



P.O. Box 11075  
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[www.waterkeeperschesapeake.org](http://www.waterkeeperschesapeake.org)

Secretary Benjamin H. Grumbles  
Maryland Department of the Environment  
Montgomery Park Business Center  
1800 Washington Blvd.  
Baltimore, MD 21230

April 7, 2020

Re: MDE Enforcement During COVID-19

Dear Secretary Grumbles:

On behalf of Waterkeepers Chesapeake, including the undersigned Riverkeepers and organizations, and in response to Assistant Administrator Bodine's memo, we ask that the Maryland Department of the Environment (MDE) continue to hold Maryland facilities and permittees accountable for environmental laws and permit conditions which are set to protect not only Maryland's waterways, but to protect the health of Maryland communities. We'd like to thank Secretary Grumbles for his leadership in response to COVID-19 and applaud him for his statement that "Maryland remains fully committed to requiring compliance and we will continue to use enforcement as needed to protect the quality of our air, water, and land throughout the state and the Chesapeake Bay region." While MDE inspectors and staff should take all precautionary measures necessary to remain safe and healthy during this time, we ask that you continue to issue citations for environmental violations and thoroughly follow up with any complaints made during the COVID-19 crisis.

We understand that MDE will only grant exemptions to environmental requirements on a more limited case-by-case basis, but we ask that MDE provide better guidance to make clear that EPA's blanket-exemption from compliance does not extend to Maryland-permitted facilities. If the pandemic has somehow truly undermined a facility's ability to comply with environmental laws or permit terms, it must be entirely clear that there is no other alternative for safe compliance. We strongly believe that if a facility can continue to safely operate and bring in profits, then it should be able to safely comply with environmental laws.

In response to the pandemic and EPA's Memorandum, we ask that MDE:

- Provide a more thorough guidance on exactly what types of facilities or types of situations could lead to exemption and what, if any, corrective action the state plans to take to remedy noncompliance;
- Provide greater resources and information on how MDE is responding to the pandemic (both Pennsylvania and Virginia have webpages dedicated to COVID-19 with updates, announcements, and resources for permittees)

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- Review existing emergency response plans and determine whether any additional plans or actions are needed in light of the current travel restrictions and social distancing requirements;
- Given that compliance and reporting will likely be at an all-time low, it is more important now than ever that states are transparent in their actions and have the capacity to respond to pollution incidents. Some examples include:
  - Encouraging the public to report to hotlines;
  - Establishing a more formal relationship with Waterkeepers and other citizen-enforcement groups;
  - Posting all the COVID-19 related notifications and correspondence received regarding potential facilities or permits that may be in non-compliance. This will ensure that the public has necessary information regarding the type, location and amount of pollution being discharged or about to be discharged.
- Before approving of any new permits or passing regulations, ensure that the public has a fair and equitable opportunity to participate in the regulatory process once again. The public plays a vital role in the rulemaking and permitting processes - MDE must protect Marylanders ability to participate in any regulatory actions taken by the agency; and
- Establish field safety protocols and continue the agency's air, surface water and groundwater monitoring and investigation activities that are crucial to ensuring the agency meets federal and state regulations, as Virginia has.

Our nation's monitoring and reporting requirements are essential to protecting the health and safety of local communities. We ask that you take extreme caution in suspending any monitoring or reporting requirements, especially given the nature of certain environmental violations. If we fail to require monitoring and reporting under our laws, there could be some major public health implications. Some examples include:

- An oil refinery, typically required to monitor and take necessary corrective actions on benzene emissions, emits over 9 micrograms of benzene per cubic meter - causing a deadly scenario for nearby communities and wildlife.
- A large CAFO, required to monitor and report on ammonia levels under a federal agreement, emits over 100 pounds of ammonia - failure to monitor ammonia outputs means failure to report this deadly release of ammonia to hospitals and first responders.
- A coal-fired power plant, typically required to monitor and report on toxic outputs associated with burning coal, discharges bromide into nearby waterways, threatening the drinking water of nearby communities.
- A gas company fails to repair critical infrastructure related to a pipeline in a timely manner and leaks toxic gases into the air, risking the health and safety of its neighbors.
- A city, required to repair aging wastewater treatment infrastructure and eliminate sewage overflows under a consent decree, fails to take action and continues to release bacteria, nitrogen, and phosphorus into already degraded waters.

Failure to monitor discharges or emissions means that facilities do not know whether they are complying with permit terms which are set out to protect the public and wildlife. Likewise, failure to monitor or upgrade critical equipment could lead to the next environmental and public health disaster. Failure to report means that communities and hospitals are left in the dark about key

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details that could mean life or death for some. Air pollutants, gone unchecked, will only worsen asthma, respiratory and cardiovascular issues for many; water pollutants in drinking water sources, gone unchecked, can lead to organ failure and cancer.

Given the major public health implications of waiving our environmental laws, we ask that MDE strive for transparency moving forward -- ensuring that the public has fair and equitable access to necessary information regarding pollution, facilities in non-compliance, and to the overall regulatory process. This is especially true if MDE plans, during the pandemic, to adopt any new regulations or permits that would require a public hearing.

Thank you for all you are doing to protect the health and safety of Marylanders. If you have any questions, or would like to set up a meeting, please don't hesitate to reach out to me.

Sincerely,

Betsy Nicholas  
Executive Director  
Waterkeepers Chesapeake

Katlyn Schmitt  
Legal & Policy Director  
Waterkeepers Chesapeake

Trey Sherard  
Anacostia Riverkeeper

Jesse Illiff  
South, West & Rhode Riverkeeper  
Arundel Rivers Federation

Matt Pluta  
Choptank Riverkeeper  
ShoreRivers

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Elle Bassett  
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Zack Kelleher  
Sassafras Riverkeeper

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Kathy Phillips  
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