

**Testimony in Support with Amendments to Senate Bill 347 – Environment – Public
Hearing and Notification Modernization Act**

January 14, 2021

Dear Chairman Pinsky and Members the Senate Education, Health, and Environmental Affairs Committee:

The undersigned individuals and organizations thank you for the opportunity to submit testimony in **support with amendments** to Senate Bill 347. While we strongly support the modernization of public notice and hearing procedures, we believe this can be done without cutting off notice and access to residents in areas of the State who lack reliable internet connectivity or do not otherwise have the capability to participate in online forums. Online notice and remote meetings are not adequate replacements for traditional forms of notice and participation. At a minimum, to address equity concerns, teleconferencing options should always be provided in cases where state hearings or meetings take place virtually.

During Maryland's COVID-19 State of Emergency, the opportunity to participate in public hearings virtually has been a convenience for many, and in some cases, we have observed an increase in public participation likely because of the possibility to join meetings remotely. Virtual hearings carry the additional benefit of decreasing greenhouse gas emissions that may have been associated with travel to a meeting location. Virtual hearings and teleconferencing options also offer a great solution in preventing the spread of the aerosol transmissible diseases, like COVID-19.

However, posting notice in newspapers of general circulation and hosting in-person public hearings and informational meetings (so long as those meetings can take place safely) remains an important way for the state to connect with certain Marylanders that the state may not be able to otherwise. Rather than requiring new forums for notice and hearings, Senate Bill 347 simply allows MDE to conduct its regulatory oversight and procedures online, likely leaving out an important cohort of Maryland's population. Not only does this raise certain equity concerns, but interested Marylanders have also come to expect MDE's notice in the newspaper and may not otherwise know to check MDE's website. This is especially true given that the Senate Bill 347 removes the requirement that MDE annually inform the public through newspapers about the types of notices MDE is required to send out, where MDE will send those notices out, and the contact information related to those notices.¹

¹ See 2-303 (d).

As Senate Bill 347 covers a number of MDE's important permitting and oversight procedures, it's important that MDE strive for meaningful public participation. Public engagement in regulatory decision-making is the predominant form of democracy during the period between legislative sessions. Public hearings and notice serve as the primary way regulatory agencies can engage with, consider, and incorporate public feedback. While meaningful public participation significantly improves the quality of decision-making by providing decision-makers with additional, unique information on local conditions, those improved decisions cannot be achieved if the right people are not "in the room" or decision makers do not actually take that information into account. In addition to providing notice on its website and offering online and teleconferencing options, we believe that MDE should continue to hold public hearings and post notice as it has in the past, as long as those hearings can safely take place.

Public participation and transparency is absolutely critical to a functioning democracy. We should be seeking to expand ways to reach and include members of the public that have historically not been included in decision-making. The very same populations that disproportionately bear the burden of pollution are often those without financial resources to afford computers or high speed internet. Ending public notices in newspapers would only further this divide and further marginalize individuals from participating in public process that could and should protect them from negative environmental impacts.

Lastly, we suggest the bill be amended to include a requirement that MDE provide interested parties the option to receive public notices either via electronic mail or via USPS. For example, as the process currently stands if a party is interested in receiving notices on Clean Water Act NPDES permit applications and renewals the only option is to receive such notices in hard copy via United States Postal Service (USPS). This is costly for the department and wastes paper and other resources. It also cuts into the limited amount of time the public has to respond to such notices when a number of days passes for the notice to get through the USPS. Other states have a simple online registration system whereby you can opt in or out of the interested parties list and select whether you wish to receive notices via email, USPS, or both. We strongly urge Maryland to do the same.

In closing, we support the provisions under Senate Bill 347 that allow MDE to post required notice of permit applications, important regulatory decisions, public hearings and informational meetings through its website. We also support the provisions of the bill to allow online and teleconferencing options for public hearings and to require the applicant to pay the costs associated with hosting the hearing virtually. However, we adamantly believe that these options should be provided in addition to the current public notice and hearing procedures, rather than a replacement for them.

Thank you for your time and consideration.

Sincerely,

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