



March 11, 2026

The Honorable, Marc Korman, Chair  
House Economic Matters Committee  
230 Taylor House Office Building  
Annapolis, Maryland 21401

**Unfavorable: SB 1268 – Environmental Permits – Impact Burden Analysis**

Dear, Chair Korman 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 HB 1268.

NAIOP members have repurposed bottle factories, breweries, and auto graveyards into housing and commercial amenities. We are concerned that the bill will create barriers to beneficial redevelopment and will displace existing uses by imposing additional regulatory requirements on a wide range of relatively minor permits common for commercial business operations.

**Overview of HB 1268**

HB 1268 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 75<sup>th</sup> percentile in the Maryland EJ Screening Tool, is above the 75<sup>th</sup> 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 75<sup>th</sup> percentile or higher in the EJ Screening Tool cover significant parts of the Priority Funding Areas in Montgomery, Prince George’s, Howard, Anne Arundel, Baltimore, Harford and Cecil Counties as well as most of Baltimore City. These areas have been designated by local governments as growth areas and the uses permitted by local zoning. These results indicate to us that the EJ Screening Tool should only be utilized in conjunction with local land use plans to ensure coordination and reduce inconsistent decision making between the state and local levels.
- Intervention should happen earlier than at permit application. While NAIOP respects the goals that HB 1268 is designed to accomplish, the bill intervenes late in the process and does not address the role of local zoning and comprehensive plans in determining permitted uses. The EJ mapping tool designates expansive areas as “at risk

census tracts” and should not be solely relied upon for decision making without balancing with land use and other policy priorities. Evaluating the suitability of zoned land uses should be done early in the land use planning process rather than at permit as proposed in HB 1268.

- The scope of permits covered by the bill is overly broad. The bill includes some language narrowing its scope, for example, it clarifies that activities covered under the General Permit for Stormwater Discharges Associated with Construction Activity are exempt. However, the enhanced permitting and permit-renewal requirements still apply broadly to all activities regulated under the General Permit for Stormwater Discharges Associated with Industrial Activities. MDE guidance on the industrial stormwater general permit considers construction of one acre or more to be subject to the industrial stormwater general permit. The bill also would authorize MDE to require individual permits for construction.

While the industrial discharge permit does cover certain intensive uses, it also applies to many routine, low-impact activities and services that should be located near where Marylanders live and work. As a result, all of these activities would be subject to HB 1268, regardless of their actual environmental impact. Examples include community swimming pools, golf courses, apartment complexes, hotels, commercial printers, food preparation facilities, distilleries, bakeries, refrigerated warehouses, kitchen cabinet makers, auto repair shops, medical labs, marinas, colleges, and universities, among others.

A number of fairly common air emissions permits related to back up power generation or commercial operations are also subject to the provisions of the bill at new construction and permit renewal.

- Applications for permits covered by HB 1268 will be faced with longer, more complex, and uncertain 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 current permit conditions. Under the proposed standard of review a permit could be denied based on historical impacts even if the proposed activity improves the predevelopment condition. The bill threatens to displace current uses at renewal of existing permits and will serve as a barrier to location of new uses. The broad geographic scope and the scope of permitted activities covered in the bill makes this problematic. Because of local zoning restrictions, many uses will have no place to relocate.
- 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.

**For these reasons, NAIOP respectfully requests your unfavorable report on HB 1268.**

Sincerely,



Tom Ballentine, Vice President for Policy

NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Environment and Transportation Committee Members  
Nick Manis – Manis, Canning Assoc.

