



Testimony in Opposition of House Bill 395 Water Pollution Control - Discharge Permits - Concentrated Animal Feeding Operations

February 9, 2026

To Chair Korman, and Members of the Committee,

Thank you for the opportunity to submit testimony in **OPPOSITION** to HB395 on behalf of ShoreRivers. ShoreRivers is a river protection organization serving Maryland's Eastern Shore with more than 2,000 members. Our mission is to protect our waterways through science-based advocacy, restoration, education, and community engagement.

HB395 would exempt Concentrated Animal Feeding Operations ("CAFOs"), including new poultry houses, from Maryland's longstanding requirement to obtain Clean Water Act discharge permit coverage before beginning construction. In effect, this bill would move Maryland toward a build-first, permit-later approach for one of the most pollution-intensive industries in the state.

This legislation is being advanced in response to a serious administrative failure: the Maryland Department of the Environment (MDE) did not renew the CAFO General Permit on time, creating delays and backlogs for permit coverage. However, HB395 does not address the root cause of the problem. Instead of strengthening accountability at MDE, the bill attempts to treat a symptom by weakening a foundational safeguard of water pollution law: permit first, build second.

HB395 is the wrong solution for several reasons:

First, if CAFOs are allowed to bypass pre-construction discharge permit coverage, it sets a dangerous precedent for other industries like factories, wastewater treatment plants, data centers, and others to seek similar exemptions. This would erode Maryland's entire discharge permitting framework.

Second, because the bill does nothing to ensure MDE will meet future permit renewal deadlines, it actually leaves farmers and landowners vulnerable to significant financial hardship. Under a build-first approach, an operator could invest hundreds of thousands of dollars in construction only to remain unable to legally operate if permit coverage is delayed again, or worse – denied. While HB395 may allow farmers to secure financing and begin construction, **it does not allow them to actually operate their facilities. A general permit is still required before animals can be placed on site.** This situation creates the potential for significant financial hardship for new farmers who are just starting out.

Third, HB395 undermines the environmental and public review process for an industry that remains central to Maryland's ongoing nutrient pollution challenges. After decades of Chesapeake Bay restoration efforts, agricultural nutrient pollution - particular, from intensive poultry production¹, continues to impair rivers, streams, and groundwater on the Eastern Shore. Permitting is not just paperwork; it is the mechanism that ensures manure management, stormwater controls, setbacks, siting decisions, and community concerns are reviewed before pollution risks are locked in.

A build-first, permit-later approach removes the ability of regulators and communities to prevent harm upfront. It also raises serious environmental justice concerns, as CAFOs are frequently located near rural, low-income communities and communities of color that already have disproportionate burdens from air and water pollution.²

¹ 2023/2024 University of Maryland Center for Environment and Science Chesapeake Bay Report Card:
<https://ecoreportcard.org/report-cards/chesapeake-bay/issues/2023/>

²Environmental Injustice and Industrial Chicken Farming in Maryland, 2021:
<https://www.mdpi.com/1660-4601/18/21/11039#:~:text=5..of%20affected%20communities%20throughout%20Maryland>

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Finally, ShoreRivers notes that the 2019 provision existed to clarify an existing law (9-323) stating: any industrial, commercial, or disposal facility that could cause or increase the discharge of pollutants into state waters must hold a discharge permit before construction, modification, or operation. **Repealing the 2019 clarification does not eliminate the original requirement.** Animal feeding operations are industrial facilities, and proceeding with construction before proper permitting may open farmers and MDE to legal challenges.

Rather than weakening Clean Water Act protections, the General Assembly should focus on the real issue: ensuring MDE fulfills its legal responsibilities. **ShoreRivers urges the legislature to pursue solutions that improve agency accountability, such as requiring MDE to issue timely individual permits if a General Permit is not renewed on schedule.** This approach would create incentives for on-time renewal while maintaining permit-first safeguards for all industries.

For these reasons, ShoreRivers respectfully urges the Committee to issue an **unfavorable report** on HB395 and to focus instead on addressing the cause of this problem - MDE's permitting delays, rather than adopting an approach which weakens that land's water pollution protections.

Sincerely,

Annie Richards, Chester Riverkeeper on behalf of **ShoreRivers**

