



Environment, Social
Governance

E•S•G

**PERMITTING REQUIREMENTS
LEGISLATION SESSION
JANUARY 2026**

SB0781/HB1268

CHERISH ACT

AMENDMENTS

**EDUCATION, ENERGY, AND
THE ENVIRONMENT /
ENVIRONMENT AND
TRANSPORTATION
COMMITTEES**

ENVIROMENTAL RESIDUALS

HEAVY INDUSTRIAL FACILITIES EFFECTS ON HUMAN HEALTH



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HB1268 / SB0781 CHERISH ACT

EDUCATION, ENERGY, AND THE ENVIRONMENT / ENVIRONMENT AND TRANSPORTATION

13th MARCH 2026 Hearings

FOR: Maryland Legislative Committees
FROM: Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition)
POSITION: UNFAVORABLE without Substantive Amendments

On behalf of the Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition) and the Executive Community Citizens Board (ECCB), we respectfully submit the enclosed amendment package concerning HB1268 / SB0781 (CHERISH Act).

This packet does not oppose the CHERISH Act. It protects the bill from structural weaknesses that could otherwise undermine environmental justice protections and create foreseeable Title VI compliance risks.

Matters concerning the Brandywine environmental justice record and implementation of the 2019 Informal Resolution Agreement remain the subject of ongoing federal civil-rights review and related correspondence with federal oversight authorities, including the U.S. Environmental Protection Agency’s External Civil Rights Division.

Because the CHERISH Act would establish a classification-based environmental justice permitting framework, it is important that the statute be designed in a manner consistent with federal civil-rights obligations under Title VI of the Civil Rights Act. The guardrail amendments proposed in this packet are intended to ensure that Maryland’s environmental justice framework remains durable, transparent, and compliant with those obligations

The CHERISH Act is an important effort to strengthen environmental justice protections within Maryland’s environmental permitting framework. BTB Coalition supports the bill’s purpose. At the same time, the 2026 version introduces a structural shift by tying enhanced permitting consequences to percentile-based classification within the Maryland Environmental Justice Screening Tool. When statistical classification becomes the gatekeeper for protection, methodological recalibration, delayed updates, or underinclusive scoring can weaken protections even where conditions on the ground have not improved.

The enclosed amendments are narrowly tailored. They do not weaken the bill. They strengthen it by adding guardrails for independent review, dual-trigger protection, direct community petition rights, notice before methodology changes, Title VI compliance certification more-timely EJ-score updates, and protection against loss of safeguards caused by recalibration rather than measurable environmental improvement.

The packet also incorporates a direct-governance amendment reflecting the civil-rights foundation described in BTB’s submitted record: the 2019 Informal Resolution Agreement arising from the Brandywine Title VI complaint required direct engagement and decision-making with affected residents, not consultation mediated through intermediary organizations. This packet therefore proposes language requiring direct coordination with the originating impacted community governance body, including BTB Coalition and ECCB, in implementation decisions affecting classification, methodology, and permit review.

We respectfully request that the enclosed materials be entered into the official bill record and considered as sponsor or committee amendments.

We appreciate the Legislature’s commitment to environmental justice and urge adoption of durable guardrails to ensure that protections remain grounded in lived burden rather than fluctuating statistical thresholds.

These amendments are designed to ensure that Maryland’s environmental justice permitting framework operates in a manner consistent with both legislative intent and the State’s federal civil-rights obligations.

Respectfully submitted,

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HB1268 /SB0781

CHERISH ACT

EDUCATION, ENERGY, AND THE ENVIRONMENT / ENVIRONMENT AND TRANSPORTATION

13th MARCH 2026 Hearing

AMENDMENT COMMITTEE PACKET

CHERISH ACT 2026 – STRUCTURAL SHIFT & GUARDRAIL AMENDMENTS

POSITION: UNFAVORABLE without Substantive Amendments

Durable Design Guardrails for Classification Stability; Title VI Compliance, and Direct Community Governance

Submitted to	Maryland General Assembly Education, Energy, and the Environment Committee Environment and Transportation Committee
Submitted by	Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition) Executive Community Citizens Board (ECCB)
Primary Contact	Karyn Sonu Managerial Chair, Executive Community Citizens Board (ECCB) President, BTB Coalition—Kamita Gray Directorial Chair, Executive Community Citizens Board Parliamentarian, South County Economic Development Association (SCEDA)

Prepared to accompany sponsor and committee amendment discussions concerning the 2026 CHERISH Act.

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LEGISLATOR BRIEFING PAGE

HB1268 / SB0781 — CHERISH ACT (2026)

Structural Guardrails for Civil-Rights Durable Design

POSITION:

The Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition) supports the purpose of the CHERISH Act. The bill is intended to strengthen environmental justice protections in Maryland's environmental permitting system.

However, the 2026 version introduces a structural shift that ties enhanced permitting consequences to percentile-based classification within the Maryland Environmental Justice Screening Tool.

When statistical classification becomes the gatekeeper for environmental justice protection, methodological recalibration, slow updates, or underinclusive scoring can weaken protections even where environmental conditions on the ground have not improved.

Without guardrails, the framework risks creating a system where protections fluctuate based on changes in statistical modeling rather than measurable improvements in environmental conditions.

For this reason, the BTB Coalition's position is:

UNFAVORABLE WITHOUT SUBSTANTIVE AMENDMENTS

The proposed amendments strengthen the bill and ensure that the CHERISH Act functions as intended.

WHY THIS MATTERS

Maryland has existing civil-rights obligations concerning environmental justice implementation. In 2016, Brandywine residents filed a Title VI civil-rights complaint with the U.S. Environmental Protection Agency concerning cumulative industrial burden and environmental permitting practices.

That complaint resulted in a 2019 Informal Resolution Agreement requiring structured engagement with directly impacted residents in environmental decision-making processes.

The legislative record submitted by BTB Coalition reflects that the agreement required direct engagement and decision-making with affected residents rather than consultation mediated through intermediary organizations. If the CHERISH Act creates a classification-based regulatory framework without durable safeguards and direct resident governance participation, the statute risks undermining those civil-rights commitments.

THE GUARDRAILS PROPOSED IN THIS PACKET

The amendment package submitted with this briefing introduces targeted structural safeguards:

- Independent review of the Environmental Justice Screening Tool methodology
- Dual-trigger protection standard (classification OR documented cumulative burden)
- Community petition process for classification review
- Transparency and legislative oversight before methodology changes

- Title VI compliance certification before implementation
- Timely EJ-score review cycle and interim update triggers
- Protection against loss of safeguards due solely to recalibration
- Direct coordination with the originating impacted community governance body (BTB Coalition / ECCB)

These amendments do not weaken the CHERISH Act.

They ensure that environmental justice protections remain tied to lived environmental burden rather than shifting statistical thresholds.

LEGISLATIVE REQUEST

Adopt the guardrail amendments contained in this packet to ensure that the CHERISH Act remains durable, transparent, and consistent with Maryland’s civil-rights obligations.

Without these amendments, the bill risks creating a classification-driven framework that could weaken protections and expose the State to foreseeable Title VI compliance concerns.

Durable environmental justice requires durable statutory design.

For this reason, the BTB Coalition’s position is:

UNFAVORABLE WITHOUT SUBSTANTIVE AMENDMENTS

BTB Coalition supports the goal of environmental justice protection; however, the bill as drafted is insufficient. Substantive amendments are necessary to ensure that the framework accurately reflects cumulative environmental burden and protects directly impacted communities.

However, the bill as drafted contains structural defects that make it insufficient to protect directly impacted communities. The amendments proposed in this packet are substantial and necessary. Without them, the bill risks weakening environmental justice protections, undercounting cumulative burden, and operating inconsistently with Maryland’s civil-rights obligations

Without substantive amendments, the CHERISH Act will not adequately protect our minority communities facing cumulative environmental and public health burdens.

FOR THE SPONSOR NOTE:

These are not minor edits or technical cleanups. They are substantial amendments necessary to prevent the CHERISH Act from operating in a way that could weaken environmental justice protections, undercount cumulative burden, and create foreseeable Title VI compliance risk.

RESHAPING THE CHERISH ACT: CIVIL-RIGHTS DURABLE DESIGN

THE STRUCTURAL SHIFT

The 2026 CHERISH Act represents a fundamental shift in Maryland's environmental justice framework.

LEGISLATIVE AMENDMENT SUMMARY SHEET

PURPOSE OF AMENDMENTS

The CHERISH Act represents an important step toward strengthening environmental justice protections in Maryland's environmental permitting system. BTB Coalition supports the bill's goals and respectfully recommends targeted amendments to ensure that protections remain durable, transparent, current, and consistent with federal civil-rights requirements. These amendments do not weaken the bill. They strengthen it by preventing protection loss caused by statistical recalibration, stale scoring definitions, or intermediary displacement of directly impacted residents.

STRUCTURAL ISSUES IDENTIFIED

The current framework ties enhanced permitting protections to percentile rankings within the Maryland Environmental Justice Screening Tool. When statistical classification becomes the legal trigger for environmental protection, methodology changes, recalibration, or slow updates can reduce protections even when environmental conditions have not improved. The current 5-year minimum review cycle for the EJ-score definition is too slow for a frontline protection tool. The framework also lacks explicit language carrying forward the governance principle reflected in the 2019 Informal Resolution Agreement record: direct engagement and decision-making with affected residents rather than consultation mediated through intermediary organizations.

TARGETED AMENDMENTS REQUESTED

1. Independent Methodology Review.
2. Dual-Trigger Protection Standard.
3. Community Petition for Classification Review.
4. Transparency Before Methodology Changes.
5. Title VI Compliance Certification.
6. EJ-Score Review Cycle and Interim Update Trigger.
7. Protection Against Loss of Safeguards Due to Recalibration.
8. Direct Coordination With Originating Impacted Community Governance Body; No Intermediary Substitution.

WHY THESE AMENDMENTS MATTER

- environmental justice protections remain tied to lived environmental burden;
- communities are not reclassified out of protection due to stale definitions or administrative recalibration;
- the State reduces foreseeable Title VI civil-rights exposure;
- legislative intent is preserved through transparent and durable implementation; and
- directly impacted residents retain documented governance participation rather than optional advisory status.

BOTTOM LINE

BTB Coalition supports the CHERISH Act with targeted amendments to ensure that environmental justice protections remain durable, transparent, current, and grounded in documented environmental conditions. Durable environmental justice requires durable statutory design.

AT-A-GLANCE COMPARISON

CURRENT CHERISH FRAMEWORK VS. PROPOSED GUARDRAIL AMENDMENTS

Issue Area	Current Framework	CHERISH With Amendments
Trigger for Enhanced Review	Percentile ranking in EJ screening tool.	Percentile ranking or documented industrial density, legacy contamination, or cumulative burden.
Methodology Validation	No independent validation required.	Independent third-party review required before implementation.
Classification Stability	Recalibration may change community status even when conditions remain unchanged.	Loss of safeguards barred absent documented environmental improvement.
Community Correction Mechanism	No formal petition process.	Residents, resident-led organizations, and local governments may petition for review; hearing and written findings required.
Transparency in Methodology Changes	Methodology revisions may occur administratively.	Public notice, impact explanation, comment opportunity, and legislative briefing required.
Civil-Rights Compliance Review	No explicit statutory Title VI certification.	Formal Title VI compliance certification required before implementation.
EJ-Score Review Schedule	Review at least every 5 years; MDE may decide not to revise.	Review at least every 2 years, annual public status report, and interim review within 180 days after material new data or science.
Community Governance	No express carry-forward of direct-engagement obligation.	Direct coordination with BTB Coalition/ECCB as originating impacted community governance body; no substitution by intermediaries.

BOTTOM LINE

The amendments preserve the bill's purpose while ensuring that environmental justice protections remain tied to documented environmental burden, not solely to shifting statistical thresholds, stale definitions, or intermediary-controlled process.

CHERISH ACT – AMENDMENT PACKAGE

POSITION: UNFAVORABLE WITHOUT SUBSTANTIVE AMENDMENTS

AMENDMENT 1 – INDEPENDENT REVIEW OF EJ SCREENING METHODOLOGY

Policy Purpose

Before percentile-based classification is used as a legal trigger for enhanced permitting scrutiny or denial authority, the underlying Environmental Justice Screening Tool should be independently reviewed for methodological soundness, transparency, and disparate-impact risk.

The Environmental Justice Screening Tool shall serve as an informational and analytical input to the permitting framework and may not be used as the sole determinant of eligibility for enhanced environmental justice review.

Proposed Policy Language

- Before the Department may implement any provision of this subtitle that conditions enhanced permit review, permit conditions, or permit denial authority on classification or percentile ranking within the Maryland Environmental Justice Screening Tool, the Department shall obtain an independent third-party review of the screening methodology.
- The review shall evaluate: (1) methodological transparency; (2) data integrity and completeness; (3) sensitivity to industrial clustering, legacy contamination, and cumulative burden; (4) risk of classification instability due to recalibration; and (5) potential disparate-impact consequences under Title VI of the Civil Rights Act.
- The Department shall publish the review and submit it to the General Assembly before implementation of the classification-based framework.

AMENDMENT 2 – DUAL-TRIGGER PROTECTION STANDARD

Policy Purpose

Percentile rank should not be the sole gateway to protection. Communities with documented industrial density, legacy burden, or cumulative exposure should remain eligible for enhanced review even if their percentile classification changes.

The Department shall ensure that directly impacted residents retain meaningful participation in environmental justice implementation decisions affecting their community and that consultation with intermediary organizations does not displace or substitute for engagement with resident-led governance bodies.

Proposed Policy Language

- Enhanced review under this subtitle shall apply if a permit application affects: (1) a census tract or geographic area classified as an overburdened or at-risk community under the Maryland Environmental Justice Screening Tool; or (2) a community for which the Department determines there is documented industrial clustering, legacy environmental contamination, cumulative infrastructure burden, or a comparable pattern of concentrated environmental exposure.
- A community may qualify for enhanced review under paragraph (2) notwithstanding a percentile ranking below any threshold otherwise used by the Department.

AMENDMENT 3 — COMMUNITY PETITION AND RECLASSIFICATION REVIEW

Policy Purpose

Residents need a formal corrective mechanism. If a community is misclassified, downgraded, or excluded, there must be a path to challenge that status and force a written agency response.

Proposed Policy Language

- An impacted resident, a resident-led nonprofit organization, or a local government serving an affected community may petition the Department for review of a community’s classification status under this subtitle.
- On receipt of a petition, the Department shall review submitted evidence, provide public notice, hold a public hearing in or reasonably accessible to the affected community, and issue written findings and a final determination within a time established by regulation.

AMENDMENT 4 — NOTICE AND OVERSIGHT BEFORE RECALIBRATION

Policy Purpose

The screening tool cannot be recalibrated behind closed doors if those changes alter who gets protected.

Proposed Policy Language

- Before adopting any material revision to the Maryland Environmental Justice Screening Tool, including changes to data inputs, weighting, scoring, thresholds, percentile calculations, or classification methodology, the Department shall provide public notice, publish an explanation of expected effects on community classification outcomes, provide an opportunity for public comment, and submit a briefing to the General Assembly describing the anticipated permitting consequences.
- No material revision may be used for implementation under this subtitle until those requirements are completed.

AMENDMENT 5 — TITLE VI COMPLIANCE CERTIFICATION

Policy Purpose

If the bill ties protection to an algorithmic or percentile-based trigger, the State should affirmatively certify that implementation does not create foreseeable disparate-impact exposure.

Proposed Policy Language

- Before implementing the classification-based permitting framework established under this subtitle, the Department shall certify that it has evaluated the framework for compliance with Title VI of the Civil Rights Act and applicable implementing authorities governing discriminatory effects.
- The certification shall address whether the framework creates foreseeable disparate-impact risk for historically overburdened communities and shall be published on the Department’s website and submitted to the General Assembly.

AMENDMENT 6 — EJ-SCORE REVIEW CYCLE AND INTERIM UPDATE TRIGGER

Policy Purpose

A five-year minimum review cycle is too slow for a frontline protection metric that determines access to enhanced permitting review.

Proposed Policy Language

- The Department shall review the definition of “EJ score” and related scoring methodology at least once every 2 years.
- On or before October 1 of each year, the Department shall publish a public status report stating whether the current definition remains scientifically and administratively current, whether material new data or scientific and medical knowledge warrant revision, and whether the Department intends to initiate rulemaking.
- The Department shall initiate an interim review within 180 days after any material update to environmental health indicators, census-derived vulnerability data, emissions or facility-clustering data, or scientific or medical evidence demonstrating that the existing EJ-score definition may materially understate cumulative burden.

AMENDMENT 7 — PROTECTION AGAINST LOSS OF SAFEGUARDS DUE SOLELY TO RECALIBRATION

Policy Purpose

Prevent loss of protection where burden remains but classification drops because of methodology recalibration.

Proposed Policy Language

- A community that has documented industrial clustering, legacy environmental burden, cumulative exposure, or prior recognition as an overburdened community may not lose eligibility for enhanced review under this subtitle solely because of recalibration, reweighting, or methodological revision of the Maryland Environmental Justice Screening Tool, absent a written finding by the Department that measurable environmental conditions have materially improved.

AMENDMENT 8 — DIRECT COORDINATION WITH ORIGINATING IMPACTED COMMUNITY GOVERNANCE BODY; NO INTERMEDIARY SUBSTITUTION

Policy Purpose

To carry forward the direct-engagement principle reflected in the 2019 Informal Resolution Agreement record, the bill should require direct coordination with the originating impacted community governance body rather than consultation mediated solely through intermediary organizations.

Proposed Policy Language

- In implementing this subtitle, the Department shall provide for direct coordination and documented engagement with the originating impacted community whose 2016 Title VI complaint gave rise to the 2019 Informal Resolution Agreement record, including the Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition) and the Executive Community Citizens Board (ECCB), for decisions relating to classification review, methodology changes, and permit review affecting that community.
- The Department may consult other organizations, institutions, or intermediaries, but consultation with an intermediary organization may not be treated as a substitute for direct coordination with the directly impacted community governance body identified in this subsection.
- Participation under this subsection shall be substantive and documented and shall include notice, an opportunity to provide written input, and written response by the Department to material issues raised.

CHERISH ACT – REDLINE AMENDMENT PACKAGE

HB1268 / SB0781 | POSITION: UNFAVORABLE WITHOUT SUBSTANTIVE AMENDMENTS

WHERE THE AMENDMENTS GO

Insert the new subsections below into the section of the bill establishing Environmental Justice classification, EJ-score regulations, and enhanced permit review procedures. The subsections should appear after the existing provisions establishing EJ-screening classification and EJ-score rulemaking, and before provisions governing permit denial or permit conditions.

AMENDMENT 1

INSERT NEW SUBSECTION

() INDEPENDENT REVIEW OF ENVIRONMENTAL JUSTICE SCREENING METHODOLOGY

9. BEFORE IMPLEMENTING ANY PROVISION OF THIS SUBTITLE THAT CONDITIONS PERMIT REVIEW, PERMIT CONDITIONS, OR PERMIT DENIAL AUTHORITY ON CLASSIFICATION OR PERCENTILE RANKING WITHIN THE MARYLAND ENVIRONMENTAL JUSTICE SCREENING TOOL, THE DEPARTMENT SHALL OBTAIN AN INDEPENDENT THIRD-PARTY REVIEW OF THE SCREENING TOOL METHODOLOGY.
10. THE REVIEW SHALL EVALUATE: (I) THE TRANSPARENCY AND REPRODUCIBILITY OF THE METHODOLOGY; (II) THE COMPLETENESS AND RELIABILITY OF DATA SOURCES USED IN THE MODEL; (III) THE ABILITY OF THE MODEL TO IDENTIFY COMMUNITIES WITH INDUSTRIAL CLUSTERING, LEGACY CONTAMINATION, AND CUMULATIVE ENVIRONMENTAL BURDEN; (IV) THE RISK OF CLASSIFICATION INSTABILITY RESULTING FROM METHODOLOGICAL RECALIBRATION; AND (V) POTENTIAL DISPARATE-IMPACT CONSEQUENCES UNDER TITLE VI OF THE CIVIL RIGHTS ACT.
11. THE DEPARTMENT SHALL PUBLISH THE RESULTS OF THE REVIEW AND SUBMIT THE REVIEW TO THE GENERAL ASSEMBLY BEFORE IMPLEMENTATION OF THE CLASSIFICATION-BASED PERMITTING FRAMEWORK.

AMENDMENT 2

INSERT NEW SUBSECTION

() DUAL-TRIGGER STANDARD FOR ENHANCED ENVIRONMENTAL JUSTICE REVIEW

12. ENHANCED REVIEW UNDER THIS SUBTITLE SHALL APPLY IF A PERMIT APPLICATION AFFECTS: (I) A CENSUS TRACT OR GEOGRAPHIC AREA CLASSIFIED AS AN OVERBURDENED OR AT-RISK COMMUNITY UNDER THE MARYLAND ENVIRONMENTAL JUSTICE SCREENING TOOL; OR (II) A COMMUNITY FOR WHICH THE DEPARTMENT DETERMINES THERE IS DOCUMENTED: 1. INDUSTRIAL CLUSTERING; 2. LEGACY ENVIRONMENTAL CONTAMINATION; 3. CUMULATIVE ENVIRONMENTAL OR INFRASTRUCTURE BURDEN; OR 4. A COMPARABLE PATTERN OF CONCENTRATED ENVIRONMENTAL EXPOSURE.
13. A COMMUNITY MAY QUALIFY FOR ENHANCED REVIEW UNDER PARAGRAPH (1)(II) NOTWITHSTANDING A PERCENTILE RANKING BELOW ANY THRESHOLD OTHERWISE USED BY THE DEPARTMENT.

AMENDMENT 3

INSERT NEW SUBSECTION

() COMMUNITY PETITION FOR CLASSIFICATION REVIEW

14. AN IMPACTED RESIDENT, RESIDENT-LED NONPROFIT ORGANIZATION, OR LOCAL GOVERNMENT SERVING AN AFFECTED COMMUNITY MAY PETITION THE DEPARTMENT FOR REVIEW OF A COMMUNITY'S CLASSIFICATION STATUS UNDER THIS SUBTITLE.
15. ON RECEIPT OF A PETITION, THE DEPARTMENT SHALL: (I) REVIEW EVIDENCE OF ENVIRONMENTAL BURDEN, INDUSTRIAL DENSITY, LEGACY CONTAMINATION, OR CUMULATIVE EXPOSURE SUBMITTED BY THE PETITIONER; (II) PROVIDE PUBLIC NOTICE OF THE PETITION; (III) HOLD A PUBLIC HEARING IN OR REASONABLY ACCESSIBLE TO THE AFFECTED COMMUNITY; AND (IV) ISSUE WRITTEN FINDINGS AND A FINAL DETERMINATION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

AMENDMENT 4

INSERT NEW SUBSECTION

() NOTICE AND OVERSIGHT FOR METHODOLOGICAL CHANGES

16. BEFORE ADOPTING ANY MATERIAL REVISION TO THE MARYLAND ENVIRONMENTAL JUSTICE SCREENING TOOL, INCLUDING CHANGES TO DATA INPUTS, WEIGHTING, SCORING, THRESHOLDS, PERCENTILE CALCULATIONS, OR CLASSIFICATION METHODOLOGY, THE DEPARTMENT SHALL: (I) PROVIDE PUBLIC NOTICE OF THE PROPOSED REVISION; (II) PUBLISH AN EXPLANATION OF THE EXPECTED EFFECT OF THE REVISION ON COMMUNITY CLASSIFICATION OUTCOMES; (III) PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT; AND (IV) SUBMIT A BRIEFING TO THE GENERAL ASSEMBLY DESCRIBING THE PROPOSED REVISION AND ITS ANTICIPATED REGULATORY CONSEQUENCES.
17. A MATERIAL REVISION MAY NOT BE USED FOR IMPLEMENTATION UNDER THIS SUBTITLE UNTIL THE NOTICE AND BRIEFING REQUIREMENTS OF THIS SUBSECTION ARE COMPLETED.

AMENDMENT 5

INSERT NEW SUBSECTION

() TITLE VI COMPLIANCE CERTIFICATION

18. BEFORE IMPLEMENTING THE CLASSIFICATION-BASED PERMITTING FRAMEWORK ESTABLISHED UNDER THIS SUBTITLE, THE DEPARTMENT SHALL CERTIFY THAT IT HAS EVALUATED THE FRAMEWORK FOR COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT AND RELATED FEDERAL CIVIL RIGHTS AUTHORITIES.
19. THE CERTIFICATION SHALL ADDRESS WHETHER THE USE OF PERCENTILE-BASED CLASSIFICATION OR OTHER SCREENING METHODOLOGY CREATES FORESEEABLE DISPARATE-IMPACT RISK FOR HISTORICALLY OVERBURDENED COMMUNITIES.
20. THE CERTIFICATION SHALL BE: (I) PUBLISHED ON THE DEPARTMENT'S WEBSITE; AND (II) SUBMITTED TO THE GENERAL ASSEMBLY.

AMENDMENT 6

INSERT NEW SUBSECTION

() EJ-SCORE REVIEW CYCLE; ANNUAL STATUS REPORT; INTERIM UPDATE TRIGGER

21. THE DEPARTMENT SHALL REVIEW THE DEFINITION OF "EJ SCORE" AND RELATED SCORING METHODOLOGY AT LEAST ONCE EVERY 2 YEARS.

22. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE DEPARTMENT SHALL PUBLISH A PUBLIC STATUS REPORT STATING: (I) WHETHER THE CURRENT EJ-SCORE DEFINITION REMAINS SCIENTIFICALLY AND ADMINISTRATIVELY CURRENT; (II) WHETHER ANY MATERIAL CHANGES IN ENVIRONMENTAL HEALTH INDICATORS, DEMOGRAPHIC VULNERABILITY DATA, EMISSIONS PATTERNS, FACILITY CLUSTERING, OR SCIENTIFIC AND MEDICAL KNOWLEDGE WARRANT REVISION; AND (III) WHETHER THE DEPARTMENT INTENDS TO INITIATE RULEMAKING.
23. THE DEPARTMENT SHALL INITIATE AN INTERIM REVIEW WITHIN 180 DAYS AFTER ANY MATERIAL UPDATE TO: (I) ENVIRONMENTAL HEALTH INDICATORS; (II) CENSUS-DERIVED VULNERABILITY DATA; (III) EMISSIONS OR FACILITY-CLUSTERING DATA; OR (IV) SCIENTIFIC OR MEDICAL EVIDENCE DEMONSTRATING THAT THE EXISTING EJ-SCORE DEFINITION MAY MATERIALLY UNDERSTATE CUMULATIVE BURDEN.
24. FOLLOWING REVIEW UNDER THIS SUBSECTION, THE DEPARTMENT SHALL EITHER: (I) PROPOSE REVISIONS IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT; OR (II) PUBLISH WRITTEN FINDINGS EXPLAINING WHY REVISION IS NOT REQUIRED.

AMENDMENT 7

INSERT NEW SUBSECTION

() PROTECTION AGAINST LOSS OF SAFEGUARDS DUE TO MODEL RECALIBRATION

25. A COMMUNITY THAT HAS DOCUMENTED INDUSTRIAL CLUSTERING, LEGACY ENVIRONMENTAL BURDEN, OR CUMULATIVE EXPOSURE MAY NOT LOSE ELIGIBILITY FOR ENHANCED REVIEW UNDER THIS SUBTITLE SOLELY BECAUSE OF: (I) RECALIBRATION; (II) REWEIGHTING; OR (III) OTHER METHODOLOGICAL REVISION OF THE MARYLAND ENVIRONMENTAL JUSTICE SCREENING TOOL.
26. A COMMUNITY MAY ONLY BE REMOVED FROM ENHANCED REVIEW STATUS IF THE DEPARTMENT ISSUES WRITTEN FINDINGS THAT MEASURABLE ENVIRONMENTAL CONDITIONS HAVE MATERIALLY IMPROVED.

AMENDMENT 8

INSERT NEW SUBSECTION

() DIRECT COORDINATION WITH ORIGINATING IMPACTED COMMUNITY GOVERNANCE BODY; NO INTERMEDIARY SUBSTITUTION

27. IN IMPLEMENTING THIS SUBTITLE, THE DEPARTMENT SHALL PROVIDE FOR DIRECT COORDINATION AND DOCUMENTED ENGAGEMENT WITH THE ORIGINATING IMPACTED COMMUNITY WHOSE 2016 TITLE VI COMPLAINT GAVE RISE TO THE 2019 INFORMAL RESOLUTION AGREEMENT RECORD, INCLUDING THE BRANDYWINE TB SOUTHERN REGION NEIGHBORHOOD COALITION (BTB COALITION) AND THE EXECUTIVE COMMUNITY CITIZENS BOARD (ECCB), FOR DECISIONS RELATING TO CLASSIFICATION REVIEW, METHODOLOGY CHANGES, AND PERMIT REVIEW AFFECTING THAT COMMUNITY.
28. THE DEPARTMENT MAY CONSULT OTHER ORGANIZATIONS, INSTITUTIONS, OR INTERMEDIARIES, BUT CONSULTATION WITH AN INTERMEDIARY ORGANIZATION MAY NOT BE TREATED AS A SUBSTITUTE FOR DIRECT COORDINATION WITH THE DIRECTLY IMPACTED COMMUNITY GOVERNANCE BODY IDENTIFIED IN THIS SUBSECTION.
29. PARTICIPATION UNDER THIS SUBSECTION SHALL BE SUBSTANTIVE AND DOCUMENTED AND SHALL INCLUDE NOTICE, AN OPPORTUNITY TO PROVIDE WRITTEN INPUT, AND WRITTEN RESPONSE BY THE DEPARTMENT TO MATERIAL ISSUES RAISED.

LEGISLATIVE REBUTTAL BRIEF

HB1268 / SB0781 — CHERISH Act (2026)

Anticipated Agency Concerns and Legislative Responses

PURPOSE

The amendments submitted with this packet strengthen the CHERISH Act by ensuring that environmental justice protections remain durable, transparent, and consistent with federal civil-rights obligations. The following section addresses common implementation concerns that may be raised during committee discussion.

CONCERN 1

“INDEPENDENT REVIEW OF THE ENVIRONMENTAL JUSTICE SCREENING TOOL WILL DELAY IMPLEMENTATION.”

Legislative Response

Independent review does not delay implementation; it strengthens regulatory defensibility.

Because the CHERISH Act ties enhanced permitting consequences to percentile-based classification, the screening methodology becomes the legal trigger for regulatory action. When regulatory decisions rely on algorithmic or statistical tools, transparency and methodological validation are standard best practices.

Independent review protects the State by ensuring that:

- the methodology is scientifically sound
- the data sources are complete and reliable
- the model accurately captures cumulative burden
- the classification framework does not create unintended disparate-impact risk

Without independent validation, regulatory decisions tied to percentile classification may face legal vulnerability. The amendment therefore protects both the State and the integrity of the permitting framework.

CONCERN 2

“A DUAL-TRIGGER PROTECTION STANDARD WILL MAKE THE PERMITTING PROCESS UNPREDICTABLE.”

Legislative Response

The dual-trigger standard improves accuracy rather than creating uncertainty.

Environmental justice burden does not always appear cleanly in percentile rankings. Communities with documented industrial clustering, legacy contamination, or cumulative infrastructure burden may fall below a percentile threshold even while experiencing substantial environmental impact.

The proposed dual-trigger structure simply allows enhanced review when documented conditions demonstrate cumulative burden. Similar approaches are used in multiple environmental justice frameworks nationwide.

The amendment ensures that environmental justice protections remain grounded in real environmental conditions rather than relying solely on statistical classification.

CONCERN 3

“DIRECT COORDINATION WITH THE BRANDYWINE COMMUNITY CREATES A SPECIAL EXCEPTION.”

Legislative Response

The amendment reflects an existing civil-rights record, not a special exception.

The Brandywine community is the originating community in Maryland’s modern environmental justice compliance history. A 2016 Title VI civil-rights complaint led to a 2019 Informal Resolution Agreement requiring structured engagement with directly impacted residents.

The amendment simply ensures that the governance principle reflected in that record—direct engagement with affected residents—is carried forward in implementation of a classification-based environmental justice permitting framework.

The language does not prevent consultation with other organizations or experts. It ensures that intermediary consultation does not substitute for engagement with directly impacted residents.

This approach strengthens transparency, supports civil-rights compliance, and aligns with widely accepted environmental justice governance principles.

ADDITIONAL POLICY CONSIDERATION

The CHERISH Act introduces a powerful regulatory tool by linking environmental justice protections to percentile-based classification within the Maryland Environmental Justice Screening Tool.

Because the screening tool becomes the gateway to enhanced permit review, the statute should include safeguards that ensure:

- transparency in methodology
- regular review of scoring definitions
- protection against loss of safeguards due to recalibration
- meaningful participation by directly impacted residents

These guardrails ensure that the CHERISH Act functions as intended and remains durable over time.

BOTTOM LINE

The proposed amendments do not weaken the CHERISH Act. They ensure that Maryland’s environmental justice permitting framework:

- remains tied to documented environmental burden
- operates transparently and predictably
- aligns with federal civil-rights obligations
- preserves legislative intent

Durable environmental justice requires durable statutory design.

APPENDIX: BRANDYWINE

ENVIRONMENTAL JUSTICE CONTEXT

Brandywine, Maryland is the originating community in Maryland's modern environmental justice compliance history and provides essential context for the CHERISH Act and the amendments contained in this packet.

The community has experienced decades of concentrated industrial activity and cumulative burden, including fossil fuel generation, coal combustion residual storage, industrial clustering, and development pressure. Residents have documented environmental concerns involving groundwater contamination risk, air emissions, and cumulative exposure from multiple facilities.

As reflected in BTB's submitted legislative record, Brandywine's 2016 Title VI civil-rights complaint led to a 2019 Informal Resolution Agreement requiring direct engagement with affected residents in environmental decision-making. BTB's 2026 CHERISH hearing submission states that the 2019 agreement required structured engagement with directly impacted residents, and BTB's formal record letter states that the agreement required direct engagement and decision-making with affected residents in permitting and governance matters.

BTB's November 5, 2025, record correspondence further states that the 2019 Informal Resolution Agreement between MDE and the Brandywine community requires direct engagement and decision-making with affected residents, not consultation mediated through intermediary organizations. That governance principle is the basis for the direct-coordination amendment included in this packet.

This packet therefore treats Brandywine not as a symbolic stakeholder, but as the originating directly impacted community whose governance role should be reflected in implementation of any classification-based environmental justice permitting system.

Durable environmental justice requires durable statutory design and direct community governance where civil-rights obligations are implicated.

Record basis used in this packet: *BTB's 2026 CHERISH testimony and bill review materials describe the 2019 Informal Resolution Agreement as requiring direct engagement and decision-making with affected residents and record the position that BTB Coalition/ECCB is the originating community governance body. This packet translates that record into sponsor-ready proposed amendment language. If exact IRA wording is later obtained, the direct-coordination subsection can be tightened further.*

See attached Document for Reference:

13MAR26_HB1268_BrandywineHistory.pdf