Testimony **in SUPPORT** of HB1175— Nutrient Management - Tidal Buffer - Vegetative Buffers and Restrictions on Fertilizer Application

House Environment and Transportation Committee Hearing:
February, 28 at 1:00pm

To Chair Korman, Vice Chair Boyce and members of the Committee,

My name is Annie Richards, and I am proud to work as your Chester Riverkeeper. Thank you for this opportunity to submit testimony in **SUPPORT for HB1175** on behalf of ShoreRivers. ShoreRivers is a voice for clean water on Maryland's Eastern Shore, with a mission to protect and restore our local waterways through science-based advocacy, restoration, education, and engagement. **HB1175 seeks to prevent water pollution from agricultural fertilizer use that would otherwise be permitted 100 feet from Maryland tidal water, increase land voluntarily enrolled in conservation to further increase nutrient reductions, create the state's first incentive program that provides value to tenant farmers — the growing future for on-farm conservation**. This effort is in service of accelerating Bay restoration efforts, beyond 2025, that include incentives for the farming industry that are more comprehensive than ever before.

This bill will increase the nutrient application setback on farms bordering tidal waters to 100 feet. Nutrient application setbacks are currently 10 feet. When coupled with 25-foot setbacks in the Critical Area, agricultural activities observe a 35-foot setback, in total, along tidal waters of the state. The Critical Area– especially the 100 foot buffer from tidal waters— has the highest potential for nutrient delivery to the Bay: "In accordance with the Chesapeake Bay Watershed Implementation Plan, the standard nitrogen rate used to determine the nitrogen delivery rate to surface water is as follows: (1) An 80% delivery rate in Critical Area; (2) a 50% delivery rate within 1,000 feet from any perennial surface water; and (3) a 30% delivery rate from distances greater than 1,000 feet from any perennial surface." These nutrient loads can be further augmented from storm surge and rising tides. A recent study incorporated into the CESR report estimated: "that the amount of dissolved inorganic N[itrogen] contributed during one seasonally high tide event in one Bay segment **exceeded its annual load allocation by 30%**." Rising tides and increased storm surge due to climate impacts will continue to negatively affect our waterways, especially from nonpoint source land uses like agricultural operations. The CESR report recommends that to meet our goals we must target restoration work in areas of the watershed that have the highest contributing impact to bay health – all signs point to the 100-foot buffer as the most impactful place for state investment.

[1] https://mde.maryland.gov/programs/pressroom/pages/1243.aspx
[2] A Comprehensive Evaluation of the Systems Response (Macías-Tapia et al., 2021).

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As noted in "*Evaluating the Effectiveness of Economic Incentives to Enhance Riparian Buffer Adoption and Environmental Benefits for Water Quality and Carbon Sequestration in Maryland*", by Dr. David Newburn, only about 50% of farmers will consider enrolling in a conservation incentive program, no matter how financially lucrative the incentives. **This means to achieve restoration, or at least to reduce the amount of nutrient applied in the most sensitive areas of Maryland, adopting an increased nutrient application setback of 100 feet is the best option— to both increase restoration opportunities, and to address excess nutrients bound for our rivers.** This setback also achieves parity with Maryland Department of Environments regulations for Concentrated Animal Feeding Operations, or CAFOs, which are required to store manure piles more than 100 feet from tidal surface waters— if farmers should not *store* manure within 100 ft, they should not *spread* manure within 100 feet.

This bill will increase allowable incentive payments from the department of agriculture for voluntary land enrollment in forest and grass buffers within the 100-foot setbacks. For the 50% of farmers who would consider adopting incentive programs, we must make those programs as competitive as possible to make the most of our funding made possible from Tree Solutions Now, 2021. This General Assembly set a commendable goal of planting 5,000,000 trees by 2030, and appropriated once in a generation funding to achieve the goal. We hope to see this assembly continue to fully fund Tree Solutions Now in the face of budget challenges the State faces this year. We have a lot of work to do to meet our 2030 deadline and SB898 is the perfect policy to increase implementation success of tree plantings on farm land, where it has the most impact. The Bay program recognizes planting trees and conservation buffers within the 100-foot setback to be 6 times as efficient as planting upland areas of a farm.

This bill will establish incentives for leased land operators who farm land enrolled in conservation within the 100-foot buffer. This bill impacts about 2665 acres of farmland. About 80% of that farmland is on the Eastern Shore. 45% of farmland on the Eastern Shore is rented ground, meaning that when conservation buffers are installed on that land, the farmer is not compensated in any way, and loses out on future rentable ground. **By adding incentives that pay farmers $150 per acre/per year, Maryland's leased land operators can be included, finally, in conservation work, and partner with landowners to implement conservation practices that not only protect the Bay, but also protect farmland parcels from erosion, and land subsidence from climate impacts.**

In a time where Maryland's budget faces distinct challenges, **HB1175 maximizes nutrient reductions by targeting less than .19% of Maryland's farm land at a cost of $9.08 per pound of nitrogen (this rate is *significantly* lower than any rates proposed for the Clean Water Commerce Act FY23 Solicitation).** This legislation creates a new avenue for farmers who are positioned to make the biggest and best impact to the Chesapeake and its tributaries while protecting their own investments and livelihoods. We are grateful to Delegate Stein for bringing this important legislation forward, **and urge this committee for a favorable report on HB1175.**

Sincerely,

Annie Richards, Chester Riverkeeper on behalf of ShoreRivers