

Comments on Amendments for SB371/HB395
Water Pollution Control -Discharge Concentrating Animal Feeding Operations (CAFO)
Submitted via email on March 9, 2026

SB371/HB395 is an attempt to solve a problem recognized by all parties – industry and environment-caused when Maryland’s Department of Environment failed to reissue the AFO General Permit on time. This delay created a backlog of poultry growers who cannot move forward with financing or construction. The real problem is MDE’s administrative delay, not the law itself.

The CORE ISSUE that all parties are wrestling with is that the Maryland Department of the Environment (MDE) did not renew the AFO General permit on time. We first should identify the reason(s) for the MDE’s administrative permitting delay failure. Then the General Assembly requires that MDE, in law, meet stricter timelines so that permits do not expire and require administrative extensions, rather than eliminate pre-construction review.

As an Eastern Shore District 36 constituent, I understand why this administrative error has inspired action from the poultry industry yet I disagree with SB371/HB395’s proposed solution in addressing the legal and regulatory concerns surrounding this issue.

The basis of my concern in the proposed bill’s shortfalls is that current Maryland law requires a permit before construction under all general permits. This requirement has always been applied broadly to industrial and commercial facilities. In 2019 CAFO’s were explicitly named to apply compliance expectations that are consistent with every other discharge permit managed by the state.

STRONGLY SUPPORT. AMENDMENT 1 – This amendment to SB371/HB395 has been accepted to codify specific and comprehensive requirements that a CAFO operation must meet before construction begin in the event a general permit is administratively continued.

YET THERE ARE MORE AMENDMENTS ITEMS TO CONSIDER THAT WILL STRENGTHEN THIS PROPOSED BILL.

STRONGLY SUPPORT -SHORE RIVERS RECOMMENDED AMENDMENT 2. REQUIRE PUBLIC AND LEGISLATIVE NOTIFICATION WHEN PERMITS ARE AT RISK OF EXPIRING.

When a general permit is at risk of expiring, no one should find out at the last minute. The SB371/HB395 Shore River amendment ask is the MDE, be required, to publicly notify both the General Assembly and the public when a general permit is at risk. This amendment supports good governance and proactive problem-solving, not reactive crisis management.

Early notification:

- Gives affected industries time to plan for alternative compliance strategies.
- Allows the public to stay informed about potential environmental risks.
- Improves transparency and trust in the permitting system.

STRONGLY SUPPORT – SHORE RIVERS RECOMMENDED 3. EXPLICITLY LIST AFOS/CAFOS AS REQUIRING DISCHARGE PERMITS.

Animal feeding operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) are a known source of nutrient and bacteria pollution when discharges occur. The SB371/HB395 Shore Rivers amendment ask is to provide clear statutory language the prevents inconsistent interpretation, reduces litigation risk and ensures equal treatment across sectors. This amendment request is about adding clarity to the proposed bill explicitly by listing AFOs/CAFOs as an industry that requires discharge permits.

OTHER LEGAL AND REGULATORY CONCERNS

SB371/HB395 SETS A DANGEROUS PRECEDENT.

This legislation opens the door for other industrial or commercial facilities to seek the same treatment and weakening environmental safeguards across sectors. The Clean Water Act and Maryland law require are designed so a source of pollution cannot be built first and permitted later.

SB371/HB395 COULD IMPOSE FINANCIALLY COMPROMISE NEW GROWERS.

The intent is to allow farmers to secure financing and begin construction, yet it will not allow them to operate their facilities as a result of the requirement for a general permit before animals can be placed on site.

As a result, farmers could complete construction and, if MDE, fails again to renew the general permit, remain unable to generate income -placing small business owners in an extremely vulnerable position.

Thank you for your thoughtful consideration in the various ways that HB371/HB395 can legislatively impact increased accountability and compliance with both Maryland law and the Clean Water Act.

Sincerely,



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