



CHESAPEAKE BAY FOUNDATION

House Bill 395

Water Pollution Control - Discharge Permits - Concentrated Animal Feeding Operations

Date: February 11, 2026
To: Environment & Transportation Committee

Position: UNFAVORABLE
From: Matt Stegman,
MD Staff Attorney

The Chesapeake Bay Foundation (CBF) **OPPOSES House Bill 395**, which repeals the requirement that an operator must obtain coverage under the Concentrated Animal Feeding Operation (CAFO) general discharge permit *before beginning construction* of any part of a new CAFO. The bill is being offered in response to the failure of the Maryland Department of the Environment (MDE) to make timely efforts to renew Maryland's CAFO General Permit, which has caused delays and a backlog of potential approvals as operators are temporarily unable to receive permit coverage under a general permit. While CBF is sympathetic to operators who may be suffering financial harm despite making good faith attempts to follow State law, the solution proposed in HB 395 would erode protections for Maryland's waterways, does not strengthen accountability for MDE, and sets a potentially concerning precedent for other industries that make seek similar accommodation in the future.

The bill does not solve the problem it seeks to address. Section 9-323(a) in the Environment Article requires a person to hold a discharge permit "before the person may construct... ..an industrial... ..facility" such as a CAFO. The General Assembly in 2019 adopted new language in 9-323(c) - which the bill seeks to strike - to clarify the obligation already contained in 9-323(a). The bill does not change, update, or remove that fundamental obligation. Therefore, its legal effect as drafted is that a person must still hold a discharge permit before construction may begin, providing no relief to those harmed by the inability to receive coverage under an administratively continued permit.

The will weakens MDE's ability to provide oversight to a major Maryland industry:

While poultry production and its related businesses are of significant economic value, the industry also plays a critical role in helping the state meet its commitment to restore Chesapeake Bay water quality. Maryland has nearly 2,300 chicken houses, many of which are concentrated on Maryland's Eastern Shore where concerns over a nutrient "mass imbalance" have been raised.¹ The Chesapeake Bay Program advises that due to increasing surpluses of nutrients in places like Delmarva, "appreciable reductions in nutrient loads cannot be achieved unless regional mass imbalances are successfully addressed."² By requiring an animal feeding operation to receive coverage under the general permit prior to construction, MDE supplies essential review of planned facilities and management at a time when a project's development is most easily

¹[Delmarva Chicken Production Facts 1957-2024.pdf](#)

² [Achieving Water Quality Goals in the Chesapeake Bay: A Comprehensive Evaluation of System Response](#), Scientific and Technical Advisory Committee (STAC), Chesapeake Bay Program (May 2023).

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adjusted to minimize pollution risk. The pressure to grant coverage after a major capital investment like facility construction makes it unlikely coverage won't be granted, even if planned environmental protections are found to be inadequate.

HB 395 sets a concerning precedent:

The requirement to hold a discharge permit before constructing an industrial facility is well-established in Maryland law. If CAFO operations are allowed to permanently bypass this requirement to alleviate a temporary inconvenience for the industry, this sets a dangerous precedent for future factories, wastewater treatment facilities, data centers, and other dischargers who may seek similar treatment.

CBF Is committed to help find a more appropriate solution to this issue:

CBF recognizes the efforts and willingness of MDE and the bill's proponents to try to find a narrower solution to the current problem and ensure accountability for the agency to administer their permitting programs effectively. The temporary lapse in permitting authority by MDE has created, through no fault of those engaged in the poultry industry, a thorny and potentially expensive problem. CBF remains willing to work cooperatively with the department and industry to find a solution that ensures operators working in good faith can proceed to obtain the various approvals and financing necessary for their projects until MDEs ability to extend general permit coverage is restored while not permanently weakening clean water protections.

CBF requests the Committee's UNFAVORABLE report on HB 395 as introduced. For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.