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Oppose HB 395
Testimony In Opposition to
CAFO Water Discharge Permit Repeal

On behalf of the nonprofit Food & Water Watch and its 40,000 Maryland members, we submit this testimony in opposition of HB395. HB395 would be a major step backward for Maryland since it would repeal the current requirement that Maryland's concentrated animal feeding operations (CAFO) secure a water discharge permit before a person can begin construction on any part of a new CAFO.

We urge you to reject this bill because it would completely undermine the Maryland Department of Environment's (MDE) oversight of the factory farm industry. If CAFOs aren't required to get a water discharge permit before they begin construction, MDE would be unable to evaluate the environmental and health risks posed by a new CAFO in time to actually prevent harm. This bill, then, would essentially turn a system that is already failing to protect water quality into a true disaster. MDE would be forced into a completely reactionary position where they only take action when an environmental emergency is well underway.

Today, Maryland's poultry industry is a major source of toxic pollution. Every year MD poultry CAFOs generate around 550 million pounds of pollutant-laden chicken litter. This waste contains many pollutants, including nitrogen and phosphorus that feed algal blooms that suffocate aquatic ecosystems and can be toxic to people, pets, and wildlife. The waste also has nitrates that are linked to increased risk of cancer, birth defects, and thyroid disease. Bacteria like E. coli, salmonella, and campylobacter can also be found in this waste that often leads to closed beaches, make people sick, and contribute to the spread of antibiotic resistance. Poultry CAFOs also spew ammonia that plagues neighboring communities (many of which are EJ communities) and winds up in the Chesapeake Bay as well as other Maryland waterways.

It is because of these serious health and environmental issues that Maryland should be requiring more oversight of CAFO pollution, not less. MDE knows that nutrients, sediments, and bacteria—all pollutants that come from CAFOs—are the leading causes of impairments in Maryland's waters.

This bill would also be bad for independent CAFO operators and the farmworkers they employ. Many independent operators are already put in terrible positions by corporate integrators that supply them with subpar birds, force them to take on hundreds of thousands of dollars in debt to stay in business, and then threaten to leave them high and dry if they speak out against the companies that are using and abusing them. By not requiring CAFO operators

to go through the MDE water discharge review process *before* building a new facility, these CAFO operators risk facing fines for breaking environmental rules they did not know about or even being denied the right to operate *after* they've spent their own money building the operation. This would then be just another tool to force operators to take on all the risk, while the corporations that control most of the process take on little risk with all the rewards.

This bill is especially bad for farmworkers. In addition to elevated risk of sudden job loss if environmental enforcement or community opposition shuts down their employer, farmworkers and their families will bear the brunt of environmental hardship caused by reduced MDE oversight because they are the ones who live closest to the CAFOs they work for. House bill 395 is just another vehicle to perpetrate environmental injustice against these farmworkers and their families.

Finally, it's worth mentioning that the main driver of this bad legislation seems to be the state's delay in updating the CAFO discharge permit, which must be revised every five years. Although this permit expired last year, MDE delayed issuing a new one, burdening existing CAFOs with uncertainty about their legal status. But this issue has already been solved. MDE is currently assessing public comments on the new permit and has indicated they will finalize the new permit by this summer. The draft version of that permit makes clear that CAFOs retain permit coverage if MDE fails to issue a new permit before the expiration of the existing permit. And besides, the legislature already ordered MDE to clear its permit backlog by the end of this year. So this really should not be an issue going forward, at least if MDE complies with the law. This legislation would needlessly undermine the entire regulatory system for CAFOs— it's a major overreaction to a problem that has already been solved.

We urge you to oppose HB 395 and its not-so-subtle attempt to take advantage of an administrative delay to completely subvert the system that is supposed to protect our health and our environment from the water discharge pollutants that come from Maryland's poultry CAFOs.