

Senate Bill 928 – Environment – Concentrated Animal Feeding Operation Construction or Expansion – Manure Transport Plan Requirement (Senator Pinsky)

Position: Favorable with Amendments

February 19, 2020

Dear Chairman Pinsky and Members the Senate Education, Health & Environmental Affairs Committee:

Thank you for the opportunity to submit testimony in support of Senate Bill 928 on behalf of the undersigned organizations. The undersigned organizations, along with Maryland Waterkeepers, have an interest ensuring clean waterways and healthy aquatic habitats across the state.

We appreciate the intention behind Senate Bill 928 and its goal of ensuring that new or expanding Concentrated Animal Feeding Operations (CAFOs) appropriately manage the expected amount of manure produced, prior to beginning construction. While we applaud the state for not delaying the implementation of the Phosphorus Management Tool (PMT) and for investing more resources into the Manure Transport Program, we fear that the agricultural industry still lacks the necessary resources to properly manage the current amount of manure being produced by CAFOs across the state of Maryland. For the reasons outlined below, we support Senate Bill 928 with amendments.

1. Greater Accountability with Manure Transport Plans

Part of Maryland's Eastern Shore sits in the Delmarva Peninsula - a region with the one of the highest concentrations of chickens across the United States. In 2018, this region produced over 600 billion birds,¹ with an approximate 400,000 tons of poultry manure generated every year in Maryland alone.² For decades, farmers had been using the phosphorus-laden manure produced from these birds as a form of fertilizer for crop fields. But decades of significant manure use left thousands of acres on the Eastern Shore oversaturated with phosphorus -- causing nutrient runoff and an increase in algae blooms in parts of the bay.

In 2015, Maryland adopted the multi-phase PMT to address the over-application of phosphorus on fields on the Eastern Shore in an effort to decrease the amount of phosphorus pollution entering the bay and killing off aquatic life. Under the newest phase of implementation under the PMT, an additional 163,000 acres and 1,250 farms will be targeted. By 2022, every farmer that may have once

¹DPI Facts & Figures, available at <https://www.dpichicken.org/facts/facts-figures.cfm>

²Delmarva Now, *Maryland firm plans chicken litter recycling plant at Perdue's Sussex facility* available at <https://www.delmarvanow.com/story/news/local/maryland/2019/12/02/md-firm-plans-chicken-litter-recycling-plant-perdues-sussex-facility/4295944002/>

spread manure across oversaturated fields will no longer be able to do so (FIV at 150 or greater, according to the PMT) . According to farmers, this dynamic -- along with the overabundance of manure being produced by CAFOs on the Eastern Shore -- has led to manure being less valuable than it used to be. Likewise, manure transport haulers feel limited in being able to handle the current manure production levels.³ Without major investments in new equipment and new drivers, the primary manure haulers in Maryland will not be able to adequately haul all of the manure being currently produced by Maryland CAFOs.⁴

Please consider amending the bill with the following amendments:

- Suggested amendment: To build in greater accountability for the manure transport plans, there should be some compliance overlap with the Annual Implementation Reports (AIRs) which now require information on how much manure is being produced on each Maryland farm annually and where it's being sent. If feasible, we ask that the bill implementation start in October 2020 as well.
- Suggested amendment: Given the current overabundance of chicken manure produced on the Eastern Shore (with a decreased market value), we feel strongly that there needs to be better manure management across the board -- with improved modes of storage, transport and use. We suggest requiring a manure transport plan for every new or expanding CAFO that seeks coverage under the CAFO Discharge Permit in Maryland.

2. Additional CAFO Siting Considerations

In addition to the recommended amendments above, we have a few other siting considerations that we feel are necessary to protect the state's water quality and the health of Maryland communities:

- Suggested amendment: The bill should prevent CAFOs from being built in counties where more than 30% of the acres have an FIV of 100 or more, until the state gets a better handle on the current overabundance of manure being produced.
- Suggested amendment: Build in greater accountability for the organics recycling facilities. This bill could encourage the new development of alternative use facilities that are not truly ready for "prime time." The Delmarva region is already scattered with a handful of smaller facilities that claim to recycle the manure, but end up significantly polluting the nearby air and local waterways. Neighboring communities near these facilities have seen first-hand the challenges of a poorly-run alternative use facility. These facilities simply must be able to

³ Chesapeake Bay Journal, '*A crappy business*': *Manure broker speaks out on tighter MD rules*, available at https://www.bayjournal.com/article/a_crappy_business_manure_broker_speaks_out_on_tighter_md_rules

⁴ *Id.*

properly handle and recycle or re-use the manure, just as CAFO operators must be able to properly handle the manure produced by their operations.

- Suggested amendment: Before manure (and poultry processing waste) can be transported to recycling and composting facilities, these facilities must provide a cumulative health impact assessment of the surrounding communities and a traffic study.
- Suggested amendment: Prohibit siting of new or expanded facilities in low lying places, including any or all of the following: (1) in flood zones (100 or 500 year); (2) in areas projected to be submerged by less than 2 feet of sea level rise; (3) in any location where part of the production area would be within 300 feet of a stream or wetland.
- Suggested amendment: Prohibit siting of a new or expanded CAFO within 1,000 feet of a school or residential property line (measured from edge of the production area).
- Suggested amendment: Prohibit siting of a new or expanded CAFO in a heavily forested area.

Thank you for your time and consideration -- we welcome the opportunity to discuss any of these amendments further. If you have any questions, please don't hesitate to reach out.

Sincerely,

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