEs and \$15.7 million.**
- Represents **gap of 82 FTEs and \$7.8 million.**

Figure 6: Current Funding (Federal vs. Non-Federal Sources)



CADMUS REPORT:

Projected shortfalls over next decade

*FTE Gap (Available) refers to difference between available FTEs, include vacant positions, and FTEs projected to be needed.

*FTE Gap (Staffed) refers to difference between currently staffed FTEs, excluding vacant positions, and FTEs projected to be needed.



Figure 1: Gap in MDE Resources (2020-2029)

Year	FTE Gap (Available)	FTE Gap (Staffed)	Funding Gap
2020	-50.1	-77.1	-\$6,916,773
2021	-55.4	-82.4	-\$7,565,212
2022	-53.8	-80.8	-\$7,369,986
2023	-63.8	-90.8	-\$8,594,103
2024	-70.2	-97.2	-\$9,381,871
2025	-75.8	-102.8	-\$10,066,889
2026	-72.7	-99.7	-\$9,685,094
2027	-72.5	-99.5	-\$9,669,113
2028	-74.6	-101.6	-\$9,923,738
2029	-76.6	-103.6	-\$10,172,975

What are consequences of these staffing and funding shortfalls?

- WSP reports that its inspectors' workload is to perform **240 sanitary surveys** per cycle.*
- National average for an inspector's workload is **67**.
- EPA cites concern about a "loss in sanitary survey quality" due to MDE sanitary inspectors' "significantly greater" workload than the national average.
- Inspections must include sources, water treatment plants, storage and distribution systems, water quality test results, operating and maintenance procedures.
- Sanitary surveys are only **one part** of MDE inspectors' jobs.

*Sanitary survey frequency has declined from 12-18 months frequency to 3-5 years.



Effect on Maryland's public water systems' certified operators

- WSP's record of inspections obscures accurate picture of how many public water systems have certified operators.
- May also have contributed to decline in number of operators because decline in inspections precludes early identification and correction of non-compliance.



Effect on Maryland's public water systems' certified operators

- Only 72% of systems had certified operators in 2020, down from 84% in 2015.
- EPA concludes fully one-quarter of State's systems "are operating in violation of state and federal requirements."

Maryland	Number of systems			Number of Systems with a Certified Operator			Percentage of systems with a Certified Operator			
	Year	CWS	NTNCWS	Total	CWS	NTNCWS	Total	CWS	NTNCWS	Total
	2001	503	568	1,071	402	225	627	79.9%	39.6%	58.5%
	2012	475	549	1,024	428	415	843	90.1%	75.6%	82.3%
	2013	473	540	1,013	432	405	837	91.3%	75.0%	82.6%
	2014	469	538	1,007	423	405	828	90.2%	75.3%	82.2%
	2015	469	539	1,008	427	418	845	91.0%	77.6%	83.8%
	2016	464	538	1,002	422	405	827	90.9%	75.3%	82.5%
	2017	466	537	1,003	419	397	816	89.9%	73.9%	81.4%
	2018	464	546	1,010	405	367	772	87.3%	67.2%	76.4%
	2019	464	543	1,007	417	363	780	89.9%	66.8%	77.4%
	2020	461	534	995	408	309	717	88.5%	57.9%	72.1



EPA DIRECTIVE:

MDE must develop a resource investment plan – to include “establishing a lower public water system to field staff ratio” – for EPA review and approval by October 2021.



Sources:

- *Analysis of Maryland's Drinking Water Program Resources and Needs*, May 2021, CADMUS, prepared for Maryland Department of the Environment and the U.S. Environmental Protection Agency, Region III (*CADMUS Report*).
- *Annual Review of the Public Water Supply Supervision Program for the State of Maryland*, January 1, 2020 – December 31, 2020, U.S. Environmental Protection Agency Region III (*EPA Report*).
- *Report to Governor: Capacity Development for Maryland Public Drinking Water Systems, Calendar Years 2017-2019*.
- Md. Code Regs. 26.04.01.11-3 (2021).



Love Testimony_HB 649_2022_DLH.pdf

Uploaded by: Sara Love

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 23, 2022

**Sponsor Testimony for HB 649 –
Environment - Discharge Permits - Inspections and Administrative Continuation**

Chair Barve, Vice Chair Stein, Members of the Environment and Transportation Committee:

HB 649 seeks to ensure that the Maryland Department of the Environment (MDE) is adequately enforcing water permits so that Marylanders have safe drinking water. Currently, due to significant understaffing and underfunding, MDE extends numerous, expired water pollution control permits, allowing companies to continue discharging more pollution into our waterways.

The Context

Expired water pollution discharge permits, issued and “administratively continued” by MDE, have become known as *Zombie Permits*.¹ These resurrected “zombies” do not require any updates to incorporate recent pollution-control technology, as mandated every five years by the federal Clean Water Act². Due to inadequate monitoring, many plants and facilities operating with *Zombie Permits* are spewing pollutants into our water, threatening our health, our rivers and streams, and our beloved Chesapeake Bay.

HB 649 would put a stop to these violations and add oversight by limiting the amount of time MDE can administratively extend water pollution discharge permits, establishing inspection and reporting requirements for certain permit holders, instituting specific monetary penalties for those in noncompliance, and requiring MDE to clear its *Zombie Permit* backlog.

Below I describe the issues, the problems those issues have caused, and how HB 649 is part of the solution.

The Issues

MDE’s Water Supply Program – the program whose responsibility is to ensure we have safe drinking water – is critically understaffed and underfunded. The Environmental Protection Agency (EPA) commissioned a report “Analysis of Maryland’s Drinking Water Program Resources and

¹ The problems with *Zombie Permits* have been well known for years. Del. Mary Lehman tried to address this issue in 2020 with HB 1297, which unfortunately ran out of time due to Covid cutting our session short.

Needs” (the Cadmus Report). Released in May 2021, the report found that **MDE needed approximately “187% more FTE [full-time employees] than currently staffed, and 93% more funding than currently available to effectively implement the program and ensure safe drinking water for the public.”**²

Because they are understaffed and underfunded, the staff that are there are overloaded. The current employee has a caseload of 240 inspections; contrast that with the nationwide average of 67.

Not surprisingly, these inspections aren’t getting done. This means that when discharge permits expire, MDE has been administratively continuing them, allowing entities to continue to operate and discharge into our waterways without adequate inspection to ensure that the discharge is not endangering our health. Some entities have not had an inspection for years, operating continually without oversight. According to a December 2021 report, **42% of pollution control permits for municipal sewage plants, factory wastewater treatment facilities and other pollution sources (198 or 466 total) are Zombies.**³

The Problems

Story after story has come to light about the problems with the lack of inspection and Zombie Permits. Most of what has been found has been by nonprofit groups – not by MDE:

- Valley Proteins, a chicken rendering plant in Dorchester County, had been operating on a Zombie Permit since their discharge permit expired in 2006. On December 10, 2021, members of ShoreRivers, an environmental nonprofit group, observed brown discharge flowing through a stream near the plant. They sent drone footage to MDE, which then sent an inspector to the plant, who noticed an illegal discharge to a holding pond. This plant has a history of similar violations; and yet, they were operating for 15 years on a Zombie Permit. The plant is now closed until they can come into compliance.⁴
- Another nonprofit group found an illegal discharge from a vinegar factory in Baltimore. That discharge killed at least 160 fish in the Jones Falls River. Again, a nonprofit group sent footage to MDE. MDE inspectors came and found the plant’s dechlorination system was not working. A follow-up inspection additionally found high acidic discharge.⁵
- A sewage spill in St. George Creek in St. Mary’s County contaminated oysters, sickening 20 people who ate them. Even though the spill was reported, it took MDE two weeks to raise an alert about contamination – and only after there were reports of people getting sick in Northern Virginia, where oysters from the same river were served.⁶

² https://www.marylandattorneygeneral.gov/news%20documents/120121_MDE_Water_Supply_Program.pdf

³ <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1118-mde-zombies-20220118-tvvwpaoayrgn5doogxp4kni44m-story.html>

⁴ https://digitaledition.baltimoresun.com/infinity/article_share.aspx?guid=c9169400-34a8-4f27-8535-ca71987f0e68

⁵ <https://www.baltimoresun.com/news/environment/bs-md-jones-falls-fish-kill-fleischmanns-vinegar-plant-20210916-dih6afktnfhgbfdc3wchd7kn7q-story.html>

⁶ <https://www.baltimoresun.com/news/environment/bs-md-oysters-sewage-contamination-20211123-r664qpuqsvb3db5x63deerid5i-story.html>;
https://www.bayjournal.com/news/fisheries/dozens-fall-ill-after-eating-md-oysters-from-creek-state-failed-to-close/article_17178138-522d-11ec-94cb-63376a5bf461.html

- Inspections at poultry operations have fallen 40% since 2013, and even though 84% of the farms inspected between 2017 and 2020 had violated their water pollution control permits, only 2 were assessed fines.⁷
- There are only 3 inspectors who oversee concentrated animal feeding operations (CAFOs), while there are 553 permitted animal feeding operations in the state.⁸
- Blue Water Baltimore, a nonprofit, sued Baltimore City over two wastewater treatment plants – Back River and Patapsco – for endangering our waterways and drinking water. Both plants had violated their permits over 130 times, each between January 2017 and September 2021. The Attorney General has now filed suit as a result of these clean water act violations. Once again, it was a nonprofit that found the violations and reported them to MDE.⁹

And these are just the ones that have been found.

What HB 649 Does

HB 649 does four things:

1. It requires monthly inspections of facilities that have administratively extended permits and are in significant noncompliance with their permits;
2. If significant noncompliance continues after the third monthly inspection, and a plan to correct the noncompliance has not been identified, then mandatory fines will be applied.
3. MDE is directed to report on the number of employees necessary to clear the backlog of zombie permits and timely process discharge permits, then request that number of employees.
4. MDE must clear the backlog of zombie permits within three years, and then is prohibited from allowing permits to be extended for more than a year past the expiration date.

With this legislation, MDE will be required to restrict Zombie Permits, conduct more inspections, and levy fines. Mandating escalating fines will ensure compliance before our jurisdictions have to spend time and money in litigation.

HB 649 will go a long way towards identifying and remedying unsafe water issues before they cause danger to our drinking water.

For the foregoing reasons, I respectfully request a favorable report on HB 649.

⁷ <https://www.baltimoresun.com/news/environment/bs-md-general-assembly-hearing-mde-staffing-problems-20220118-z75ionbmjcu3oodn4mtpz2ci-story.html>; <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1118-mde-zombies-20220118-tvvpaoayrqn5doogxp4kni44m-story.html>

⁸ <https://wtop.com/maryland/2022/01/maryland-lawmakers-press-environment-secretary-on-staffing-enforcement-shortfalls/>

⁹ <https://thedailyrecord.com/2022/01/21/maryland-files-lawsuit-over-pollution-at-baltimore-wastewater-plants/>

MBIA letter HB 649.pdf

Uploaded by: Lori Graf

Position: FWA

February 23, 2022

The Honorable Kumar P. Barve
Environment & Transportation Committee
House Office Building, Room 251,
6 Bladen St., Annapolis, MD, 21401

RE: HB 649 Environment - Discharge Permits - Inspections and Administrative Continuations

Dear Chairman Barve:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 649 Environment - Discharge Permits - Inspections and Administrative Continuations**. **MBIA Supports with Amendments.**

This bill would limit the period of time for which the Department of the Environment may administratively extend water pollution discharge permits. MBIA respectfully opposes this measure. Builders and developers have to navigate a difficult and often changing regulatory landscape. This will be made even more difficult if the regulatory entities who's job it is to monitor and enforce compliance with the law no longer have the authority to work with developers and are instead constrained by a series of ever tightening regulations. Penalties for non-compliance are already in place to deter bad actors, and this bill will just make it more expensive to build and develop in the State of Maryland for good actors making a good faith effort to comply with the law.

This bill also lacks the specificity as to which General Permits will be affected. The Department of the Environment lists 6 different general permit categories and it is unclear which of these permits will be affected by the new fines and regulations. MBIA requests that this language be amended for the purposes of providing clarity and guidance to the regulated entities.

For these reasons, MBIA respectfully requests the Committee give this measure a favorable report with the above amendments. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House Environment & Transportation Committee

Opposition of HB 649 - Environment - Discharge Per

Uploaded by: Colby Ferguson

Position: UNF



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

February 23, 2022

To: House Environment & Transportation Committee

From: Maryland Farm Bureau, Inc.

Re: **Opposition of HB 649 - Environment - Discharge Permits - Inspections and Administrative Continuations**

On behalf of our member families, I submit this written testimony opposing HB 649. This bill limits the period for which the Department of the Environment may administratively continue certain water pollution discharge permits (zombie permits) to no longer than 3 years starting July 1, 2022, and then no longer than 1 year starting January 1, 2027. It establishes inspection and reporting requirements for the zombie permit holders and establishes administrative penalties for the zombie permit holders determined to be in significant noncompliance of State or federal water quality standards, effluent limitations, or other requirements.

We understand the intent of this bill and are not opposed to stronger enforcement of bad actors. However, the bill uses terms like significant noncompliance. That term is not defined anywhere in statute or regulation. The vast majority of compliance issues CAFO permit holders have been paperwork related. The farm is in full compliance with the on-farm practices, but sometimes there is a form missing or a form was submitted incorrectly. Nothing that is causing pollution issues, but more of a clerical issue. We don't believe these to be "significant noncompliance". Yet, since the bill doesn't define it, we are worried that these paperwork violations will be included. In addition, we believe that the issue trying to be addressed is with Individual permits and not with general permits. A CAFO permit is a general permit.

MDFB would be willing to remove our opposition if there were language added that would define "significant noncompliance" to not include paperwork violations and to narrow the focus of this bill to individual permit holders and remove general permits.

MDFB Policy: We strongly support responsible and workable actions designed to permit and protect the privilege and rights of farmers, commercial fisherman, and aquaculturalists, to produce without undue or unreasonable restrictions, regulations, or legislation. We support actions to ensure that farmers are protected from liability and nuisance suits when carrying out normal production practices.

MARYLAND FARM BUREAU RESPECTFULLY OPPOSES HB 649

A handwritten signature in black ink, appearing to read "Colby Ferguson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

2022 HB 649 Environment - Discharge Permits and In

Uploaded by: Holly Porter

Position: UNF



Educate. Advocate. Innovate.

Date: February 21, 2022
To: Members of the House Environment & Transportation Committee
From: Holly Porter, Executive Director
Re: HB 649 –Environment – Discharge Permits – Inspections & Administrative Continuations -
OPPOSE

Delmarva Chicken Association (DCA) the 1,600-member trade association representing the meat-chicken growers, processing companies and allied business members on the Eastern Shore of Maryland, the Eastern Shore of Virginia, and Delaware opposes HB 649 as it is current written and would like to suggest clarification to possibly remove opposition.

HB 649 limits the period of time that the Maryland Department of the Environment may administratively continue water discharge permits. It also establishes inspections and penalties for permit holders that are considered in significant noncompliance with State or federal water quality standards.

To be clear, DCA agrees that MDE should limit the use of administratively continuing permits. Members of our chicken community want to have certainty of rules and regulations and want to comply with them in a timely manner.

DCA also agrees that permit holders that are egregiously violating their permits and causing major environmental impacts should have additional oversight, inspections and perhaps fees and penalties.

However, as the bill is currently written, there is no definition of “significant noncompliance.” In a report that was issued this past fall by the Environmental Integrity Project trying to claim that chicken farmers were out of compliance and causing harm to the environment, it was clearly noted that the vast majority of noncompliance was related to record-keeping, not on-the-ground water quality concerns. And it was further noted that since the CAFO permit was issued, significant violations have gone down, indicating that growers are very much following the rules.

DCA would like to see a clarification of what is considered a “significant noncompliance” and we would urge that this should not be record-keeping violations, but rather violations that have a direct water quality impact.

We would be happy to work with the sponsor on further amendments that would help with our concern and perhaps be able to remove opposition to a bill that in general has very good merits.

As written, we urge an **unfavorable** vote on HB 649.

Should you have any additional questions, please feel free to contact me at porter@dcachicken.com or 302-222-4069 or Nick Manis, Manis Canning & Associates, 410-263-7882.

HB0649_UNF_NWRA_Env. - Discharge Permits - Inspect

Uploaded by: Pam Kasemeyer

Position: UNF

Maryland-Delaware Solid Waste Association
a chapter of the



**National
Waste & Recycling
AssociationSM**

Collect. Recycle. Innovate.

TO: The Honorable Kumar P. Barve, Chair
Members, House Environment and Transportation Committee
The Honorable Sara Love

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: February 23, 2022

RE: **OPPOSE** – House Bill 649 – *Environment – Discharge Permits – Inspections and Administrative Continuations*

The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **oppose** House Bill 649.

MDSWA appreciates the intent of this legislation, which is to ensure timely permit renewals and enhance oversight and enforcement of permittees who are not in compliance with their discharge permit requirements. However, MDSWA believes its implementation could have significant unintended consequences for permittees that have been in compliance with the law and are seeking a permit renewal. Currently, administrative continuations are only granted when a permittee has submitted a renewal application. The continuation enables the permittee to continue to operate its facility during the permit renewal process. If House Bill 649 is passed and the Maryland Department of the Environment (MDE) fails to complete a renewal application within the defined timeframe, a lawfully operating permittee would be required to close or discontinue its operations until a new permit is issued. Permittees should not suffer as a result of MDE's inability to timely process a renewal permit. The time limits on administrative continuances should be deleted from the legislation.

MDSWA is also concerned about the lack of clear definition of what constitutes "significant compliance". While MDE supports strong enforcement of permit requirements, it is critical that factors that determine the level of noncompliance and related enforcement provisions are clearly and specifically defined. If this bill is to advance, the definition of what is considered "significant" must be defined.

For more information call:

Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
410-244-7000

HB 649 MD Dicharge Permits - NAIOP Testimony - Di

Uploaded by: Tom Ballentine

Position: UNF



February 23, 2022

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Oppose: HB 649 – Discharge Permits – Inspections and Administrative Continuations

Dear Chair Barve and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies involved in all aspects of commercial, industrial and mixed-use real estate. NAIOP is opposed to HB 649 as introduced.

The bill takes steps to make timelier the renewal of water discharge permits administered by MDE. The bill:

- limits MDE's authority to administratively continue water discharge permits when they expire
- requires MDE to reduce the backlog of active permits that have been administratively continued
- increases the frequency of inspections on sites operating under an administratively continued permit,
- and imposes fines for permits in *Significant Noncompliance*.

NAIOP has several concerns:

- Limiting MDE's administrative continuance of a permit threatens the operations of a permitted entity even if the delay in renewal is out of the control of the permittee. The Secretary should be granted discretion.
- While appearing to focus on individual discharge permits the bill also affects activities under the general permit for construction and general permit for industrial discharges. We do not see why.
- The limited time for continuation and the monthly inspection and fines for non-compliance do not align well with the time needed for remediation which may require acquisition of permits and construction of new facilities.
- There is no reason to expect higher rates of non-compliance from a permit that is administratively continued and do not see the need for more frequent inspections.
- While the bill mentions some parameters for Significant Noncompliance it is not defined in the law.

For these reasons NAIOP cannot support the bill as introduced.

Sincerely;

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: House Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.

HB 649_MAA_LOI.pdf

Uploaded by: Rachel Clark

Position: INFO

CHAIRMAN:
Rob Scrivener
VICE CHAIRMAN
Brian Russell

MARYLAND ASPHALT ASSOCIATION



SECRETARY:
David Slaughter
TREASURER:
Jeff Graf
PRESIDENT:
G. Marshall Klinefelter

February 23, 2022

Delegate Kumar P. Barve, Chair
House Environment and Transportation Committee
Room 251 House Office Building
Annapolis, Maryland 21401

**RE: HB 649 – LETTER OF INFORMATION – Environment – Discharge Permits –
Inspections and Administrative Continuations**

Dear Chair Barve and Members of the House Environment and Transportation Committee:

The Maryland Asphalt Association (MAA) is comprised of 18 producer members representing more than 47 production facilities, 24 contractor members, 24 consulting engineer firms and 41 other associate members. We proactively work with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland's multimodal transportation system.

House Bill 649 limits the period of time for which the Maryland Department of the Environment (MDE) can administratively continue a discharge permit from five years to three years in 2022, and then again from three years to one year in 2027. The bill also requires MDE to inspect the operations of each holder of an administratively continued permit at least once per month and outlines an administrative penalty schedule to be followed should a permit holder be found in significant noncompliance for the same underlying condition after two consecutive months of inspections. Finally, it requires MDE to request half the number of positions to complete these duties by December 31, 2024, with the balance to be requested by December 31, 2025.

Should this Committee desire to act on this bill, MAA requests a clarifying amendment regarding the definition of "administratively continued permit." In the newly created Section 9-328.1(a) of the Environment Article of the Maryland Code, we ask that you make this a two-pronged test that excludes general stormwater discharge permits from these provisions. Thus, the new language would read:

“9-328.1.

(A) IN THIS SECTION, “ADMINISTRATIVELY CONTINUED PERMIT” MEANS A DISCHARGE PERMIT THAT:

(1) HAS BEEN ADMINISTRATIVELY CONTINUED UNDER DEPARTMENT REGULATIONS IN ACCORDANCE WITH 40 C.F.R. § 122.6(D); AND

(2) IS NOT A GENERAL STORMWATER DISCHARGE PERMIT.”

MAA believes that this clarifying amendment would ensure that the focus of MDE’s enforcement efforts stays on those industries most responsible for the pollution that this bill is seeking to address.

We appreciate you taking the time to address this important issue and we respectfully present the above information and proposed amendment to House Bill 649 for your consideration.

Thank you,

A handwritten signature in cursive script, reading "Marshall Klinefelter".

Marshall Klinefelter
President
Maryland Asphalt Association

HB 649_MTBMA_LOI.pdf

Uploaded by: Rachel Clark

Position: INFO



February 23, 2022

Delegate Kumar P. Barve, Chair
House Environment and Transportation Committee
Room 251 House Office Building
Annapolis, Maryland 21401

**RE: HB 649 – LETTER OF INFORMATION – Environment – Discharge Permits –
Inspections and Administrative Continuations**

Dear Chair Barve and Members of the House Environment and Transportation Committee:

The Maryland Transportation Builders and Materials Association (“MTBMA”) has been and continues to serve as the voice for Maryland’s construction transportation industry since 1932. Our association is comprised of 200 members. MTBMA encourages, develops, and protects the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry and advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

House Bill 649 limits the period of time for which the Maryland Department of the Environment (MDE) can administratively continue a discharge permit from five years to three years in 2022, and then again from three years to one year in 2027. The bill also requires MDE to inspect the operations of each holder of an administratively continued permit at least once per month and outlines an administrative penalty schedule to be followed should a permit holder be found in significant noncompliance for the same underlying condition after two consecutive months of inspections. Finally, it requires MDE to request half the number of positions to complete these duties by December 31, 2024, with the balance to be requested by December 31, 2025.

Should this Committee desire to act on this bill, MTBMA requests a clarifying amendment regarding the definition of “administratively continued permit.” In the newly created Section 9-328.1(a) of the Environment Article of the Maryland Code, we ask that you make this a two-pronged test that excludes general stormwater discharge permits from these provisions. Thus, the new language would read:

“9-328.1.

(A) IN THIS SECTION, “ADMINISTRATIVELY CONTINUED PERMIT” MEANS A DISCHARGE PERMIT THAT:

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(2) IS NOT A GENERAL STORMWATER DISCHARGE PERMIT.”

MTBMA believes that this clarifying amendment would ensure that the focus of MDE’s enforcement efforts stays on those industries most responsible for the pollution that this bill is seeking to address.

We appreciate you taking the time to address this important issue and we respectfully present the above information and proposed amendment to House Bill 649 for your consideration.

Thank you,

A handwritten signature in blue ink, appearing to read "Michael Sakata", with a long horizontal flourish extending to the right.

Michael Sakata
President and CEO
Maryland Transportation Builders and Materials Association

HB649_INFO_Abbott_Updated

Uploaded by: Tyler Abbott

Position: INFO



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 23, 2022

The Honorable Kumar P. Barve, Chair
Environment and Transportation and Economic Matters
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 649 – Environment – Discharge Permits – Inspections and Administrative Continuations

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 649, *Environment – Discharge Permits – Inspections and Administrative Continuations*, and would like to share some information regarding this legislation. MDE also wanted to note that we are currently working with the sponsors and interested parties to amend the language of the bill.

HB 649 would limit the period in which discharge permits may be administratively continued, establish new inspection, and administrative penalty provisions for certain facilities operating under a discharge permit, and impose new reporting and personnel requirements for MDE's discharge permitting programs.

Reducing the number of administratively extended water discharge permits is a top priority for the Secretary. Currently, the Water and Science Administration has 196 individual discharge permits that are administratively extended and the Land and Material Administration currently has 16 individual discharge permits that are administratively extended. The Department is committed to reducing the backlog of individual discharge permits to 10% or less within the next 12 months.

As part of this plan, the Department is reviewing each of the administratively extended permits to determine appropriate actions. Additionally, the Department is in the process of reviewing and validating its permit tracking database. In 2021, MDE upgraded to a new system and as a result, we have found many duplications. Corrections are expected to be completed within the next 60 days, potentially reducing the number of administratively extended permits. MDE has also worked with several non-governmental organizations to develop a ranking system to prioritize permits.

Thank you for considering the Department's information regarding this legislation. We will continue to monitor HB 649 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott". The signature is fluid and cursive, with a long horizontal line extending to the left from the start of the first letter.

Tyler Abbott

cc: The Honorable Sarah Love
Lee Currey, Director, Water and Science Administration