



February 27, 2026

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

Unfavorable: SB 781 – 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 to recommend your unfavorable report on SB 781.

Overview of SB 781

SB 781 would restructure how the Maryland Department of Environment reviews applications for new and renewal of environmental permits in locations in or near an “at risk census tract.” The bill would require a Burden Report for permit applications related to specified air emissions and stormwater discharge permit applications located within a 1.5-mile radius from the boundary of an “at risk census tract.” A census tract is considered “at risk” if it scores at or above the 75th percentile in the Maryland EJ Screening Tool, is above the 75th percentile in six specified environmental health indicators or is proximate to one or more specified intensive permitted uses.

MDE must determine whether approving or reauthorizing a permit would create higher cumulative burdens than seen in other parts of the state. If so, MDE must deny the permit unless the applicant proves a “compelling public interest.” For renewal applications, MDE may deny or impose stricter conditions if cumulative burdens are considered too high. Renewal of activities covered under the General Permit for Industrial Stormwater Discharges are subject to additional conditions in at-risk census tracts. The bill broadens public participation, judicial review, and increases civil penalties by 75% in at-risk census tracts.

Rationale for NAIOP’s Position

- The geographic extent of designated growth areas covered by the bill is immense. Census tracts scoring in 75th percentile or higher in the EJ Screening Tool cover significant parts of Priority Funding Areas in Montgomery, Prince George’s, Howard, Anne Arundel, Baltimore, Harford and Cecil Counties as well as most of Baltimore City. 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.
- The scope of permits covered by the bill is overly broad. The bill contains some language narrowing its scope, including clarification that the bill does not apply to activities covered under the General Permit for Stormwater Discharges Associated with Construction Activity. Despite this important acknowledgement, its provisions still apply to air emissions and industrial stormwater water discharge permits that apply to hundreds of activities that take place in commercial, residential, and institutional buildings without regard to the intensity of the activity. The list of General Permits for Stormwater Discharges Associated with Industrial Activities includes community swimming pools, golf courses, apartment complexes, hotels, commercial printing, food preparation, distilleries, bakeries, refrigerated warehouses, kitchen cabinet makers, auto repair, medical labs, marinas, colleges, universities, among others.

- Applications for these permits will be faced with longer, more complex, and expensive permitting. The bill authorizes MDE to deny permits based on cumulative impacts that are unrelated to the applicant's activities and even if the application would meet permit conditions currently in COMAR. Under the proposed standard of review a permit could be denied even if the activity improves the predevelopment condition.
- There is no methodology to accurately evaluate the environmental or health impacts as required. The bill requires the Department and / or the applicant to assess incremental environmental and public health impacts and compare the results to other areas of the state. There is no accepted approach for MDE and applicants to follow in conducting this impact assessment or for identifying appropriate mitigation measures.
- 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.
- 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. The EJ 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 781.

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.