



Environment, Social
Governance

E•S•G Permitting Requirements

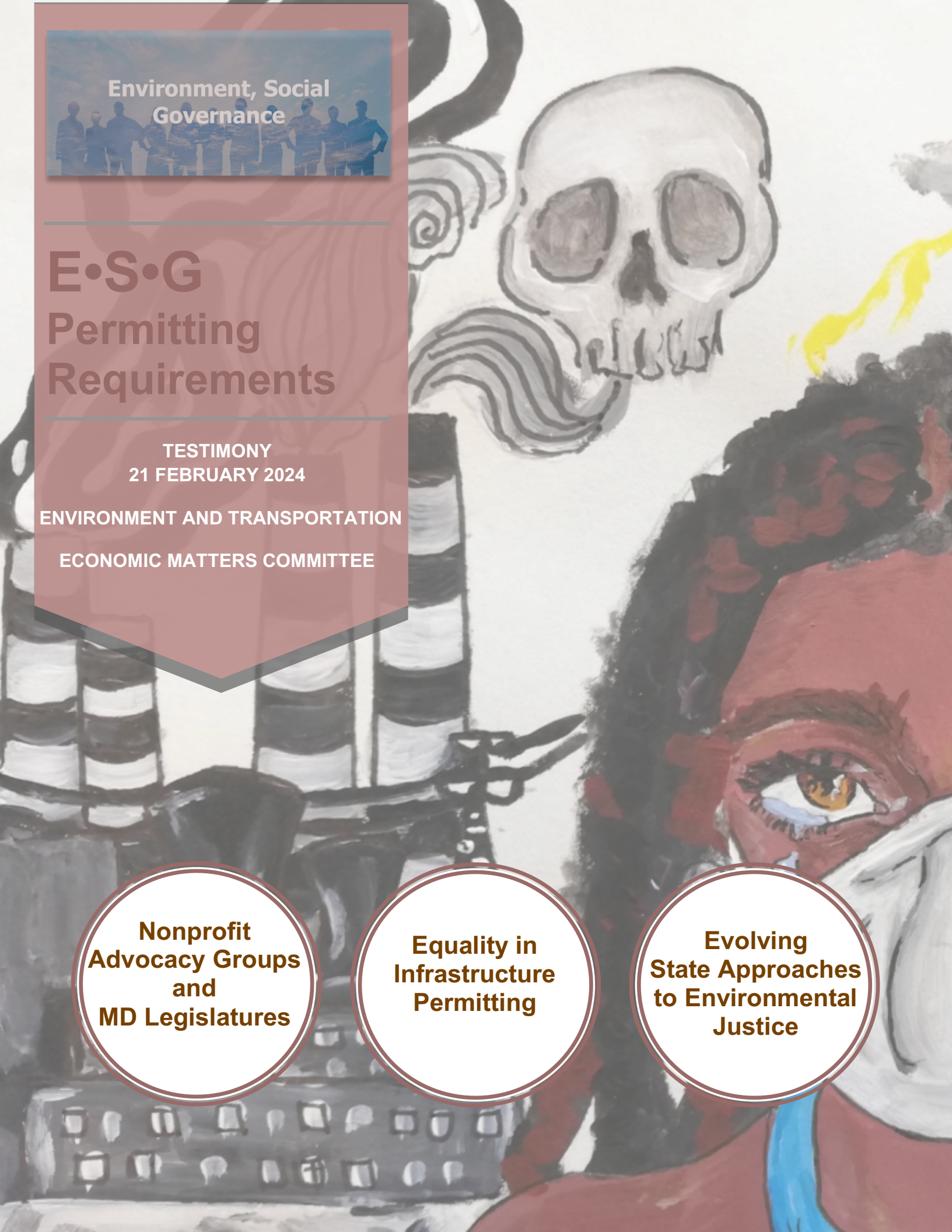
TESTIMONY
21 FEBRUARY 2024

ENVIRONMENT AND TRANSPORTATION
ECONOMIC MATTERS COMMITTEE

**Nonprofit
Advocacy Groups
and
MD Legislatures**

**Equality in
Infrastructure
Permitting**

**Evolving
State Approaches
to Environmental
Justice**



HOUSE BILL HB 024 TESTIMONY
Environment and Transportation Committee
February 21, 2024

TO: Chair, Delegate Marc Korman and Vice Chair, Delegate Regina T. Boyce
FROM: Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition)
POSITION: Unfavorable

Thank you for the opportunity to offer testimony concerning HB 024. The BTB Coalition is the sponsored membership a "community development locality nonprofit organization", having HUBS for every county in the State of Maryland, with members and supporters who live throughout the state, and nationally.

In addition, there are dozens of affiliated locality community, faith, and labor organizations across the state that stand behind our work. Our mission is to improve the lives of working families in Maryland. Please note our opposition for HB 024.

If you have questions or concerns, you can refer this matter to ECCB- Neighborhood Leadership Council (NLC) by email at btb.eccb@gmail.com or by phone at 240.681.9070.

Thank you for your considerable time and attention.

ECCB-NLC Administrative Chair


Respectfully submitted

In solidarity, Brandywine/TB Southern Region Neighborhood Coalition; and the
Executive Community Citizen's Board (ECCB) neighborhood Leadership Council

OPPOSITION OVERVIEW

HB 024 Construct

HB 024 portends public scrutiny by numerous local residents within many of your districts... our fiduciary organization Community Development Corporation | Community Development eXchange has interactive local resident engagement hubs for each county in this state, for which the BTB Coalition is a sponsored organization.

Public Interest Groups do not usually expect to profit directly from the policy changes they seek and do not directly community-based nor representative thereof but community oriented. These activists gain financially by attracting donations from individuals and foundations that support their activities, i.e., NRA; NOW; AARP; Sierra Club; LCV, NAACP... (See: Exhibit #2).

The ally industrial complex has been established by activists whose careers depend on the "issues" they work to address. These nonprofit capitalists advance their careers off the struggles they ostensibly support. They often work in the guise of "grassroots" or "community-based" and are not necessarily tied to any locally effected organization.

Guidance from the U.S. Environmental Protection Agency ("EPA") **sheds light** on how states are to incorporate the environment into unjust permitting, and environmental justice ("EJ") policies across the country.

HB 024 fails in its incorporation and is very limited by the fact that (1) it does not itself create any legal requirements and (2) a great majority of permitting policies run by the states, are not bound to follow EPA expectations.

MDE since our first Civil Rights Title VI in 2016 continues to approve projects that disproportionately impact the wellbeing of low-income and minority communities. Perfect example is in 2023 the approval going forth for the 15 heavy industrial heavy pollutant facility under consideration by MDE in Brandywine for which HB 024 would not have precluded, the facility that would run 2 diesel engines 24 hours, approval of 2 Fossil Fuel power plant Title V/Part 70 Operating Permits for which one exceeded the EPA limits, for which MDE spent the funding on a "Fishing" camp, taking all into account for these reasons filing a subsequent Title VI Compliant in 2024.

MDE refuses to bring affected communities voices to the table... merely the doorkeeper purported leaders that speak for and not with, as with CEJSC, as it has been erroneously stated that, "the commission's membership turned over completely", not in 2024 as a façade in connect the dots of these members, their nonprofits and funding associated in some manner are "accomplices" of benefit for self-serving environmentalisms agendas. We have been part of these CEJSC meetings since 2016, and when nothing changes, then nothing changes... same mindset, without foresight. This Commission has done nothing in moving the needle forward since its inception as it relates to disparate impacts, in black, minority, and low-income communities.

Communities don't need outreach as engagement but one-on-one relationships being the basic building block of community influencing, "Without the fence-line communities; there can be no liberation", in what you do for us without us is not for us!

States going forward need to seek to impose legal permitting requirements for projects affecting black, minority, and low-income communities and EJ communities of the Maryland permits it issues directly, and indirectly. MDE yet directly in its permitting continues to be non-transparent in an agency governmental unfair practice processes. HB 024 has not addressed any of these issues or any of the Title VI related Permitting Principles.

Local affected communities were not involved in this process, rather engaged with these public interest workgroups allied with Delegate Boyce of which many are on the liberal progressive politics so-called "Kochtopus"—a network of center-right nonprofits launched by or funded by these billionaire entrepreneurs such as Charles and David Koch. As is seen by On Fri, Mar 3, 2023 at 10:48 AM Boyce, Regina T. Delegate response by email... basically telling us to have our "2" minutes before the committee (See: Exhibit #1).

These guise community organizations carrying out local and national campaigns in support of their issue-based, progressive politics and coalitional advocacy models, are at table of the "decision-making", as environmentalisms policies as a high-five pat themselves on the back of National/International issues all while local communities continue to suffer the forefront of environmental and health issues that are killing us! (See: Exhibit #2).

Furthermore, effected communities have been effectively cut out of decision-making processes, raising basic procedural fairness issues. No one should be disenfranchised from decisions that affect their health, the health of their families, and the future vitality of their communities everyday especially, in the MDE permitting processes.

The BTB Coalition is committed to ensuring meaningful engagement for all communities since our 2016 Civil Rights EPA Title VI Complaint against the State of Maryland agencies for which MDE skirted around any solidified agreement, rather the PSC fortified its agreement in COMAR, and commitments were by MDNR.

Now, come Wilson, of the University of Maryland, said he would give Hogan an "F" on his EJ performance; the residents of EJ communities gives these same connect the dots with the Governors appointment of Environmentalism advocacy groups associated with Dark Money Funding that "lobby" our Legislatures, and all new assemble chiefs an "F".

Moreover, MDE continues to align themselves with these "Dark Money" funded privileged-liberal progressive farce environmentalism nonprofits groups (See: Exhibit #2) that disenfranchise our black communities as with the "Plastic" Bags legislation for which some stores are charging up to \$2.00 per bag having a direct affect on many minority low-income communities: did these same environmentalism groups care "no". There are unintended consequences inadvertently exacerbated by misguided and burdensome legislation that come along with advocacy environmental pimpologists of community issues for funding to create inadequate policies made in guise of underserved and overburden communities, for which these groups have defined.

Becky Witt, a Community Law Center attorney representing the opposition, was impressed that MDE allowed participants to vent for as long as they wanted. The meeting lasted three hours. But she wondered whether it had made a difference. "In my experience working with communities," she said, "just because you have a meeting, MDE "listening sessions", where people can come and tell you things, it's not particularly useful unless you can use that information in the final decision." Otherwise, "it feels a little hollow." And, for us HB 024 is as hollow in action.

Exhibit #1

On Fri, Mar 3, 2023 at 10:48 AM Boyce, Regina T. Delegate <Regina.Boyce@house.state.md.us> wrote:

Kamita,

Thank you for your email and for sharing your concerns regarding HB840. I look forward to continued discussions through the committee process to ensure that this bill meets the intent to safeguard underserved and overburdened communities that have suffered due to environmental injustices for decades.

Del. Boyce

Delegate Regina T. Boyce
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Annapolis, MD 21401

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regina.boyce@house.state.md.us

Exhibit #2

Hi all,

I wanted to update you all on a few fronts with progress on the all agency climate, labor, and equity tests to ensure that we are all operating with the same information.

- Len is working on bill language. Please send any draft language to him directly for his staff to incorporate. I have sent over the MA and NJ bill language for the equity portion.
- I spoke with Devon Dodson and Monica Brooks of the EJ Commission. Devon who is the MDE liaison stated that the EJ commission is slated to discuss cumulative impacts, screening tools, and defining overburdened communities. MDE has also just completed its draft EJ implementation plan. One of the recommendations that the EJ Commission is considering is for all other agencies to develop EJ implementation plans. MDE and DNR have already begun theirs which means that our bill is timely.
- Sierra Club and CCAN will be meeting with [Delegate Boyce](mailto:Regina.Boyce@house.state.md.us) on the 22nd.
- The NAACP, Waterkeepers Chesapeake and Tracey Garrett will meet with the EJ Commission on the 23rd to talk about community notification of environmental stressors, share the stories of overburdened communities and begin a dialogue with the reconstituted EJ commission.
- Waterkeepers Chesapeake and Energy Foundation would like to host a stakeholder forum with constituents from overburdened communities to develop the equity portion language of the bill the second week of December.
- Len and Jen B-C are working on developing labor language and obtaining feedback from labor. I have also requested that Len reach out to Melissa Wells to get input on labor provisions.

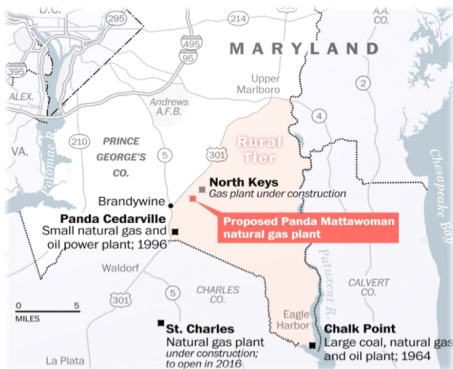
Considerations

- While this was a top priority coming out of the Energy Foundation process, I have concerns about the "heavy lifting" that it will take to get this bill across the finish line -- given the timeline that we are under and the capacity constraints with Climate Solutions Now. I would encourage folks to have a capacity conversation as well as to discuss the goals for the legislation this year (i.e. passage out of one chamber, an education year bill, the passage of the bill.)

If you have any questions or concerns, please let me know. Thanks and have a good one!

Sincerely,

BRANDYWINE, MD



HB 024

Environment and EJ Permitting principles

We are not offering amendments due to HB 024 being inherently inadequate and does not offer any of the following:

1. HB 024 fails to engaged the local affected communities early in the permitting process to promote meaningful involvement and equitable fair treatment. In addition, the bill has not changed to in considering proposing changes to this regulation to enhance the opportunities for expedited treatment for records of interest to communities with environmental justice concerns as the EPA proposes.
2. HB 024 should conduct a “fit for purpose” environmental justice analysis when a permitting action may result in disproportionately high and adverse human health or environmental effects on a community. If screening-level EJ analysis indicates that the permitting action will have a disproportionate effect on the basis of race, color, or national origin, then analysis of disparate impacts under federal non-discrimination laws, including Title VI, may be necessary.
3. HB 024 scopes of permits called out in the bill is very broad applying to intense activities like waste-water treatment plants and hazardous waste facilities but also to relatively minor activities in being majorly broad in not addressing environment atmospheric happing in black, low-income, and minority communities. The bill and its provisions do not differentiate between permitted activities based on the intensity of use. We do not see why these types of activities are included in the scope of the bill.
4. HB 024 allows the authority for MDE to make permit decisions based on such speculative analysis is questionable.
5. HB 024 does not provide a permitting authority with the discretion to require post-monitoring to determine the effect a source is actually having on air quality in any area.
6. HB 024 fails to identify appropriate permit terms and conditions and other outcomes that may result from the permitting process, and unintended consequences.
7. Improving methods for identifying, addressing, tracking and measuring progress toward achieving environmental justice we need accountability in our overburden communities, especially in Brandywine, MD, with CEJSC having not made one meaningful trip visit to Brandywine since 2016... there's plenty of “accomplices” exploitations. We've had 3 bus tours having one with AABE and the AGU, and they were invited.

The General Assemble needs an MDE process that actually provides a vehicle that could advance environmental justice for all communities, especially those communities that have been disenfranchised for years. Much of what could be accomplished in this area is accessible under current law and can be implemented at the Agency through policy changes.

Where regulatory change is indicated, it could be accomplished in the course of a plan for a proposed rulemaking as did the PSC as agreed through our Title VI Complaint, and the only agency to adhere legally through rulemaking. MDE specified in the Title VI Complaint mediation process they had not indented to discuss Title VI through the 2016 complaint processes and to date they have not adhered to any anticipated agreements provided as a resolution through that process as completed by the other agencies.

For these reasons, BTB Coalition respectfully requests your unfavorable report on HB 024.