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Date: February 22, 2023
To: Members of the Senate Committee on Education, Energy, and the Environment
From: Holly Porter, Executive Director
Re: SB 0743 – Climate, Labor, and Environmental Equity Act of 2023 – **OPPOSE**

Delmarva Chicken Association (DCA) 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 opposes SB 743 as written and urges an unfavorable committee report.

At DCA, we take our commitment to environmental justice and equity very seriously. In Maryland, over 23% of our growers are minority, compared with 4.5% of all farmers across the United States. The majority of the workforce in our processing plants are minority or of other national origin. Most of these groups live in the same area they work, and their safety and health is not only a moral priority for our organization, but also an economic benefit. However, we do not support regulations and laws which are both unnecessary and put our farmers and industry at an economic disadvantage.

This bill allows for the Department of Environment to “deny or alter a decision or amend the conditions under a permit based...” on how the approval would impact overserved and/or overburdened communities. Whether or not MDE should have the authority to deny a permit based on the listed parameters in the environmental equity evaluation is a separate issue for us. Most concerning is how this bill has defined “overburdened community,” the lack of clarity on how those vague parameters can be calculated, and the lack of transparency with which some of the parameters were included in the definition.

“Underserved” is a well-defined and easily calculable set of parameters whose impact to our industry would be relatively minimal. “Overburdened” has many questionable items which are vaguely defined and would unfairly impact much of our region. Furthermore, many of the items listed in this bill are not included in the current environmental justice screening tool, and thus our farmers cannot know how their permits could be impacted under this legislation.

The definition of “overburdened community” under the Climate Solutions Now Act of 2022 includes any area above the 75th percentile for three or more parameters which include: proximity to CAFO, percent of population lacking broadband, and emergency room discharges. Neither “percentage” nor “proximity” is defined, and thus there is no way of knowing which parts or percentage of our region (large or small) would be impacted. In addition, these data sets are currently absent from the screening tool created by MDE.

There is also the issue of including proximity to (as yet unspecified) Concentrated Animal Feeding Operations (CAFO) in the “overburdened” parameters. The permit issued to chicken farmers is considered a CAFO/general discharge permit that is based off a comprehensive nutrient management plan that does not allow for discharge. This general permit is established every five years and approved by EPA. There is currently no comprehensive data or study to support that proximity to poultry or other



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livestock farms has an impact on environmental health. Furthermore, as the regulations are written, there is no way to deny a general permit without rejecting them all. This could have enormous implications not just for our industry, but for agriculture across Maryland.

Other parameters under “overburdened” are also questionable. Although certainly disadvantageous, we fail to see how lack of broadband coverage has an impact on environmental health. Furthermore, although emergency room discharges are health related, in rural areas they are more often an indicator of lack of accessible healthcare. These are not things which should factor into whether or not an applicant will receive their permit. These are issues which either the state or private enterprises should be working to solve. While we realize that this definition has already been established under previous legislation we still believe its application is concerning.

Finally, there is a considerable lack of clarity and guidance for the department under this legislation, and we are concerned how broadly this bill might be interpreted. For example, on page 5 this bill states that the environmental equity evaluation “may include” an analysis of certain items and page 6 says the department “may deny” the permit. This lack of guidance and expansive room for interpretation with such big implications should concern everyone.

Although we support environmental justice and equity, the lack of transparency, clarity, and the inclusion of questionable and undefined parameters in this bill force us to oppose this legislation.

We urge an **unfavorable** vote on SB 0743.

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