

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 395 (Delegate Boyce, *et al.*)
Environment and Transportation

Water Pollution Control - Discharge Permits - Concentrated Animal Feeding
Operations

This emergency bill repeals a requirement that a person hold a concentrated animal feeding operation (CAFO) discharge permit issued by the Maryland Department of the Environment (MDE) before beginning construction on any part of a new CAFO. The bill also repeals a prohibition against MDE issuing a CAFO discharge permit to a person who violates this requirement.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Minimal overall, but potential meaningful impact on some CAFOs to the extent that construction is able to begin on a new CAFO concurrent with the development of an updated CAFO General Discharge Permit (GD permit) by MDE, as discussed below.

Analysis

Current Law:

Federal Clean Water Act

The federal Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States. The National Pollutant

Discharge Elimination System (NPDES), a component of CWA, is a permit program that addresses water pollution by regulating point sources that discharge pollutants to U.S. waters. In Maryland, the U.S. Environmental Protection Agency delegates authority to issue NPDES permits to MDE.

State Permitting for Wastewater Discharges

In General: MDE issues discharge permits to protect Maryland’s water resources by controlling industrial and municipal wastewater discharges. Surface water discharges are regulated through combined State and federal permits under NPDES. Groundwater discharges are regulated through State-issued groundwater discharge permits. “Discharge permit” is defined in statute as a permit issued by MDE for the discharge of any pollutant or combination of pollutants into the waters of the State.

Applicability: A person must generally hold an MDE discharge permit before constructing, installing, modifying, extending, altering, or operating a system, facility, outlet, or establishment if its operation could cause or increase the discharge of pollutants into the waters of the State. This permitting requirement applies to (1) an industrial, commercial, or recreation facility or disposal system; (2) a State-owned treatment facility; or (3) any other outlet or establishment. Further, a person must hold a CAFO discharge permit before beginning construction on any part of a new CAFO, and MDE is prohibited from issuing a CAFO discharge permit to a person who violates this requirement.

Concentrated Animal Feeding Operations: CAFO wastewater discharges are regulated by MDE under department regulations and a CAFO GD Permit, which are designed to control nutrients from Maryland’s largest agricultural animal operations. The GD Permit serves as both a State and federal permit. The most recent CAFO GD Permit expired on July 7, 2025, and MDE is in the process of establishing a new GD Permit. MDE anticipates that the new GD Permit will be finalized by August 2026. CAFOs that were previously covered under the expired GD Permit are operating under an administrative continuance.

Small Business Effect: Although overall, the bill is anticipated to have minimal impact on CAFOs in the State, the bill may offer an opportunity for a new CAFO to begin construction concurrent with the development of an updated CAFO GD Permit by MDE. This might enable a new CAFO to be operation-ready sooner than under current law. MDE notes, however, that a discharge permit for construction may be needed, and that the addition of animals would likely need to wait until the CAFO GD Permit is finalized.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 371 (Senator Carozza, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Maryland Department of Agriculture; Maryland Department of the Environment; Department of Legislative Services

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