



December 5, 2013

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**VIA U.S. MAIL AND FACSIMILE (410) 537-3888**

Robert M. Summers  
Secretary of the Environment  
Maryland Department of the Environment  
1800 Washington Blvd.  
Baltimore, MD 21230

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Dear Bob:

We are writing to express our concern regarding MDE's failure to collect pollution permit application fees from concentrated animal feeding operations (CAFOs). We are convinced that if you had access to this money, you could improve the pace of permitting significantly, enabling the state to get a handle on the massive quantities of chicken manure that contribute significantly to the ill health of the Chesapeake Bay.

You are undoubtedly aware of the Center for Progressive Reform's new report on the delays in the permitting process: three years into the program and MDE has not registered nearly 30 percent of these farms. The best way to reduce pollution from such facilities is to ensure that MDE has adequate resources to accelerate permitting. Limiting this pollution, of course, is absolutely critical to Maryland's commitment to comply with the Chesapeake Bay TMDL.

Based on data available on MDE's website, the program will miss out on more than \$400,000 in permit fees in 2013 alone because of the agency's decision to waive pollution permit fees altogether. These much-needed resources could be used to hire more permit writers and inspectors, bring enforcement actions against the CAFOs that have taken years to submit a comprehensive nutrient management plan, and overhaul the program's data management system, among other uses.

One point we would like to discuss further with you is what legal authority MDE has to waive these fees. Maryland law does not seem to afford MDE much discretion in the matter. It requires MDE to adopt regulations that "set a reasonable application fee in an amount designed to cover the cost of the permit procedure." MD. CODE ANN., ENVIR. § 9-325. MDE's regulations comply with this requirement, stating that a "CAFO shall pay an annual permit fee." MD. CODE REGS. 26.08.04.09-1(J). Yet the agency has waived all permit fees "until further notice."

We would like to meet with you to discuss this issue at your earliest convenience. We hope to persuade you to begin collecting fees from CAFOs immediately.

Sincerely,

A handwritten signature in black ink, reading "Rena Steinzor". The signature is written in a cursive style with a large, prominent initial "R".

Rena Steinzor  
President, Center for Progressive Reform  
Professor of Law  
University of Maryland Francis King Carey School of Law

A handwritten signature in black ink, reading "Anne Havemann". The signature is written in a cursive style with a large, prominent initial "A".

Anne Havemann  
Policy Analyst, Center for Progressive Reform