

(PRE-FILED)

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By: **Delegates Leopold, Cadden, and Rosso**  
Requested: August 24, 2000  
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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 7, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Electric Power Plants and Generating Stations - Approval Process -**  
3 **Modifications and Construction**

4 FOR the purpose of expanding the application of the Public Service Commission  
5 approval process for proposed modifications to electric power plants and  
6 generating stations to all persons seeking a modification; expanding the  
7 application of the Public Service Commission approval process for construction  
8 of a generating station and associated transmission lines to all persons seeking  
9 to construct a generating station; making conforming changes to provisions on  
10 the consideration and issuance of registrations and permits to construct  
11 facilities that may cause or control emissions into the air under the jurisdiction  
12 of the Department of the Environment; and generally relating to the  
13 modification of electric power plants and the modification and construction of  
14 generating stations and associated transmission lines.

15 BY repealing and reenacting, with amendments,  
16 Article - Environment  
17 Section 2-402 and 2-405  
18 Annotated Code of Maryland  
19 (1996 Replacement Volume and 2000 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article - Public Utility Companies  
22 Section 7-205(a)  
23 Annotated Code of Maryland  
24 (1998 Volume and 2000 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Article - Public Utility Companies  
3 Section 7-205(b), 7-206, and 7-208(a), (b), (c), and (h)  
4 Annotated Code of Maryland  
5 (1998 Volume and 2000 Supplement)

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

8 **Article - Environment**

9 2-402.

10 The Department may not require a permit or registration for:

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

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

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

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

22 (5) Any parking garage; or

23 (6) Any parking lot.

24 2-405.

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

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

34 (3) If [an electric company] A PERSON files an application for an  
35 operating permit UNDER THIS SUBTITLE simultaneously with an application for a

1 certificate, the Department shall consolidate its procedures for the issuance of the  
2 operating permit with the Public Service Commission's proceedings for issuance of the  
3 certificate and shall issue the operating permit simultaneously with the certificate  
4 unless consolidation would be inconsistent with the procedures set forth in the federal  
5 Clean Air Act.

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

8 (b) Subject to judicial review as provided under Title 3, Subtitle 2 of the Public  
9 Utility Companies Article, the decision of the Public Service Commission in  
10 connection with a certificate of public convenience and necessity or a filing under §  
11 7-206 of the Public Utility Companies Article is binding on the Secretary.

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

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

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

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

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

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

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

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

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

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

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

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

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

20   **Article - Public Utility Companies**

21 7-205.

22       (a)     (1)     In this section, "modification" means a physical alteration of,  
 23 replacement of, or other change to the facilities at a power plant, or a change in the  
 24 fuel used by the plant, that could result in a change of the air emissions from the  
 25 plant or from a generating unit of the plant.

26           (2)     "Modification" does not include:

27                   (i)     routine maintenance or repairs of the facilities of a power plant;  
 28 or

29                   (ii)    a change that would result in ambient air quality levels less  
 30 than or equal to the levels that were a basis for the issuance of a prior certificate of  
 31 public convenience and necessity under § 7-207 of this subtitle.

32       (b)     Subject to subsections (c) through (e) of this section, [an electric company]  
 33 A PERSON may not commence a modification without the prior approval of the  
 34 Commission under this title.

1 7-206.

2 (a) This section applies to the installation of pollution control equipment or a  
3 change in the method of operation at a generating station that [an electric company]  
4 A PERSON performs in order to comply with Phase II pollution control requirements of  
5 the federal Clean Air Act.

6 (b) [An electric company] A PERSON that performs an installation or change  
7 in operation under subsection (a) of this section shall obtain prior review and  
8 approval of the Commission in accordance with:

9 (1) §§ 7-203, 7-207, and 7-208 of this subtitle; and

10 (2) the procedures set forth in § 7-205 of this subtitle and § 2-405 of the  
11 Environment Article.

12 7-208.

13 (a) This section applies to [an electric company] ~~A PERSON~~ THE APPLICANT:

14 (1) constructing a generating station and its associated overhead  
15 transmission lines designed to carry a voltage in excess of 69,000 volts; or

16 (2) exercising the right of condemnation in connection with the  
17 construction.

18 (b) (1) To obtain the certificate of public convenience and necessity required  
19 under § 7-207 of this subtitle for construction under this section, [an electric  
20 company] A PERSON shall file an application with the Commission at least 2 years  
21 before construction of the facility will commence.

22 (2) The Commission may waive the 2-year requirement on a showing of  
23 good cause.

24 (c) [An electric company] ~~A PERSON~~ THE APPLICANT shall:

25 (1) include in an application under this section the information that the  
26 Commission requests initially; and

27 (2) furnish any additional information that the Commission requests  
28 subsequently.

29 (h) The grant of a certificate by the Commission to [an electric company] A  
30 PERSON under subsection (e) of this section constitutes:

31 (1) authority for the ~~company~~ PERSON to dredge and construct  
32 bulkheads in the waters or private wetlands of the State and to appropriate or use the  
33 waters; and

34 (2) registration OF AND A PERMIT TO CONSTRUCT for ~~the construction of~~  
35 any facility necessary to control emissions into the air resulting from the operation of

1 the generating station, as required under Title 2, Subtitle 4 of the Environment  
2 Article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 ~~October~~ July 1, 2001.