



Testimony in **Support** of Senate Bill 151 -- Constitutional Amendment -- Environmental Rights

Dear Chairman Smith and Members of the Senate Judicial Proceedings Committee, and Chairman Pinsky and Members the Senate Education, Health, and Environmental Affairs Committee:

The Center for Progressive Reform (CPR) is grateful for the opportunity to submit written testimony in **support** of Senate Bill 151. CPR works alongside people and organizations across the state advocating for cleaner air and water in communities, a healthy Chesapeake Bay, safer workplaces for low-wage workers, and a more sustainable food system.

The passage of Senate Bill 151 would be a critical step demonstrating the state's commitment to safeguarding natural resources and protecting public health. The bill would codify values articulated in the Maryland Environmental Policy Act (MEPA) in the state's constitution. MEPA, passed in 1973, recognizes that "each person has a fundamental and inalienable right to a healthful environment." Unfortunately, few state agencies have implemented rules ensuring this right is protected, which has contributed to vast environmental and health inequalities in Maryland.

Across the state, communities' needs and concerns often fall behind those of polluting industries, and the disparity is even greater for low-wealth and primarily Black communities. For example, over the last decade, Brandywine, Maryland, a community where nearly three-quarters of residents are Black, became the site of rapid power plant expansion. The community is already home to a Superfund site, sludge lagoon, and concrete batching facility. Prince George's County also fails to meet the U.S. Environmental Protection Agency's National Ambient Air Quality Standards (NAAQS) for fine particulate matter and ozone -- two pollutants emitted by power plants.¹ According to the county's 2018 Health Report, rates of conditions that can be made worse by air pollution -- heart disease, stroke, diabetes, infant mortality, and low birth weight -- are higher in the county compared to the state, especially among Black residents.² Despite concerns raised by community members and public health advocates, state and local agencies continued to approve new or expanded power plants. Today, there are five plants clustered within a 13-mile radius around Brandywine.

In another striking example, the state's industrial poultry operations have proliferated over the last decade. Since 2009, the number of registered poultry CAFOs has increased from seven to

¹ U.S. Environmental Protection Agency, Maryland Whole or Part County Nonattainment Status by Year Since 1992 for all Criteria Pollutants, https://www3.epa.gov/airquality/greenbook/phistory_md.html.

² Prince George's County Health Department, 2018 Health Report (2018), <https://www.princegeorgescountymd.gov/ArchiveCenter/ViewFile/Item/3113>.

526, with the majority concentrated on the Lower Eastern Shore.³ The three counties located on the Lower Shore -- Somerset, Wicomico, and Worcester -- have higher rates of poverty compared to the state overall. Among the nine Eastern Shore counties, Somerset and Wicomico counties have the highest proportion of Black residents. Cancer incidence rates in the region are among the highest in the state.⁴ While CAFOs emit harmful air pollutants such as particulate matter, sulfur dioxide, and ammonia, these facilities are not required to install air monitors. Residents who live adjacent to these operations have repeatedly raised concerns about noxious odors, respiratory health issues, and stomachaches, and for years asked the Maryland Department of Environment to assess the public health impacts of CAFO air emissions.⁵ These common sense requests were repeatedly denied, once again leaving residents without recourse. In both of these instances, and in many others, residents and local advocacy organizations called for greater transparency, oversight, and accountability by state agencies, and were largely ignored.

It is time for Maryland to stand by the promise made nearly 50 years ago in MEPA and codify the right that every resident has to a healthful environment in the state's constitution. In addition to clarifying the state's commitment to public health and environmental protection, Senate Bill 151 will help ensure that this right is enforced at all levels of government, ideally compelling agencies to comprehensively consider the cumulative environmental and public health burdens faced by a community before approving polluting projects. The amendment will also provide residents with a path for legal recourse if the state fails to uphold its commitment, serve as a guidepost for the work of public health and environmental regulators in the state, and create a path for future legislation that protects this right.

For the health of all Marylanders, especially those who have for too long borne the consequences of environmental injustices, we urge the Committee to adopt a **FAVORABLE** report on Senate Bill 151. Thank you.

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About the Center for Progressive Reform

The Center for Progressive Reform is a "think-and-do tank" with a network of more than 60 Member Scholars working to build thriving communities on a resilient planet. CPR drives policy reform with rigorous and accessible legal analysis designed for changemakers.

www.progressivereform.org

³ Maryland Department of Environment, Status of Animal Feeding Operations (AFO) Applications (October 1, 2020), <https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Pages/CAFO.aspx>.

⁴ Center for Cancer Prevention and Control, Maryland Comprehensive Cancer Control Plan 2016-2020, https://phpa.health.maryland.gov/cancer/cancerplan/Documents/MD%20Cancer%20Program_508C%20with%20cover.pdf.

⁵ Food & Water Watch, Industrial Air Monitoring Legislation (CHAA) Introduced in 2019 with New Legislative Support (February 5, 2019), <https://www.foodandwaterwatch.org/news/industrial-agriculture-air-monitoring-legislation-chaa-introduced-2019>.