



February 21, 2025

The Honorable Brian J. Feldman, Chair  
Senate Education, Energy, and the Environment Committee  
2 West Senate Office Building  
Annapolis, Maryland 21401

**Unfavorable: SB 978 – Environmental Permits – Impact Burden Analysis**

Dear, Chair Feldman and Committee Members:

On behalf of the NAIOP Maryland Chapters representing seven hundred companies involved in all aspects of commercial, light-industrial, and mixed-use real estate, I am writing in opposition to SB 978.

This bill would require additional studies, review and mitigation for a wide range of air and water permit applications located within a 1.5-mile radius from the boundary of a census tract that scores at or above the 75<sup>th</sup> percentile in the Maryland EJ Screening Tool.

NAIOP has concerns with the broad scope of the bill which applies to minor air and water permits without regard to the intensity of permitted uses. The bill's reliance on the EJ Screening Tool raises concerns about the potential for inconsistencies between state and local land use plans and the EJ Screening Tool.

We further anticipate that the Maryland Department of Environment and permit applicants will encounter technical difficulties conducting the impact assessment and identifying appropriate mitigation for permit applications related to development and redevelopment projects. Because it applies to permits regardless of the intensity of use, SB 978 will serve as a disincentive to commercial and residential redevelopment projects in underserved and overburdened communities.

The rationale for NAIOP's opposition includes:

- The scope of permits covered by the bill is overly broad. Its provisions apply to almost all air emissions and water discharge permits. The bill covers intense activities like waste-water treatment plants and hazardous waste facilities as well as minor activities like stormwater management on development sites, and air permits for restaurant grills, heating boilers, and backup power generators.
- The land area indicated as scoring in 75<sup>th</sup> percentile or higher in the EJ Screening Tool coincides with designated Priority Funding Areas and Transit Oriented Development Areas. Areas mapped as being in the 75<sup>th</sup> to 100<sup>th</sup> percentile include most of the City of Baltimore, Odenton Town Center, Columbia Gateway Innovation District, Columbia Wilde Lake as well as important redevelopment sites such as the Lake Forest Mall near Gaithersburg. Designated Transit Oriented Development Areas at New Carrollton, Greenbelt, Naylor Road, Branch Avenue, Savage, Odenton, Westport, State Center, and Reisterstown Plaza are in locations where the EJ Screening Tool scores in the 75<sup>th</sup> percentile or higher. Purple Line stations at New Carrollton, Annapolis Road / Glenridge, Beacon Heights, Riverdale Park, U of M East Campus, U of M Campus Center, Riggs Road, Piney Branch Road, Silver Spring Library, Woodside / 16<sup>th</sup> Street are mapped in the 75<sup>th</sup> percentile by the EJ Screening Tool. These results indicate to us that the EJ Screening Tool should be utilized in conjunction with local land use plans to ensure coordination and reduce inconsistent decision making at the state and local levels.

- There is no methodology to accurately determine increased potential environmental or health impacts, or a clear standard of review to follow. The bill requires the Department and / or the applicant to assess incremental environmental and public health impacts. For stormwater discharge permits covered by the bill the Department determines whether the stormwater discharges from the final development will cause water quality standards to be violated and are consistent with any TMDL developed for a water body.
- For minor stormwater and air permits, it is unlikely the bill would result in greater environmental protections or pollutant reductions than would be achieved using the permit review and technology based environmental management practices currently employed by MDE when reviewing development and redevelopment permit applications.
- The conditions that MDE could put on a permit are open ended. Unlike other permits, this process does not include a clear standard of review, a performance requirement or technology-based standard that a permitted activity must meet. As a result, there is no limitation on what conditions MDE may put on a permit or clear standard upon which to approve, deny, or modify a permit.
- The EJ Scoring Tool is Currently Being Revised by MDE - The factors that determine the EJ score can change as health; socio-economic or environmental indicators change and for reasons unrelated to the permitted use. This creates another level of uncertainty about where the provisions of the bill might be applied in the future and how overlapping land use designations that may not be well aligned will be resolved.
- Intervention should happen earlier than at permit application. The bill does not address the role of local zoning and comprehensive plans in determining land use in underserved and overburdened communities. As the mapping examples above show, the mapping tool does not take all factors into account and should not be relied upon for decision making at the exclusion of other indicators and policy priorities. Evaluating the suitability of zoned land use should be done earlier in the land use planning process than is proposed in SB 978.

**For these reasons, NAIOP respectfully requests your unfavorable report on SB 978.**

Sincerely,



Tom Ballentine, Vice President for Policy  
NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Education, Energy, and the Environment Committee Members  
Nick Manis – Manis, Canning Assoc.