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Date: February 21, 2025
To: Members of the Senate Committee on Education, Energy, and the Environment
From: Grayson Middleton, Government Affairs Manager
Re: SB0978 – CHERISH Our Communities Act – **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 978.

SB 978 would require applicants of at least 22 different permits to submit an Environmental Impact Analysis if their project has “increased *potential* for adverse community environmental and public health impact.” This lengthy analysis would include potential public health impacts, any alternatives to the proposed permit, commitment of resources, and mitigation measures. If a project is located within 1.5 miles of an “at-risk” census tract (one with a Maryland EJ Score above the 75th percentile), the applicant would need to include an “Existing Burden Report” which requires an evaluation of existing pollution sources currently affecting the community. Under this bill, a pollutant would include “general noise and odor levels.” Finally, this bill would *require* MDE to deny a permit if they determine that it would even *potentially* contribute to increased adverse community environmental or public health impacts. Concentrated Animal Feeding Operation (CAFO) permits, which are required by every chicken farmer in the State, would be covered under this law.

As a matter of policy, DCA explicitly supports environmental justice initiatives in both our legislative policy document and our 2024 legislative priorities, both approved by the DCA Board of Directors. However, we believe these initiatives should be balanced with the economic interests of farmers and the communities that surround them. After all, Delmarva chicken growers are 23% minority, compared with 4.5% of all farmers nationally. This rate tends to be even higher in those areas on Maryland’s Eastern Shore where the Environmental Justice score would be above the 75th percentile statewide. Ironically, in rural communities reliant on agriculture, this bill will likely harm the economic well-being of the very citizens it is meant to protect.

We have many concerns about this legislation, particularly the lack of guidance for MDE in their evaluation of permits. We also believe that the consideration of noise and odor in an agricultural area for an agricultural permit is likely in direct conflict with Maryland’s Right to Farm law. However, our main concern is how this legislation would be applied to general permits, namely the Concentrated Animal Feeding Operation (CAFO) general permit.

Pursuant to Section 402 of the Clean Water Act, 33 USC § 1342, the Maryland Department of the Environment has delegated authority from the EPA to administer National Pollutant Discharge Elimination System (NPDES) permits. Under the Clean Water Act, MDE may issue general permits to regulate facilities that have similar discharges and are subject to the same conditions and limitations within a specified geographic area. MDE has determined that this is the best course of action for CAFOs, and therefore under Code of Maryland Regulations (COMAR) 26.08.03.09, one general permit covers



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nearly all chicken farms in the state, regardless of geographic location within the state or the socioeconomic status of the communities surrounding them.

We should also note that current regulations recognize that there is no discharge from chicken houses and is therefore informally known as a “non-discharge discharge permit.” This is because each applicant must adhere to the nine minimum standards to protect water quality that do not allow for discharge. These standards cannot be altered on a farm-by-farm basis.

Given that technically one general permit is issued to all chicken farms in Maryland, and that the EPA and other bodies have recognized that there is no discharge from these facilities, we believe that CAFO and perhaps all other general permits are unsuitable for evaluation by a state agency on an individual basis as outlined in this legislation. Not only is it incongruent with the current permitting structure, but it is also unfair to include them with other discharge permits in this legislation since there is no discharge from these facilities.

Aside from the dubious legality of requiring evaluations and stipulations outside of those previously established between MDE and EPA, we are seriously concerned about further prolonging the CAFO permitting process and requiring farmers to go through such a thorough and lengthy evaluation. Almost all of the approximately 500 CAFO permits in Maryland are held by family-owned chicken farms. These families are already required to submit innumerable forms and applications every year to continue their work under the law. Some of these are now so convoluted that an entire industry exists to help them complete the necessary paperwork. Mandating these families to conduct an environmental and socioeconomic analysis of the areas surrounding their land simply to get approval for what is already a dizzyingly complicated and thoroughly reviewed permitting process is unfair and unreasonable.

DCA recognizes that there are concerns about how agricultural activities can affect underserved and overburdened communities, and we want to continue being a part of that conversation with the sponsors and relevant agencies. However, we believe that the current language is not only unworkable under the current permitting structure administered by MDE and delegated by the EPA, but also excessively burdensome. For these reasons, we strongly urge an unfavorable report on SB 978.

Should you have any additional questions, please feel free to contact me at middleton@dcahicken.com or 410-490-3329.

Sincerely,

Grayson Middleton

Government Affairs Manager