

Maurice M Sampson II, Eastern Pennsylvania Director, Clean Water Action
Testimony - HB 652 Permitting in Environmental Justice Communities
House Environmental Resources & Energy Committee
June 5, 2023

Good morning

On behalf of Clean Water Action and our over 80,000 statewide members, I would like to thank Chairman Rep Vitale and members of House Environmental Resources & Energy Committee for the opportunity to address you here today.

My name is Maurice Sampson and I am the Eastern Pennsylvania Director for Clean Water Action. Clean Water Action is a national non-profit environmental organization. Last year we celebrated our 50th anniversary of bringing issue expertise, solution-oriented thinking, and people power to the table in order to make further advancements to protect our environment, health, economic well-being, and community quality of life. Ending environmental injustices is an important aspect of all of these actions.

I am here today to express our support for HB652, legislation that will require a more transparent and open process before certain facilities are built or expanded within areas defined as “environmental justice communities.” This legislation would require those seeking permits to prepare an environmental impact statement, and would give the Pennsylvania Department of Environmental Protection the power to deny a permit application if it finds that the cumulative impacts of the facility on the community would be too great to justify its approval.

I appreciate the amending language clarifying the provisions of the legislation and adding a more comprehensive listing of covered facilities. I interpret the intent of this legislation to even the playing field for low income and politically challenged neighboring residents by valuing health over wealth in denying facility permits.

Ultimately, the effectiveness of the bill will be in how DEP implements the provision for cumulative impact. The “Decision by Department ” section provides the option to grant a permit despite a potentially alarming cumulative impact assessment if the applicant agrees to additional conditions or mitigating measures set by the Department.

The legislature and the public should pay close attention to how this is implemented, as the credibility of this legislation will be in question if, in practice, the conditions or measures do not alleviate the predicted impact. Under such circumstances and despite the financial consequences, will the facility be ordered to cease operation? Fines for noncompliance would be meaningless if the community suffers negative health impacts. Who, if anyone, would be liable and how long would the community continue to suffer?

We should expect drafting regulations based on the health of the immediate community will be a challenge for an agency whose decisions must consider financial impacts or the perceived need for a facility designed to serve the community at large.

In conclusion, HB 652 provision for facility permits based on cumulative impact is the legislative gold standard to advance environmental justice. It is a worthy effort to get it right.

The term environmental justice evolved from a 1988 study of demographics in the siting of landfills and hazardous waste facilities. The study found the incidence of the siting of such facilities in African American communities regardless of income was so prevalent it could be criteria for locating such facilities. The same study repeated in 2007 found the conditions had gotten worse. The Reverend Benjamin Chavis, Jr. of the United Church of Christ coined the term 'environmental justice' to describe the institutional racism demonstrated in siting those facilities.

That said no one should consider the legislation discussed today as being limited to black and brown people. Environmental law has been written to a standard based on cost and profitability. Environmental justice legislation reasons those standards consider the health of the surrounding community.

This standard called for in HB652 will make a difference to the black and brown residents of the Cities of Chester, Harrisburg, Pittsburgh, and the Philadelphia neighborhoods of Nicetown, Strawberry Mansion, and Eastwick. It will also apply to the decidedly white communities impacted by longwall mining in Green and Washington Counties, the coal mining and fracking fields in Northeastern Pennsylvania, and more than 200 miles of communities violated by the Mariner East Pipeline. Environmental justice is about health and equity and full recognition of Article 1 Section 27 of the Pennsylvania Constitution guaranteeing all Pennsylvania residents the right to clean air, pure water, and to the preservation of the natural, scenic, historic, and ethical values of the environment.

Thank you