



Environment, Social
Governance

E•S•G

Permitting
Requirements

**SB0978/HB1484
LEGISLATION**

FEBRUARY 25, 2025

**EDUCATION, ENERGY,
AND THE ENVIRONMENT
COMMITTEE**

**DARK MONEY
FUNDED NONPROFIT
ADVOCACY
GROUPS AND
MD LEGISLATURES**

**EQUALITY IN
INFRASTRUCTURE**

**PERMITTING AND
EVOLVING
STATE APPROACHES
TO ENVIRONMENTAL
POLICIES**

ENVIROMENTAL RESIDUALS

Heavy Industrial Facilities Effects on Human Health



Review Authors

Brandywine TB Southern Region Neighborhood Coalition



SB0978/HB1484 CHERISH ACT

EDUCATION, ENERGY, AND THE ENVIRONMENT

25 FEBRUARY 2025

FOR: Maryland Legislative Committee

TO: Chair, Senator Brian J. Feldman and Vice Chair, Senator Cheryl C. Kagan

FROM: Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition)

POSITION: UNFAVORABLE

Thank you for the opportunity to submit this analysis of SB-0978/HB1484 (CHERISH Act) on behalf of the BTB Coalition—a community development nonprofit and neighborhood coalition representing over 10,000 Maryland residents, including those directly impacted by decades of environmental injustice. As an organization grounded in the lived experience of frontline communities, we offer this testimony as both a critique and a roadmap for equitable policymaking.

Our mission is to advance systemic change that protects the health, welfare, and civil rights of working-class families in Maryland. This review serves as an educational resource for legislators at all levels, highlighting gaps in the current bill while proposing actionable solutions rooted in community expertise.

We stand ready to collaborate on refining key provisions of this legislation, such as:

- Funding mechanisms that prioritize direct investments in affected communities,
- Community advisory structures ensuring resident-led decision-making,
- Enforcement frameworks aligning with Title VI civil rights mandates.

For further dialogue, please contact the Executive Community Citizen's Board (ECCB) via our Neighborhood Leadership Council at btb.eccb@gmail.com.

Thank you for your time and commitment to advancing environmental justice.

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

TABLE OF CONTENTS

ENVIROMENTAL II

RESIDUALS II

Heavy Industrial Facilities Effects on Human Health II

SB0978/HB1484 III

CHERISH ACT III

Education, Energy, and the Environment iii

25 FEBRUARY 2025 iii

INTRODUCTION 5

Factual History 5

The Reality of the Bill & Our Community’s Burden 6

Exclusion as Policy 6

A Call for Authentic Leadership..... 6

Environmental Justice Screening Tool 7

Overview of New Jersey, New York, and Maryland Environmental Justice Laws..... 7

Cumulative Impacts & Local Governance 7

Critical Revisions Needed for Effective Legislation..... 8

Public Participation..... 8

STRATEGY 9

Implementation of a Community Involvement Collaborative Taskforce 9

Final Appeal..... 9

INTRODUCTION

Maryland stands at a pivotal moment to redefine environmental justice and civil rights leadership in America. By synthesizing the strongest elements of New Jersey’s groundbreaking cumulative impact assessments and New York’s equity-driven investment mandates, Maryland can craft the nation’s most robust Title VI and Environmental Framework—one that centers enforceable protections, systemic accountability, and meaningful community power, not symbolic gestures.

Such legislation would not only address historical harms but proactively dismantle disparities by integrating Title VI’s civil rights principles into every facet of environmental decision-making. Imagine a law that denies permits to polluters in overburdened neighborhoods, directs 40% of climate investments to frontline communities, and equips residents with legal and technical resources to challenge inequities. To achieve this, Maryland must partner with scientists, and impacted communities as led-authors of policy—not just stakeholders at a hearing. The result? A transformative model that bridges environmental protection and civil rights, ensuring no community’s health is sacrificed for another’s profit.

Though the BTB Coalition was asked to review a draft bill, we were systematically excluded from its drafting process. The legislation was crafted by the South Baltimore Community Land Trust in collaboration with industry advocates—stakeholders whose priorities often conflict with our community’s needs. Despite being asked to “review” the draft, we were denied a formal seat at the table. Worse, we received the finalized text on February 17, 2025—after the bill had already been filed and after numerous parachute-in organizations (self-styled “accomplices” with no enduring stake in Brandywine) had already shaped its content. With the hearing scheduled for February 25, 2025, this eight-day “review period” exemplifies the tokenistic engagement and superficial inclusion we’ve long condemned. True collaboration requires power-sharing, not last-minute performative gestures that prioritize outside voices over those of the affected community.

FACTUAL HISTORY

In 2016, the BTB Coalition filed a landmark Civil Rights Title VI Administrative Complaint (Civil Rights Act of 1964) against Prince George’s County, Maryland, challenging the approval and permitting of a third fossil fuel power plant within a 2.9-mile radius of Brandywine. This plant was greenlit by the Maryland Public Service Commission (PSC) and permitted by the Maryland Department of the Environment (MDE) (btbcoalition.org/titlevi.html).

This effort was monumental: Over 18 months of confidential in-house negotiations with Maryland agencies exposed entrenched systemic inequities, particularly in three areas:

- 1.) Local Zoning and Land-Use Approvals favoring industrial encroachment over community health.
- 2.) Mandatory Referrals bypassing meaningful community input.
- 3.) MDE Permitting Processes enabling disproportionate environmental burdens.

While MDE responded to our complaint by adding regulatory layers, such bureaucratic “solutions” risk becoming counterproductive. Bills like SB0978/HB1484 (CHERISH Act), which prioritize blanket regulations over targeted equity, exemplify this—overregulation without accountability fails frontline communities.

Crucially, the PSC’s adherence to our Title VI complaint led to Rulemaking Title 20, a groundbreaking precedent requiring the commission to address discriminatory environmental practices and disparate impacts. This framework now mandates community collaboration, ensuring residents have a formal voice in decisions that shape their environment.

The BTB Coalition, representing over 10,000 residents in a predominantly Black (72%) community governed by a nine-member Executive Community Citizen's Board, urges critical revisions to Maryland's environmental legislation, the CHERISH Act (SB0978/HB1484). As residents with firsthand "lived experience" of systemic environmental injustice, we reject the bill's symbolic title—cherish implies protection and care, yet we see no substantive commitment to addressing decades of harm. For over 50 years, our community has borne the disproportionate burden of hosting 15+ heavy industrial polluters, including one newly permitted facility in the past year and two additional projects underway. Within a 2.9-mile radius, we are surrounded by two of the largest fossil fuel power plants in the United States, an active coal ash landfill that has contaminated groundwater for half a century, and an ongoing DRMO Superfund site. This relentless industrial encroachment, coupled with institutional neglect, underscores why the CHERISH Act must prioritize tangible equity—not empty promises—for communities like ours.

As the affected community, the BTB Coalition through our Title VI negotiations we were promised a meaningful collaborative role in decision-making processes. These groups, part of what we term the ally industrial complex, prioritize career advancement over genuine solidarity, profiting from the systemic injustices they claim to address. Under the guise of "grassroots" or "community-based" advocacy, these nonprofit capitalists exploit our struggles, leveraging them for funding, visibility, and professional clout. Yet this agreement has been overshadowed by the persistent intrusion of parachute-in organizations—self-appointed "accomplices" (a term critiqued in *Accomplices Not Allies: Abolishing the Ally Industrial Complex*)—largely tied to the MDE CEJSC (<https://www.indigenouaction.org/accomplices-not-allies-abolishing-the-ally-industrial-complex/>).

Their work mirrors colonial practices: extracting narratives and resources while bypassing accountability to the communities they purport to serve (Indigenous Action, 2014). Let us be unequivocal: Our struggles are not theoretical. They are born of 50+ years of environmental racism, corporate predation, and institutional abandonment—realities these opportunists neither share nor substantively alleviate.

THE REALITY OF THE BILL & OUR COMMUNITY'S BURDEN

This legislation fails to meaningfully limit pollution, mitigate health harms, or address systemic inequities—it is merely a symbolic pause. For over 40 years, Brandywine has endured catastrophic environmental racism: we are a national poster child for toxic air quality, coal ash contamination (dubbed a "ticking time bomb" by experts (<https://thebaynet.com/ticking-time-bombs-nearly-100-coal-ash-dumps-pepper-the-chesapeake-bay-watershed/>), and industrial saturation. Yet, even with HB1193/SB1122, and SB0978/HB1484 CHERISH ACT policymakers continue to sideline our community's expertise.

Brandywine, Maryland: 19 miles southeast of Washington, D.C., at the Brandywine landfill in Prince George's County, ash from three NRG coal plants has contaminated groundwater with unsafe levels of at least eight pollutants, including lithium at more than 200 times above safe levels, and molybdenum (which can damage the kidney and liver) at more than 100 times higher than safe levels. The contaminated groundwater at this site is now feeding into and polluting local streams (<https://environmentalintegrity.org/news/first-comprehensive-national-study-of-coal-ash-pollution-finds-widespread-groundwater-contamination/>).

EXCLUSION AS POLICY

As a coalition with unparalleled insight into decades of systemic neglect, our exclusion from decision-making is not just demoralizing—it is institutional erasure. When will Maryland prioritize actual environmental equality over performative "environmentalism," hollow climate rhetoric, or advocacy groups that co-opt our struggles? Brandywine's suffering—four decades of poisoned air, water, and bodies—demands more than tokenism.

A CALL FOR AUTHENTIC LEADERSHIP

As President of the BTB Coalition, my expertise and proficiency compels me to advocate unflinchingly: We will not oppose progress, but we will only endorse legislation that centers lived experience. True solutions require

permitting processes led by—not merely “informed by”—rather residents who breathe this air, drink this water, and bear the scars of institutional betrayal. Put us at the table, and you’ll see what justice looks like.

ENVIRONMENTAL JUSTICE SCREENING TOOL

Maryland’s current Environmental Justice Screening Tool is fundamentally deficient. Brandywine—a community disproportionately burdened by industrial pollution—does not register within the state’s 72 percentile threshold for environmental harms, despite decades of documented health and ecological crises. This failure underscores the tool’s inability to capture ground truths.

During our Civil Rights Title VI negotiations (Civil Rights Act of 1964), the Maryland Department of the Environment (MDE) committed to adopting more equitable frameworks, such as California’s CalEnviroScreen as a stellar EJScreen model. These tools prioritize localized, cumulative impact assessments and community partnership, unlike Maryland’s reliance on the EPA’s EJ Screen—a third-party tool developed in collaboration with the University of Maryland, which lacks transparency and community input.

OVERVIEW OF NEW JERSEY, NEW YORK, AND MARYLAND ENVIRONMENTAL JUSTICE LAWS

State	Key EJ Law	Major Provisions	Title VI Protections	Enforcement Mechanisms
New Jersey	NJ S232 (2020)	Requires mandatory denial of permits if EJ communities face disproportionate impact. Strongest cumulative impact analysis (CIA) in the U.S.	Indirectly strengthens Title VI by requiring explicit denial of polluting projects in overburdened communities.	Gives NJDEP authority to reject permits outright based on cumulative impact. Allows lawsuits for enforcement.
New York	NY EJ Law (2022) & Climate Superfund Act (2023)	Environmental Justice mapping, community compensation, and Superfund-style polluter accountability. Requires EJ assessments in all permit decisions.	Strengthens Title VI protections by considering racial and economic disparities in environmental permitting.	Climate Superfund Act requires polluters to pay for historical harm. Agencies can deny permit based on community burden.
Maryland	SB 674 (2022) & SB 978 (2024)	Introduced cumulative impact analysis but lacks clear permit denial power and strong enforcement.	Weak compared to NY/NJ— no clear penalties for discriminatory environmental decisions.	Cumulative impact analysis is advisory, not mandatory. No robust legal mechanism to hold polluters accountable.

CUMULATIVE IMPACTS & LOCAL GOVERNANCE

While this bill claims to address cumulative impacts, it ignores the root cause: local zoning and land-use policies that prioritize industrial expansion over community health. Cumulative impacts—defined as the compounded harm from multiple pollution sources over time—are not theoretical for Brandywine. They are our lived reality. Yet this legislation fails to mandate health-based protections or reform the permitting processes that enable these harms. Without binding measures to disrupt the cycle of industrial encroachment, this bill risks perpetuating the same systemic neglect it claims to resolve.

One of the first three objects of the Cumulative Impacts Research Report:

- 1.) **Establish the decision context with partner engagement** – Focuses on identifying partners, policies, and decisions that can be informed by cumulative impact assessment, establishing trust, and engaging with partners throughout the research process.
- 2.) **Address scientific considerations for meeting partner needs** – Includes developing fit-for-purpose approaches to characterize assets, vulnerabilities, and overall cumulative impacts through holistic approaches that address exposures to the built, natural, and social environments and identifying potential intervention points.
- 3.) **Empower local decisions and actions through science** – Calls for providing training and technical support on documented methods and tools that support community solutions, and to develop best practices to use **community-level and community-generated data** in research and decision-making, consistent with community EPA efforts.

CRITICAL REVISIONS NEEDED FOR EFFECTIVE LEGISLATION

- 1.) **Expand the Impact Radius to 3.0 Miles**
Current regulations ignore the full scope of pollution's reach. Peer-reviewed studies confirm that toxins like arsenic, mercury, and lead migrate far beyond existing boundaries, poisoning air, soil, and groundwater. A 3.0-mile radius aligns with empirical data to protect all impacted residents—not just those arbitrarily deemed “proximate.”
- 2.) **Transfer Power to Communities, Not Intermediaries**
The bill must mandate that 90% of mitigation funds and community benefits through community control mechanisms that flow directly to residents, bypassing corporate middlemen or advocacy nonprofits. Let impacted communities control resource allocation through binding neighborhood-led councils. Token “input” perpetuates extraction; ownership drives justice.
- 3.) **Enforce “Health in All Policies” Beyond Rhetoric**
Maryland law already recognizes this framework, yet agencies like MDE sideline health assessments in permitting decisions. The bill must require mandatory health impact analyses for all projects in environmental justice communities, with veto power granted to residents when thresholds are exceeded.
- 4.) **Anchor Enforcement in Title VI Civil Rights Protections**
While the PSC's Rulemaking Title 20 set a precedent for addressing discriminatory practices, this bill lacks teeth. It must:
 - Codify **retroactive review** of permits in zones historically redlined for industrial use.
 - Suspend MDE's permitting authority until it complies with its 2016 Title VI commitments to equity.
 - Overhaul zoning and land-use policies that still funnel pollution into Black and minority communities.

*MDE's ongoing failure to address systemic racism—evident in its approval of 15+ industrial facilities in Brandywine since 2016—proves that equity cannot coexist with bureaucratic self-regulation. Without substantial modifications, SB0978/HB1484 CHERISH ACT risks becoming another empty gesture, sacrificing our health for **political expediency**.*

PUBLIC PARTICIPATION

By incorporating a **Community Development Structure** a program can significantly enhance community engagement, capacity building, and sustainable resource management. This structure ensures that impacted residents are central to the decision-making process, fostering trust, transparency, and resilience in communities affected the contamination.

- **Maryland:**
 - Enhances transparency by mandating publication of EJ Scores, environmental impact analyses, and burden reports.
 - Requires public comment integration into final decisions after the fact
- **New York:**
 - Includes robust community engagement, requiring **meaningful involvement** of disadvantaged communities in permitting decisions at the onset
 - Both laws emphasize transparency, but New York’s framework involves deeper community collaboration.

STRATEGY

IMPLEMENTATION OF A COMMUNITY INVOLVEMENT COLLABORATIVE TASKFORCE

A Legislative Process & Stakeholder Mobilization

- **Phase 1: Bill Drafting & Legal Review**
 - Work with environmental lawyers and legislators to draft bill language that will not legally be challenged, **especially by applicants**
 - Conduct comparative analysis with NY/NJ EJ bills for best practices.
 - Bring in Industry having a seat at the table
- **Phase 2: Public Hearings & Community Engagement**
 - Organize town halls in affected communities.
 - Secure testimonies from public health experts, affected communities, and scientists.
- **Phase 3: Committee Review & Amendments**
 - Work with the House and Senate Environmental Committees to refine legislation.
 - Strengthen provisions based on stakeholder feedback that is community-led
- **Phase 4: Budget & Funding**
 - Negotiate with industry contributions and enforcement penalties
- **Phase 5: Legislative Passage & Implementation**
 - Secure votes for final bill passage.

FINAL APPEAL

Perpetuating symbolic gestures at the expense of tangible protections is not just ineffective—it is a moral failure. Elected leaders and taxpayer-funded agencies have a duty to prioritize lives over bureaucracy, yet Maryland risks enacting yet another environmental justice bill that substitutes red tape for real reform. Without substantive rewrite to address systemic harm, SB0978/HB1484 CHERISH ACT will deepen the very inequities it claims to resolve.

On behalf of Title VI communities like Brandywine—those bearing the brunt of industrial pollution and institutional neglect—we implore this committee to uphold Maryland’s commitments to civil rights, public health, and environmental justice. Do not repeat history. Issue an unfavorable report for SB0978 until it is revised to center frontline voices, mandate cumulative impact assessments, and dismantle the policies that sacrifice our communities for political convenience.
