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Date: March 4, 2024
To: Members of the Senate Committee on Education, Energy, and the Environment
From: Holly Porter, Executive Director
Re: SB 1074 – Industrial Sludge Utilization Permit – Establishment – **Support with Amendment**

Delmarva Chicken Association (DCA) is the 1,600-member trade association representing the meat-chicken growers, processing companies, and allied business members on the Eastern Shore of Maryland, the Eastern Shore of Virginia, and Delaware. While we are generally supportive of the establishment of a permitting process for the utilization of food processing residuals in agriculture as outlined in the amended version of SB 1074, we would like to offer further amendments which would make this legislation clearer and more practical for our members.

To understand this legislation and our organization’s position, it is critical to first understand the background of this issue and the oft-misunderstood material it centers on; Dissolved Air Flotation residuals (DAF). When wastewater comes from a processing or rendering plant, it is put into a DAF unit tank, where it is injected with dissolved air, causing solids to bind and float to the top of the tank. From there the solids are skimmed from the top, and the remaining wastewater discharges to a treatment plant or to an on-site biological treatment plant. From there, DAF residuals can either go directly to a landfill, or to a third-party hauler for land application on farm fields.

Maryland farmers have found that this material is a cost-effective alternative to commercial fertilizer. DAF residuals are tested and regulated as a registered soil amendment with the state chemist. It has a lower nutrient content than both commercial fertilizer and chicken litter (manure) and must be applied according to a farmer’s nutrient management plan submitted, approved, and verified by the Maryland Department of Agriculture through the Annual Implementation Report (AIR).

DAF residuals exist because we have succeeded, as an industry and as a state, in dramatically reducing point-source pollution into waterways. A few decades ago, the nutrients in DAF residuals would likely have flowed directly into waterways through process waste discharges. Going back to a time where we didn’t have DAF would be a regression; however, matter eliminated from point source discharges doesn’t disappear once it is collected.

Most of the recent controversy surrounding DAF has been associated with its storage. Storage of the material (instead of direct land application) is necessary due to best management practices and regulations preventing its application to farm fields during the winter. Because DAF material is produced year-round but can only be applied for a portion of the year, temporary storage is the only option. The ban on winter application is one of the many farm practices that have concretely reduced nutrient contributions to the Chesapeake Bay watershed from agricultural activities. In short, this legislation is attempting to address issues associated with prior measures taken to protect water quality. We are solving third-order challenges when it comes to DAF residuals because we were successful in solving first and second-order challenges previously, and the Bay is better protected as a result.



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The industry recognizes that there are certain issues associated with DAF, particularly the smell. Industry partners are addressing these issues through research on coverings, chemical additives, and misting. We believe that the long-term solution to this issue will be the widespread implementation and use of various new technologies, including anaerobic digestion, whereby DAF residuals are mixed with organic matter and converted into clean, renewable natural gas. While we know these technologies are coming, it may take several years before it is widely adopted. However, it is worth noting that between 60 and 70 farmers across Maryland apply (and some store) DAF residuals with no complaints from surrounding neighbors, county governments, or state agencies. The local issues that have arisen in recent months stem from a small handful of bad actors who have failed to implement good neighbor practices.

As stated earlier, we are generally in support of implementing a permitting/registry process for the application and storage of DAF, and we believe that this process will give additional tools for the Maryland Department of Agriculture to take action against bad actors. As an agricultural organization, we believe it is important not only to practice good neighbor policies, but to also penalize those who do not. While we would have hoped that the proponents of the bill would have worked more closely with the chicken community in a longer timeframe to understand the full complexity of this issue, we are thankful to the sponsors of this legislation for their willingness to hear from the regulated stakeholders and as a result, our concerns have largely been addressed through the amended version of this bill.

However, we believe the sponsor amended SB 1074 can be improved through several modest amendments which remove duplicitous reporting requirements and clarify some definitions. As such, we offer our support to the amended legislation with the following amendments:

1. In Section 8-A-102, the applicant is required to obtain any requisite county approval for the storage of DAF residuals, and in Section 8-A-103, the applicant must provide evidence to MDA that they have received such approval. As such, we believe that Section 8-A-104 requiring MDA to notify the legislative body of the county is duplicative and should be stricken.
2. In Section 8-A-105, it allows the department to deny the permit if it finds that the applicant cannot utilize food processing residuals without causing undue risk to “The environment” or “Public health, safety, or welfare.” This requirement is found again in Section 8-A-106 for those wishing to renew their permits. These terms are undefined and could be widely interpreted. We would like to see these clarified based on documented science.
3. Section 8-A-113 requires a semi-annual written statement of the tonnage of food processing residuals utilized. Again, this is duplicative reporting because this information is already provided to the Department through annual implementation reports, as such we believe this section should be stricken.
4. Section 8-A-114 gives the Department the ability to outline adequate standards for hauling and application of food processing residuals and the crops that are being grown on the land on which they are being applied. Again, this information is largely covered in the nutrient management plan and the annual implementation report submitted to the Department. We do not believe it is necessary or appropriate to consider nearby existing land uses or transportation



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routes of the material. Giving relevance to such information in the permitting process is unprecedented, and as such we believe this section should be stricken.

We believe that over time, the land application of DAF residuals will be phased out as other technologies proliferate. As such, we are concerned that fewer and fewer people will be required to fund the permitting process. We look forward to working with MDA on a permitting structure that is tenable in the long term for both industry and farmers.

We hope that this committee will consider and adopt these amendments to make cooperation and compliance in the regulated community more tenable and streamlined. Farmers still are the main stewards of land in this state and around the country, and we are willing and eager to make our stewardship more neighborly and environmentally friendly whenever possible. With these amendments, in addition to the friendly amendments offered by the sponsor, we support SB 1074 and urge a favorable committee report.

Should you have any additional questions, please feel free to contact me at porter@dcachicken.com or 302-222-4069 or Grayson Middleton at middleton@dcahicken.com or 410-490-3329.

Sincerely,

Holly Porter
Executive Director