

June 12, 2024

The Honorable Kendra Johnson  
Delaware House of Representatives  
411 Legislative Avenue  
Dover, DE 19901

Dear Representative Johnson:

The Delaware State Chamber of Commerce opposes House Bill 422 in its present form. The State Chamber and its members recognize the importance of community and stakeholder engagement in the permitting process and are committed to working with the communities in which they operate, live and work. The State Chamber also appreciates your willingness to engage with us on this important topic, so that we can jointly achieve progress in the most efficient and effective manner.

We have participated in comments on HB 248, which is a significant step in enhancing community engagement in the permitting process. As with all changes to permitting, there is a very real risk that new mechanisms and requirements may create delays and uncertainty – the result of which could be that projects and facilities choose locations other than Delaware. That of course, decreases the jobs and economic resources that can benefit the very communities that are the subject of the bill. We continue to urge caution to ensure that these reforms do not have unintended and unfortunate consequences.

HB 422 is arguably one of the most significant changes to Delaware's permitting process in the state's history and will impact many businesses seeking a permit for a new facility, expansion of an existing facility, or renewal of an existing permit, located in or near an overburdened community. HB 422 would require the permit applicant to provide an environmental justice impact report, assessing the cumulative impact on the community from all sources. It would also establish an "Environmental Justice Board" comprised primarily of persons within the impacted community, who would be tasked with reviewing the report and making recommendations to DNREC. Based on the recommendations, DNREC could impose additional conditions on the permit or deny the permit, even if the applicant meets all applicable permit criteria and operates in good faith. The broad nature of this proposal, the creation of a board solely comprised of environmental advocates, and the unbridled subjective authority it grants DNREC is deeply troublesome.

As drafted, we believe that the scope of the bill is overly broad, and it should be narrowed to apply only to communities, facilities and permits where there is a demonstrated risk of a cumulative impact that should be assessed. We believe that those communities can and should be identified based on the best available science, and that these evaluations are better done outside of the permitting process where all potential contributors can be evaluated. Otherwise, permit applicants are singled out to add impacts that may be from completely unrelated sources.

HB 422 is yet another proposal, within a series of many recently, aimed at the permitting process – all designed with similar objectives. But it's unclear how all of these proposals interact together, and many of them are still under development including HB 248, HB 249 and DNREC's Community Leader Guidance, among others. Consideration of this proposal in addition to those already under discussion threatens to depart from a sound science-based policy making to the frustration of the 60,000 licensed businesses across our state.

The Governor and General Assembly have made investments and significant improvements to the permitting process over the last several years, but more work must be done. We want to ensure Delaware is positioned to attract good paying jobs and opportunities in the future – including clean new jobs which will improve the environment and health of our communities. But this proposal runs contrary to that, could halt future investment, and may make Delaware a place where companies no longer want to invest or do business due to lengthy and overburdensome permitting requirements.

We agree with your goals which are to have a workable and efficient permitting system that facilitates meaningful and timely community engagement. But this is not the right solution. We kindly request that you hold off on moving forward with this proposal due to the significant impacts this bill will have on our state and hope to have a broader conversation with you and members of the General Assembly later this year – to sit down and talk about your concerns and hopefully come to a reasonable solution that recognizes the concerns of businesses while accomplishing your goals.

Thank you for the opportunity to share our concerns and we hope you and the General Assembly will take our feedback into consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Quaranta". The signature is fluid and cursive, with a large initial "M" and "Q".

Michael J. Quaranta  
President