



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 818

Environment – Permit Applications – Environmental Justice Screening

Date: February 24, 2022

Position: Support

To: Environment and Transportation Committee

From: Robin Clark, Maryland Staff Attorney

Chesapeake Bay Foundation (CBF) **SUPPORTS SB 818**. This bill requires applicants for permits from the Department of the Environment to include in the application the EJ Score from the Maryland EJ Screen mapping tool for the address where the applicant is seeking the permit. It also requires the Department determine the EJ Score of the address where the applicant is seeking a permit using the Maryland EJ Screen mapping tool.

Environmental Justice Considerations Should Be Incorporated into Agency Permitting Decisions

Everyone deserves clean water, clean air, and a safe environment. Environmental justice refers to the effort to ensure that vulnerable and marginalized communities, such as low-income and/or Black, Indigenous, and People of Color communities, aren't disproportionately harmed by pollution and the singular or cumulative impacts of environmental burdens. SB 818 rightfully injects environmental justice screening into state agencies' permitting processes. Clarifying that the screening must take place at an early stage in the permitting process and be shared with the public in advance of the public comment period on a permit is appropriate and could assist environmental justice advocates raising concerns regarding the impact of a permit, whether relating to a new energy generating facility, a residential, commercial or transportation development, or a changed agricultural operation. The Chesapeake Bay Foundation also appreciates that SB 818 references the Maryland-based EJ Screen tool which is more comprehensive and relevant for Maryland than the EPA's EJ screen tool.

Environmental Justice Is More Than Just a Check Mark

The Chesapeake Bay Foundation is concerned that the task of using Maryland's EJ screen could become a minimum bar for agency consideration of environmental justice. Use of a screening tool may be a good start to environmental justice considerations, but it does not represent the depth or breadth of environmental justice considerations. A screening tool may miss an area that is disproportionately affected by environmental harms if it happens to fall upon a dividing line for other data, such as just outside a particular census block. A Maryland EJ Screen Score does not capture the variables that should be considered when mitigating environmental harms, which may differ based on the type of other environmental threats the

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The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

area faces, the potential presented by the area's distinct geography, and, most importantly, the community's own priorities for pollution reduction and quality of life improvements.¹

On January 7, 2020, the U.S. Court of Appeals for the Fourth Circuit struck down a permit for a proposed natural gas compressor station. The State Air Pollution Control Board, they ruled, had not adequately considered the impact and health risks to the historic, predominantly African American community of Union Hill in Buckingham County, Virginia. In that case, the Air Pollution Control Board had received evidence from the Department of Environmental Quality that the minority population around the compressor state was less than 39% based on the U.S. Environmental Protection Agency's EJSCREEN tool.

"Environmental justice is not merely a box to be checked," Judge Stephanie Thacker wrote in the opinion. It was a huge win for the Friends of Buckingham, a community group that challenged the permit with representation by CBF and the Southern Environmental Law Center. It also put regulators on notice that meaningful consideration of environmental justice is not an option when deciding whether or not to issue permits to polluting facilities. It is the hope of the Chesapeake Bay Foundation that Maryland's EJ Screen, does not become the sole mode of accounting for environmental justice considerations. For those reasons, CBF supports SB 818 and suggests clarification that additional analysis must be undertaken to consider environmental justice.

CBF urges the Committee's FAVORABLE report on SB 818. For more information, please contact Robin Clark, Maryland Staff Attorney at rclark@cbf.org and 443.995.8753.

¹ [Environmental Justice, More Than Just A Check Mark](#), Chesapeake Bay Foundation and Friends Buckingham v. State Air Pollution Control Bd., No. 19-1152 (4th Cir. Jan. 7, 2020).