

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 190

(Chairman, Economic Matters Committee)
(By Request – Departmental – Environment)

Economic Matters

Education, Health, and Environmental Affairs and Finance

Electric Generating Stations - Approval Process for Modifications

This departmental bill requires the Public Service Commission (PSC) to determine whether a proposed modification to a power plant is exempt from construction permit requirements because the modification will not increase air emissions from the plant or any of its generating units.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: The bill's changes could be handled with existing budgeted resources. Failure to enact the bill could result in a significant decrease in federal transportation funds.

Local Effect: The bill is not anticipated to significantly affect local operations or finances.

Small Business Effect: The Maryland Department of the Environment (MDE) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: If the change would result in an increase in emissions, the change would be considered a “modification” that requires a modified or new certificate of public convenience and necessity (CPCN) from PSC. If not, the change would not be considered a “modification,” and the applicant could go forward with it.

Current Law/Background: According to MDE, this bill is necessary to ensure that Maryland’s power plant permitting program fully conforms to the federal Clean Air Act (CAA). In most, if not all states, the CAA permitting requirements are implemented by the states under state authority conforming to federal CAA requirements. In Maryland, MDE issues pre-construction permits for industrial and other sources of air pollution, but PSC is the State agency that issues air quality pre-construction permits for power plants through the CPCN process. The CPCN acts as the construction permit for a power plant in place of a permit from MDE.

The U.S. Environmental Protection Agency (EPA) has advised MDE and PSC that, in EPA’s view, State law does not clearly cover all modifications of power plants that are subject to the pre-construction permit requirements under the CAA. This bill is intended to ensure that only modifications that are not subject to the pre-construction permit requirements are exempt from the requirement for a CPCN from PSC. All power plants are still subject to operating permits issued by MDE, regardless of whether any modification is exempt from a requirement for a CPCN.

MDE advises that if the bill is not enacted, EPA could publish a formal directive to the State to cure the statutory deficiencies and the State Implementation Plan could be put at risk. EPA would then start a sanctions clock, and the State would have 18 months to adopt the necessary changes before sanctions apply. Sanctions could include an increased emissions offset ratio for industries, a conformity freeze on new transportation projects, or loss of federal highway funds. In addition, if the State fails to cure the deficiencies within 24 months, EPA would then be required to adopt a federal implementation plan in Maryland, which could result in dual permitting requirements for power plants in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Public Service Commission, Department of Natural Resources, Office of People's Counsel, Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2006
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