

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 50

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after “construct;” insert “clarifying that the Department of the Environment is prohibited from requiring a registration or permit for the construction of a generating station by any person required to obtain a certificate of public convenience and necessity; clarifying when an applicant for an operating permit issued by the Department must send a copy of the application to the Commission; clarifying when the Department must request the Commission to institute a hearing prior to issuing an operating permit;”; in line 12, after “necessity” insert “and the authority of the Department of the Environment to issue permits to construct and issue operating permits for generating stations”; and after line 12, insert:

“BY repealing and reenacting, with amendments,

Article - Environment

Section 2-402 and 2-405

Annotated Code of Maryland

(1996 Replacement Volume and 2000 Supplement)”.”

AMENDMENT NO. 2

On page 1, after line 19, insert:

“Article - Environment

2-402.

The Department may not require a permit or registration for:

- (1) Any machinery or equipment that normally is used in a mobile manner;

(Over)

(2) Any boiler used exclusively to operate steam engines for farm and domestic use;

(3) The construction of a generating station constructed by [an electric company] ANY PERSON REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER TITLE 2, SUBTITLE 7 OF THE PUBLIC UTILITY COMPANIES ARTICLE AND REGULATIONS ADOPTED BY THE PUBLIC SERVICE COMMISSION;

(4) Actual construction of buildings, apart from any possible emission producing machinery housed in the buildings;

(5) Any parking garage; or

(6) Any parking lot.

2-405.

(a) (1) Whenever the Public Service Commission notifies the Secretary of an application for a certificate of public convenience and necessity under § 7-207 of the Public Utility Companies Article, the Secretary shall prepare a recommendation in connection with the permit or registration required by this subtitle. The recommendation shall be presented at the hearing required by § 7-207 of the Public Utility Companies Article.

(2) The recommendation shall identify the requirements of all applicable federal and State environmental laws and standards and shall recommend and evaluate various methods and conditions for compliance.

(3) If [an electric company] A PERSON files an application for an operating permit UNDER THIS SUBTITLE simultaneously with an application for a certificate, the Department shall consolidate its procedures for the issuance of the operating permit with the Public Service Commission's proceedings for issuance of the certificate and shall issue the operating permit simultaneously with the certificate unless consolidation would be inconsistent with the procedures set forth in the federal Clean Air Act.

(4) The Department shall incorporate into the initial operating permit the conditions of the certificate which relate to air quality control.

(b) Subject to judicial review as provided under Title 3, Subtitle 2 of the Public Utility Companies Article, the decision of the Public Service Commission in connection with a certificate of public convenience and necessity or a filing under § 7-206 of the Public Utility Companies Article is binding on the Secretary.

(c) [Any electric company] WHEN A PERSON THAT IS REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY APPLIES [upon application] for an operating permit for a generating station under this subtitle, THE PERSON shall send a copy of the application, at the time of filing, to the Public Service Commission.

(d) The Department shall consolidate procedures for the issuance of the operating permit with procedures of the Public Service Commission for the approval of the installation of pollution control equipment or a change in the method of operation unless consolidation would be inconsistent with the procedures set forth in the federal Clean Air Act.

(e) (1) Before issuing an operating permit which requires the installation of pollution control equipment or a change in the method of operation of the generating station or unit TO ANY PERSON REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, the Secretary shall notify the applicant and the Public Service Commission and request that the Public Service Commission institute a hearing as required by § 7-206 of the Public Utility Companies Article.

(2) In addition to the notification, the Secretary shall file the record of the operating permit proceeding and the Department's reasons for requiring the installation of pollution control equipment or change in method of operation.

(f) (1) The Commission shall conduct the hearing required by subsection (e) of this section in the manner set forth in §§ 7-205 and 7-207 of the Public Utility Companies Article.

(2) The Department shall incorporate the Commission's order rendered in accordance with § 7-206 of the Public Utility Companies Article.

(g) Except as provided in subsection (h) of this section, the Secretary shall consult with the Public Service Commission concerning the impact of any operating permit, order or injunction on the supply and cost of electricity in this State before issuing any operating permit, issuing any order, or seeking any injunction under this subtitle that:

(1) Significantly impacts the supply of electricity from a generating station owned or operated by [an electric company] ANY PERSON REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; or

(2) Significantly affects the cost of electricity provided by [an electric company] ANY PERSON THAT IS REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(h) (1) The Secretary need not consult with the Commission before issuing an order or seeking an injunction if the Secretary concludes that the delay during consultation could harm public health or the environment.

(2) If the Secretary does not consult with the Commission before the issuance of the order or of the seeking of an injunction, the Secretary shall consult with the Commission as soon thereafter as practicable.

(i) The failure of the Department or the Public Service Commission to comply with this section is not a defense to an action against [an electric company] A PERSON to enforce, to obtain, or to punish for noncompliance with any permit, certificate, order, or injunction.

(j) The Secretary may adopt regulations to carry out the provisions of this section. The Secretary may not require a permit nor require the payment of a permit fee in violation of the federal Clean Air Act.”.

On page 4, in line 33, strike “for”; and strike beginning with “any” in line 34 down through “station” in line 35.

On page 5, in line 2, strike “October” and substitute “July”.