

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 563

(Senator Simonaire)

Education, Health, and Environmental Affairs

Environmental Matters

Environment and Public Utilities - Notice to Neighboring Jurisdictions of Applications

This bill requires the Maryland Department of the Environment (MDE) and the Public Service Commission (PSC), on receipt of specified applications, to ensure that notice is immediately provided to the governing body of each local government within one mile of the subject of the application, as well as each member of the General Assembly representing any part of a county located within one mile of the subject of the application. The bill's notice provisions apply to applications (1) to MDE for a specified ambient air quality control permit; (2) to MDE for a proposed incinerator for public use or landfill system; (3) to PSC for a certificate of public convenience and necessity (CPCN); (4) to PSC for construction of a generating station that meets specified criteria; and (5) to PSC for construction of a generating station and associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts, or to exercise the right of condemnation in connection with such construction.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances. It is assumed that MDE and PSC require applicants to conduct the required notifications.

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

Small Business Effect: Minimal.

Analysis

Current Law/Background:

MDE Notice for Specified Air Permits

MDE must issue a permit before an applicant may construct, modify, or replace components for a source of air pollution. Prior to permit issuance, MDE must comply with specified public participation requirements of Title 1 of the Environment Article, including holding a hearing in the county in which the source is to be located for (1) any source which is required to obtain a permit to operate under State air quality regulations; (2) any source subject to specified federal air quality standards; or (3) any source that, after control, discharges 25 tons or more per year of specified pollutants located in specified zip codes within Baltimore City. The requirements of the public participation subtitle also include that:

- notice has to be published at least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located;
- MDE may require notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing or to their authorized representatives;
- MDE may provide additional notice by requiring the notice to be posted at the proposed facility or at public facilities in the geographical area of the proposed facility; and
- MDE must electronically post notice of the application on its website with specified information, including how interested persons request additional notice.

For an applicant for a permit to construct a landfill system or incinerator for public use, in addition to the public participation requirements discussed above, the applicant must give notice of the application by certified mail to the following entities: (1) the board of county commissioners or the county council of any county and the chief executive of any county or municipal corporation that MDE determines may be affected, by certified mail; (2) the Department of Natural Resources (DNR), by certified mail; (3) each member of the General Assembly representing any part of a county in which the proposed facility is to be located, by certified mail; and (4) record owners of real property within 1,000 feet of the property line of the proposed facility. Additionally, the applicant must post a notice of the application, the informational meeting, and hearings in a conspicuous space on the site of the proposed incinerator for public use or landfill system.

Specified PSC Notice Requirements

On receipt of an application for a CPCN, PSC must provide notice to the Maryland Department of Planning (MDP) and all other interested persons. MDP must forward the application to each appropriate State and local unit of government for review, evaluation, and comment.

For an application to construct a generating station that meets specified criteria, PSC must, among other things, hold a public hearing jointly with the governing body of a county or municipal corporation in which any portion of the construction of a generating station is proposed to be located, on request of the governing body. Once in each of successive weeks immediately before the hearing date, PSC, at the expense of the applicant, must provide weekly notice of the public hearing and opportunity for public comment by advertisement in a newspaper of general circulation in the affected county or municipal corporation. For an application to construct a specified land-based wind energy system with a capacity of 70 megawatts or less of electricity, PSC must provide an opportunity for a public hearing and comment in each county and municipal corporation in which any portion of the construction is proposed to be located.

For an application to construct a generating station and associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts, or to exercise the right of condemnation in connection with such construction, PSC must provide notice of the application and any information submitted with the application to (1) all interested persons; (2) the Maryland Department of Agriculture; (3) the Department of Business and Economic Development; (4) MDE; (5) DNR; (6) the Maryland Department of Transportation; and (7) MDP. PSC must hold the public hearing on the application after the publication of notice PSC considers to be proper.

Licensing of Power Plants by PSC

The licensing of new electric power plants in the State is a comprehensive two-part process involving PSC and several other State agencies, *e.g.*, DNR and MDE. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State. If a generating station is granted an exemption from the CPCN requirement, PSC evaluation is limited to ensuring safety and reliability of the electric system. All issues other than safety and reliability of the electric system are left up to other State and local agencies.

A person may not begin construction in the State of a generating station or a qualified generator lead line unless a CPCN is first obtained from PSC. PSC regulations define a “generating station” as property or facilities located in Maryland constituting an integral plant or unit for the production of electric energy, including any new production unit that

would be added to an existing production plant. It does not include an integral plant or unit less than 373 kilowatts if it is installed with equipment that prevents the flow of electricity to the electric system during time periods when the electric system is out of service.

Additional Information

Prior Introductions: None.

Cross File: HB 554 (Delegate Schuh, *et al.*) - Environmental Matters.

Information Source(s): Montgomery County, Baltimore City, Town of Sykesville, Maryland Department of the Environment, Public Service Commission, University of Maryland Medical System, Department of Legislative Services

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