

Chapter 501

(House Bill 554)

AN ACT concerning

**Environment – ~~Permit Applications – Notice – Neighboring Jurisdictions~~ and
Public Utilities – Notice to Neighboring Jurisdictions of Applications**

FOR the purpose of requiring the Department of the Environment, on receipt of a certain permit application, to give notice immediately or require the applicant to give notice immediately of the application by certified mail to the governing bodies of certain counties and municipal corporations and to certain members of the General Assembly; requiring an applicant for a certain incinerator or landfill system to give notice by certified mail of the application, informational meeting, and hearings to the governing bodies of certain counties and municipal corporations and to certain members of the General Assembly; requiring the Public Service Commission, on receipt of an application for a certificate of public convenience and necessity to construct a certain generating station, overhead transmission line, or qualified generator lead line, to provide notice immediately or require the applicant to provide notice immediately of the application to the governing bodies of certain counties and municipal corporations and to certain members of the General Assembly; requiring the Commission, on receipt of a certain application for approval to construct a certain generating station, to provide notice immediately or require the applicant to provide notice immediately of the application to the governing bodies of certain counties and municipal corporations and to certain members of the General Assembly; exempting a certain notice requirement from a certain waiver authorization; requiring the Commission, on receipt of a certain application and certain additional information relating to the construction of a certain generating station and associated overhead transmission lines, to provide notice immediately or require the applicant to provide notice immediately to the governing bodies of certain counties and municipal corporations and to certain members of the General Assembly; and generally relating to notice requirements for ~~environmental permit~~ applications to the Department of the Environment and the Public Service Commission.

BY repealing and reenacting, without amendments,
 Article – Environment
 Section 1–602
 Annotated Code of Maryland
 (2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article – Environment

Section 2-404 and 9-209
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7-207(c), 7-207.1, and 7-208(d)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7-208(a) through (c)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

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

Article – Environment

1-602.

(a) Wherever this subtitle requires the Department to publish notice:

(1) Notice shall be published at least once a week for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located;

(2) The Department 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;

(3) The Department 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

(4) The applicant shall bear all costs incurred by the Department in providing notice.

(b) (1) In addition to the requirements set forth in subsection (a) of this section and notwithstanding any other requirements in this article, wherever this subtitle requires the Department to publish notice of an application for a permit, the Department shall:

(i) Electronically post the notice of an application for a permit on the Department's website; and

(ii) Provide a method for interested persons to electronically request any additional notices related to an application for a permit.

(2) The notice required under paragraph (1) of this subsection shall include:

(i) The name and address of the applicant;

(ii) A description of the location and the nature of the activity for which the permit has been sought;

(iii) A reference to the applicable statutes or regulations governing the application process;

(iv) The time and place of any scheduled informational meeting or public hearing, or a description of where this information can be found;

(v) A description of where further information about the permit application can be found; and

(vi) Any other information that the Department determines is necessary.

(c) The Department may require the applicant to publish and send the notices required in subsection (a) of this section.

2-404.

(a) This section applies to the following activities:

(1) Construction of a new source;

(2) Replacement of components of an existing permitted source, if the fixed capital cost of the replacement components exceeds one-half of the fixed capital cost that would be required to construct a new source comparable in process to the existing source; and

(3) Modification of an existing permitted source by making a physical or operational change to the source that will result in a significant net increase in emissions of any pollutant from that source.

(b) (1) Before accepting an application for a permit subject to subsection (c) of this section, the Department shall require the applicant to submit documentation:

(i) That demonstrates that the proposal has been approved by the local jurisdiction for all zoning and land use requirements; or

(ii) That the source meets all applicable zoning and land use requirements.

(2) Paragraph (1) of this subsection does not apply to any application for a permit to construct at an existing source unless the existing source is a nonconforming use.

(c) The Department shall comply with the provisions in subsection (d) of this section before issuing a permit for the activities listed in subsection (a) of this section at:

(1) Any source which is required to obtain a permit to operate under regulations adopted under this subtitle;

(2) Any source which is subject to federal standards under 40 C.F.R. Part 60 (New Source Performance Standards), 40 C.F.R. Part 61 (National Emission Standards for Hazardous Air Pollutants), or 40 C.F.R. 52.21 (Prevention of Significant Deterioration); or

(3) Any source that will, after control, discharge 25 tons or more per year of a pollutant regulated under this title in the areas of Baltimore City designated by the United States Post Office as zip code numbers 21225, 21226, and 21230.

(d) (1) ON RECEIPT OF AN APPLICATION FOR A PERMIT SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL GIVE NOTICE IMMEDIATELY OR REQUIRE THE APPLICANT TO GIVE NOTICE IMMEDIATELY OF THE APPLICATION BY CERTIFIED MAIL TO:

(I) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE SOURCE IS LOCATED OR IS PROPOSED TO BE LOCATED;

(II) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION WITHIN ONE MILE OF THE PROPERTY LINE OF THE SOURCE OR THE PROPOSED LOCATION OF THE SOURCE;

(III) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF A COUNTY IN WHICH ANY PORTION OF THE SOURCE IS LOCATED OR PROPOSED TO BE LOCATED; AND

(IV) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF EACH COUNTY WITHIN ONE MILE OF THE PROPERTY LINE OF THE SOURCE OR THE PROPOSED LOCATION OF THE SOURCE.

[(1)] (2) [Before] IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, BEFORE issuing a permit subject to subsection (c) of this section, the Department shall:

(i) Comply with the provisions of Title 1, Subtitle 6 of this article; and

(ii) Conduct any public hearing required by Title 1, Subtitle 6 of this article in the county in which the proposed source is located.

[(2)] (3) In addition to the requirements under **[paragraph (1)] PARAGRAPHS (1) AND (2)** of this subsection, before issuing a permit to construct a source described in subsection (c)(3) of this section, the Department shall require at the expense of the applicant the preparation of an ambient air quality impact analysis regarding the proposed construction.

(e) The provisions of this section do not apply to any permit to construct control equipment on an existing source or to any permit to operate.

9-209.

(a) The applicant shall give notice of the application, the informational meeting, and hearings:

(1) To the public in compliance with Title 1, Subtitle 6 of this article;

(2) **[To] BY CERTIFIED MAIL TO** the board of county commissioners or the county council of any county and the chief executive of any county or municipal corporation that the Department determines may be affected by the incinerator for public use or landfill system, **[by certified mail] INCLUDING ANY COUNTY OR MUNICIPAL CORPORATION WITHIN ONE MILE OF THE PROPERTY LINE OF THE PROPOSED INCINERATOR FOR PUBLIC USE OR LANDFILL SYSTEM;**

(3) To the Department of Natural Resources, by certified mail;

(4) **[To] BY CERTIFIED MAIL TO** each member of the General Assembly representing any part of **[a]**:

(I) A county in which the landfill system or incinerator FOR PUBLIC USE is located[, by certified mail]; OR

(II) A COUNTY WITHIN 1 MILE OF THE PROPERTY LINE OF THE PROPOSED LANDFILL SYSTEM OR INCINERATOR FOR PUBLIC USE;

(5) To record owners of real property within 1,000 feet of the property line of the proposed incinerator for public use or landfill system, by certified mail to the addresses of record owners as indicated in the records of the State Department of Assessments and Taxation; and

(6) By posting 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.

(b) The local officials notified under subsection (a)(2) of this section shall give notice of the application, the informational meeting, and hearings to all interested agencies of their respective jurisdictions.

(c) To the extent practicable, the Department and other units of the State government shall consolidate the informational meeting and hearings concerning permits for the same landfill system or incinerator for public use.

Article – Public Utilities

7-207.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice IMMEDIATELY OR REQUIRE THE APPLICANT TO PROVIDE NOTICE IMMEDIATELY OF THE APPLICATION to:

(I) the Department of Planning;

(II) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE IS PROPOSED TO BE CONSTRUCTED;

(III) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION WITHIN 1 MILE OF THE PROPOSED LOCATION OF THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE;

(IV) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF A COUNTY IN WHICH ANY PORTION OF THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE IS PROPOSED TO BE CONSTRUCTED;

(V) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF EACH COUNTY WITHIN 1 MILE OF THE PROPOSED LOCATION OF THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE; and [to]

(VI) all other interested persons.

(2) The Department of Planning shall forward the application to each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

7-207.1.

(a) This section applies to a person who:

(1) constructs a generating station:

(i) designed to provide on-site generated electricity if:

1. the capacity of the generating station does not exceed 70 megawatts; and

2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(ii) that produces electricity from wind if:

1. the generating station is land-based;
2. the capacity of the generating station does not exceed 70 megawatts;

3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company;

4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection [(e)] (F) of this section; and

5. the generating station's wind turbines are not located within a distance from the Patuxent River Naval Air Station that is determined by regulations adopted by the Commission in coordination with the Commander, Naval Air Warfare Center Aircraft Division, provided that the distance requirement under the regulation is:

A. not greater than is necessary to encompass an area in which utility scale wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station;

B. not greater than 46 miles, measured from location 38.29667N, 76.37668W; and

C. subject to modification if necessary to reflect changes in missions or technology at the Patuxent River Naval Air Station or changes in wind energy technology; or

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on-site.

(b) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (a) of this section.

(2) An application for approval under this section shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of compliance with all applicable requirements of the independent system operator; and

2. a copy of an interconnection, operation, and maintenance agreement between the generating station and the local electric company.

(C) ON RECEIPT OF AN APPLICATION FOR APPROVAL UNDER THIS SECTION, THE COMMISSION SHALL PROVIDE NOTICE IMMEDIATELY OR REQUIRE THE APPLICANT TO PROVIDE NOTICE IMMEDIATELY OF THE APPLICATION TO:

(1) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE GENERATING STATION IS PROPOSED TO BE CONSTRUCTED;

(2) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION WITHIN 1 MILE OF THE PROPOSED LOCATION OF THE GENERATING STATION;

(3) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF A COUNTY IN WHICH ANY PORTION OF THE GENERATING STATION IS PROPOSED TO BE CONSTRUCTED; AND

(4) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF EACH COUNTY WITHIN 1 MILE OF THE PROPOSED LOCATION OF THE GENERATING STATION.

[(c)] (D) When reviewing an application for approval under this section, the Commission shall:

(1) ensure the safety and reliability of the electric system;

(2) require the person constructing the generating station to notify the Commission 2 weeks before the first export of electricity from a generating station approved under this section; and

(3) conduct its review and approval in an expeditious manner.

[(d)] (E) [The] EXCEPT FOR THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE Commission may waive an element of the

approval process under this section if the Commission determines that the waiver is in the public interest.

~~[(e)] (F)~~ (1) The Commission shall provide an opportunity for public comment and hold a public hearing as provided under this subsection on an application for approval made under subsection (a)(1)(ii) of this section in each county and municipal corporation in which any portion of the construction of a generating station is proposed to be located.

(2) Upon the request of 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, the Commission shall hold the public hearing jointly with the governing body.

(3) Once in each of 2 successive weeks immediately before the hearing date, the Commission, at the expense of the applicant, shall provide weekly notice of the public hearing and opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

7-208.

(a) This section applies to any person:

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

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

(b) (1) To obtain the certificate of public convenience and necessity required under § 7-207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

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

(c) The applicant shall:

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

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

(d) (1) On the receipt of an application under this section, together with any additional information requested under subsection (c)(2) of this section, the Commission shall provide notice to:

- (i) all interested persons;
- (ii) the Department of Agriculture;
- (iii) the Department of Business and Economic Development;
- (iv) the Department of the Environment;
- (v) the Department of Natural Resources;
- (vi) the Department of Transportation; and
- (vii) the Department of Planning.

(2) ON RECEIPT OF AN APPLICATION UNDER THIS SECTION, AND WHENEVER ADDITIONAL INFORMATION IS RECEIVED UNDER SUBSECTION (C)(2) OF THIS SECTION, THE COMMISSION SHALL PROVIDE NOTICE IMMEDIATELY OR REQUIRE THE APPLICANT TO PROVIDE NOTICE IMMEDIATELY TO:

(I) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE GENERATING STATION OR THE ASSOCIATED OVERHEAD TRANSMISSION LINES IS PROPOSED TO BE CONSTRUCTED;

(II) THE GOVERNING BODY OF EACH COUNTY OR MUNICIPAL CORPORATION WITHIN 1 MILE OF THE PROPOSED LOCATION OF THE GENERATING STATION OR THE ASSOCIATED OVERHEAD TRANSMISSION LINES;

(III) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF A COUNTY IN WHICH ANY PORTION OF THE GENERATING STATION OR THE ASSOCIATED OVERHEAD TRANSMISSION LINES IS PROPOSED TO BE CONSTRUCTED; AND

(IV) EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF EACH COUNTY WITHIN 1 MILE OF THE PROPOSED LOCATION OF THE GENERATING STATION OR THE ASSOCIATED OVERHEAD TRANSMISSION LINES.

[(2)] (3) The Commission shall hold a public hearing on the application as required by § 7-207 of this subtitle, after:

(i) the receipt of any additional information requested under subsection (c)(2) of this section that the Commission considers necessary; and

(ii) any publication of notice the Commission considers to be proper.

[(3)] (4) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendation of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit's areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit's initial recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.