

Chapter 411

(Senate Bill 474)

AN ACT concerning

**Certificate of Public Convenience and Necessity and Related Approvals –
Definition of Generating Station
(Critical Infrastructure Streamlining Act of 2024)**

FOR the purpose of altering and establishing the definition of “generating station” for the purpose of exempting the construction of certain generating facilities used to produce electricity for the purpose of onsite emergency backup and certain test and maintenance operations from the requirement to obtain a certificate of public convenience and necessity or certain other related approvals under certain circumstances; altering the distribution of income tax revenue from corporations that is attributable to certain data centers; and generally relating to generating stations.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 1–101(a) and 7–207(a)(1)
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

BY adding to
Article – Public Utilities
Section 1–101(h–1) and 7–207.3
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 1–101(h–1), 7–207(a)(4), 7–207.1(a), 7–207.2(a), and 7–208(a)
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–20B–05(a)
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–20B–05(e)
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY adding to

Article – Tax – General

Section 2-614.1

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 2-615

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Public Utilities

1-101.

(a) In this division the following words have the meanings indicated.

(H-1) (1) “CRITICAL INFRASTRUCTURE” MEANS ASSETS, SYSTEMS, AND NETWORKS, WHETHER PHYSICAL OR VIRTUAL, CONSIDERED BY THE U.S. DEPARTMENT OF HOMELAND SECURITY TO BE SO VITAL TO THE UNITED STATES THAT THEIR INCAPACITATION OR DESTRUCTION WOULD HAVE A DEBILITATING EFFECT ON ONE OR MORE OF THE FOLLOWING:

(I) SECURITY;

(II) NATIONAL ECONOMIC SECURITY;

(III) NATIONAL PUBLIC HEALTH; OR

(IV) SAFETY.

(2) “CRITICAL INFRASTRUCTURE” INCLUDES:

(I) A HOSPITAL OR HEALTH CARE FACILITY; AND

(II) A DATA CENTER AS DEFINED IN § 11-239 OF THE TAX – GENERAL ARTICLE.

[(h-1)] (H-2) “Cybersecurity” has the meaning stated in § 3.5-301 of the State Finance and Procurement Article.

7–207.

(a) (1) In this section the following words have the meanings indicated.

(4) “Generating station” does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;
2. has the capacity to produce not more than 2 megawatts of alternating current; and
3. is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service; [or]

(ii) a combination of two or more generating units or facilities that:

1. are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;
2. are located on the same property or adjacent properties;
3. have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and
4. for each individual generating unit or facility:
 - A. has the capacity to produce not more than 2 megawatts of alternating current;
 - B. is separately metered by the electric company; and
 - C. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(III) A GENERATING UNIT OR FACILITY THAT:

1. **IS USED FOR THE PRODUCTION OF ELECTRICITY FOR THE PURPOSE OF:**

A. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND

B. TEST AND MAINTENANCE OPERATIONS NECESSARY TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT OF A SERVICE INTERRUPTION FROM THE ELECTRIC COMPANY DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

2. IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

3. IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

4. IS INSTALLED AT A FACILITY THAT IS PART OF CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

(IV) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT SATISFY ITEM (III) OF THIS PARAGRAPH.

7-207.1.

(a) In this section, “generating station” does not include:

(1) a generating unit or facility that:

(i) is used for the production of electricity;

(ii) has the capacity to produce not more than 2 megawatts of alternating current; and

(iii) is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service; [or]

(2) a combination of two or more generating units or facilities that:

(i) are used for the production of electricity from a solar photovoltaic system or an eligible customer-generator that is subject to the provisions of § 7-306 of this title;

- (ii) are located on the same property or adjacent properties;
- (iii) have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and
- (iv) for each individual generating unit or facility:
 1. has the capacity to produce not more than 2 megawatts of alternating current;
 2. is separately metered by the electric company; and
 3. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(3) A GENERATING UNIT OR FACILITY THAT:

(I) IS USED FOR THE PRODUCTION OF ELECTRICITY FOR THE PURPOSE OF:

1. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND

2. TEST AND MAINTENANCE OPERATIONS NECESSARY TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT OF A SERVICE INTERRUPTION FROM THE ELECTRIC COMPANY DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

(II) IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

(III) IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

(IV) IS INSTALLED AT A FACILITY THAT IS PART OF CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

(4) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT SATISFY ITEM (3) OF THIS SUBSECTION.

7-207.2.

(a) In this section, “generating station” does not include:

(1) a generating unit or facility that:

(i) is used for the production of electricity;

(ii) has the capacity to produce not more than 2 megawatts of alternating current; and

(iii) is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service; [or]

(2) a combination of two or more generating units or facilities that:

(i) are used for the production of electricity from a solar photovoltaic system or an eligible customer-generator that is subject to the provisions of § 7-306 of this title;

(ii) are located on the same property or adjacent properties;

(iii) have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

(iv) for each individual generating unit or facility:

1. has the capacity to produce not more than 2 megawatts of alternating current;

2. is separately metered by the electric company; and

3. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(3) A GENERATING UNIT OR FACILITY THAT:

(1) IS USED FOR THE PRODUCTION OF ELECTRICITY FOR THE PURPOSE OF:

1. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND

2. TEST AND MAINTENANCE OPERATIONS NECESSARY TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT OF A SERVICE INTERRUPTION FROM THE ELECTRIC COMPANY DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

(II) IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

(III) IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

(IV) IS INSTALLED AT A FACILITY THAT IS PART OF CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

(4) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT SATISFY ITEM (3) OF THIS SUBSECTION.

7-207.3.

(A) (1) ON OR BEFORE DECEMBER 1, 2025, AND EACH DECEMBER 1 THEREAFTER, THE OWNER OR OPERATOR OF A GENERATING UNIT OR FACILITY SPECIFIED UNDER § 7-207(A)(4)(III) OF THIS SUBTITLE SHALL SUBMIT TO THE DEPARTMENT OF THE ENVIRONMENT A REPORT THAT INCLUDES:

(I) DATES ON WHICH THE GENERATING UNIT OR FACILITY WAS USED FOR THE PREVIOUS 12 MONTHS;

(II) THE LENGTH OF TIME THE GENERATING UNIT OR FACILITY WAS OPERATED FOR THE PREVIOUS 12 MONTHS; AND

(III) FOR EACH INSTANCE THAT THE GENERATING UNIT OR FACILITY WAS OPERATED OVER THE PREVIOUS 12 MONTHS, THE REASON THE GENERATING UNIT OR FACILITY WAS OPERATED.

(2) UNLESS THE DEPARTMENT OF THE ENVIRONMENT DETERMINES THAT THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION POSES A RISK TO CYBERSECURITY, NATIONAL SECURITY, OR THE SECURITY OF THE STATE, THE REPORT:

(I) SHALL BE MADE PUBLICLY AVAILABLE; AND

(II) MAY NOT BE REDACTED.

(B) ON OR BEFORE DECEMBER 1, 2025, AND EVERY 2 YEARS THEREAFTER, THE MARYLAND ENERGY ADMINISTRATION, IN CONSULTATION WITH THE DEPARTMENT OF COMMERCE AND INDUSTRY REPRESENTATIVES SELECTED BY THE DEPARTMENT OF COMMERCE, SHALL, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, SUBMIT A REPORT TO THE GENERAL ASSEMBLY DETAILING:

(1) ADVANCEMENTS IN BACKUP GENERATION TECHNOLOGIES;

(2) THE COMMERCIAL AVAILABILITY OF NEW BACKUP GENERATION TECHNOLOGIES THAT CAN BE PROCURED; AND

(3) THE AFFORDABILITY OF ADOPTING NEW BACKUP GENERATION TECHNOLOGIES.

7-208.

(a) (1) In this section the following words have the meanings indicated.

(2) “Construction” has the meaning stated in § 7-207 of this subtitle.

(3) “GENERATING STATION” DOES NOT INCLUDE:

(I) A GENERATING UNIT OR FACILITY THAT:

1. IS USED FOR THE PRODUCTION OF ELECTRICITY FOR THE PURPOSE OF:

A. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND

B. TEST AND MAINTENANCE OPERATIONS NECESSARY TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT OF AN INTERRUPTION OF SERVICE FROM THE ELECTRIC COMPANY DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

2. IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

3. IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

4. IS INSTALLED AT A FACILITY THAT IS PART OF CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

(II) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT SATISFY ITEM (I) OF THIS PARAGRAPH.

[(3)] (4) “Qualified offshore wind project” has the meaning stated in § 7-701 of this title.

[(4)] (5) “Qualified submerged renewable energy line” means:

(i) a line carrying electricity supply and connecting a qualified offshore wind project to the transmission system; and

(ii) a line in which the portions of the line crossing any submerged lands or any part of a beach erosion control district are buried or submerged.

Article – State Government

9-20B-05.

(a) There is a Maryland Strategic Energy Investment Fund.

(e) The Fund consists of:

(1) all of the proceeds from the sale of allowances under § 2-1002(g) of the Environment Article;

(2) money appropriated in the State budget to the Program;

(3) repayments and prepayments of principal and interest on loans made from the Fund;

(4) interest and investment earnings on the Fund;

(5) compliance fees paid under § 7-705 of the Public Utilities Article;

(6) money received from any public or private source for the benefit of the Fund; [and]

(7) money transferred from the Public Service Commission under § 7-207.2(c)(3) of the Public Utilities Article; AND

(8) MONEY DISTRIBUTED UNDER § 2-614.1 OF THE TAX – GENERAL ARTICLE.

Article – Tax – General

2-614.1.

(A) IN THIS SECTION, “QUALIFIED DATA CENTER” HAS THE MEANING STATED IN § 11-239 OF THIS ARTICLE.

(B) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-613, 2-613.1, AND 2-614 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE 15% OF THE REMAINING INCOME TAX REVENUE FROM CORPORATIONS THAT IS ATTRIBUTABLE TO QUALIFIED DATA CENTERS THAT ARE OPERATIONAL ON OR AFTER JANUARY 1, 2026, TO THE STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE.

2-615.

After making the distributions required under §§ 2-613, 2-613.1, [and] 2-614, AND 2-614.1 of this subtitle, the Comptroller shall distribute the remaining income tax revenue from corporations to the General Fund of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.

Approved by the Governor, May 9, 2024.