

# HOUSE BILL 1463

C5, M3, M4

4r3035  
CF SB 1020

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By: **Delegate Davis**

Introduced and read first time: February 19, 2014

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Solar Farms – Construction Requirements – Exemptions**

3 FOR the purpose of exempting a solar farm from the requirement to submit a grading  
4 and sediment control plan to obtain a permit for grading or construction;  
5 exempting a solar farm from the requirement to submit a forest stand  
6 delineation and forest conservation plan to obtain a permit for grading or  
7 construction; exempting a solar farm from the requirement to obtain a  
8 certificate of public convenience and necessity before constructing a generating  
9 station if the solar farm meets certain requirements; defining a certain term;  
10 making conforming changes; and generally relating to construction of solar  
11 farms.

12 BY renumbering

13 Article – Natural Resources

14 Section 5–1601(kk), (ll), (mm), (nn), (oo), and (pp), respectively

15 to be Section 5–1601(ll), (mm), (nn), (oo), (pp), and (qq), respectively

16 Annotated Code of Maryland

17 (2012 Replacement Volume and 2013 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Environment

20 Section 4–101.1(a) and 4–103(a)(1) and (2)

21 Annotated Code of Maryland

22 (2013 Replacement Volume)

23 BY adding to

24 Article – Environment

25 Section 4–101.1(d)

26 Annotated Code of Maryland

27 (2013 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,

2 Article – Environment

3 Section 4–101.1(d) and 4–102

4 Annotated Code of Maryland

5 (2013 Replacement Volume)

6 BY repealing and reenacting, without amendments,

7 Article – Natural Resources

8 Section 5–1601(a), 5–1602(a), 5–1604(a), and 5–1605(a)

9 Annotated Code of Maryland

10 (2012 Replacement Volume and 2013 Supplement)

11 BY adding to

12 Article – Natural Resources

13 Section 5–1601(kk)

14 Annotated Code of Maryland

15 (2012 Replacement Volume and 2013 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Natural Resources

18 Section 5–1602(b)(4)

19 Annotated Code of Maryland

20 (2012 Replacement Volume and 2013 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Public Utilities

23 Section 7–207(b)(1)(i) and (ii)

24 Annotated Code of Maryland

25 (2010 Replacement Volume and 2013 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Public Utilities

28 Section 7–207.1

29 Annotated Code of Maryland

30 (2010 Replacement Volume and 2013 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
32 MARYLAND, That Section(s) 5–1601(kk), (ll), (mm), (nn), (oo), and (pp), respectively,  
33 of Article – Natural Resources of the Annotated Code of Maryland be renumbered to  
34 be Section(s) 5–1601(ll), (mm), (nn), (oo), (pp), and (qq), respectively.

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
36 read as follows:

37 **Article – Environment**

38 4–101.1.

1 (a) In this title the following words have the meanings indicated.

2 (D) “SOLAR FARM” MEANS AN AREA OF LAND WHERE SOLAR  
3 PHOTOVOLTAIC SYSTEMS ARE INSTALLED ON AT LEAST 1 ACRE IN ORDER TO  
4 PROVIDE ELECTRICITY GENERATION.

5 [(d)] (E) “Waters of this State” includes:

6 (1) Both surface and underground waters within the boundaries of  
7 this State subject to its jurisdiction, including that part of the Atlantic Ocean within  
8 the boundaries of this State, the Chesapeake Bay and its tributaries, and all ponds,  
9 lakes, rivers, streams, storm drain systems, public ditches, tax ditches, and public  
10 drainage systems within this State, other than those designed and used to collect,  
11 convey, or dispose of sanitary sewage; and

12 (2) The flood plain of free-flowing waters determined by the  
13 Department of Natural Resources on the basis of the 100-year flood frequency.

14 4–102.

15 (A) The provisions of this subtitle do not apply to agricultural land  
16 management practices, construction of agricultural structures, SOLAR FARMS, or,  
17 except in Calvert County, to construction of single-family residences or their accessory  
18 buildings that disturb an area of less than one-half acre and occur on lots of two acres  
19 or more.

20 (B) Regardless of planning, zoning, or subdivision controls, a county or  
21 municipality may not issue a permit for grading or construction of any building, other  
22 than those matters exempted by the provisions of this section, unless the grading or  
23 construction conforms with plans approved as provided in this subtitle.

24 4–103.

25 (a) (1) A county or municipality may issue grading and building permits  
26 as provided by law.

27 (2) A grading or building permit may not be issued until the developer:

28 (i) Submits a grading and sediment control plan approved by:

29 1. The appropriate soil conservation district; or

30 2. A municipal corporation in Montgomery County that  
31 is designated under paragraph (4) of this subsection; and

1 (ii) Certifies that all land clearing, construction, and  
2 development will be done under the plan.

3 **Article – Natural Resources**

4 5–1601.

5 (a) In this subtitle the following words have the meanings indicated.

6 **(KK) “SOLAR FARM” MEANS AN AREA OF LAND WHERE SOLAR**  
7 **PHOTOVOLTAIC SYSTEMS ARE INSTALLED ON AT LEAST 1 ACRE IN ORDER TO**  
8 **PROVIDE ELECTRICITY GENERATION.**

9 5–1602.

10 (a) Except as provided in subsection (b) of this section, this subtitle shall  
11 apply to any public or private subdivision plan or application for a grading or sediment  
12 control permit by any person, including a unit of State or local government on areas  
13 40,000 square feet or greater.

14 (b) The provisions of this subtitle do not apply to:

15 (4) Any agricultural activity that does not result in a change in land  
16 use category, including agricultural support buildings, **SOLAR FARMS**, and other  
17 related structures built using accepted best management practices;

18 5–1604.

19 (a) Except as provided in subsection (b)(2) and (3) of this section, after  
20 December 31, 1992, or after the date on which a local program has been adopted under  
21 § 5–1603 of this subtitle, whichever occurs first, a person making application for  
22 subdivision or grading or sediment control permits on areas greater than 40,000  
23 square feet shall submit a forest stand delineation for the entire site prepared by a  
24 licensed forester, licensed landscape architect, or other qualified professionals that  
25 may be approved by the State or a local authority in the manner required by the  
26 approved program.

27 5–1605.

28 (a) Upon receipt of notice that the forest stand delineation is complete and  
29 correct, the applicant shall submit to the State or local authority a proposed forest  
30 conservation plan for the site.

31 **Article – Public Utilities**

32 7–207.

1 (b) (1) (i) Unless a certificate of public convenience and necessity for  
 2 the construction is first obtained from the Commission, a person may not begin  
 3 construction in the State of:

4 1. a generating station; or

5 2. a qualified generator lead line.

6 (ii) If a person obtains Commission approval for construction  
 7 under § 7–207.1 of this subtitle, the Commission shall exempt a person from the  
 8 requirement to obtain a certificate of public convenience and necessity under this  
 9 section.

10 7–207.1.

11 (A) IN THIS SECTION, “SOLAR FARM” MEANS AN AREA OF LAND WHERE  
 12 SOLAR PHOTOVOLTAIC SYSTEMS ARE INSTALLED ON AT LEAST 1 ACRE IN ORDER  
 13 TO PROVIDE ELECTRICITY GENERATION.

14 [(a)] (B) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 15 SUBSECTION, THIS section applies to a person who:

16 [(1)] (I) constructs a generating station:

17 [(i)] 1. designed to provide on–site generated electricity if:

18 [1.] A. the capacity of the generating station does not  
 19 exceed 70 megawatts; and

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

24 [(ii)] 2. that produces electricity from wind if:

25 [1.] A. the generating station is land–based;

26 [2.] B. the capacity of the generating station does not  
 27 exceed 70 megawatts;

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

1                   **[4.] D.**       the Commission provides an opportunity for  
2 public comment at a public hearing as provided in subsection **[(f)] (G)** of this section;  
3 and

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

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

12                   **[B.] II.**       not greater than 46 miles, measured from  
13 location 38.29667N, 76.37668W; and

14                   **[C.] III.**       subject to modification if necessary to reflect  
15 changes in missions or technology at the Patuxent River Naval Air Station or changes  
16 in wind energy technology; or

17                   **[(2)] (II)**   constructs a generating station if:

18                   **[(i)] 1.**       the capacity of the generating station does not exceed  
19 25 megawatts;

20                   **[(ii)] 2.**       the electricity that may be exported for sale from the  
21 generating station to the electric system is sold only on the wholesale market pursuant  
22 to an interconnection, operation, and maintenance agreement with the local electric  
23 company; and

24                   **[(iii)] 3.**       at least 10% of the electricity generated at the  
25 generating station each year is consumed on-site.

26                   **(2) THIS SECTION DOES NOT APPLY TO A SOLAR FARM WITH A**  
27 **GENERATING STATION IF:**

28                   **(I) THE GENERATING STATION DOES NOT PROVIDE ON-SITE**  
29 **GENERATED ELECTRICITY;**

30                   **(II) THE CAPACITY OF THE GENERATING STATION DOES NOT**  
31 **EXCEED 25 MEGAWATTS;**

32                   **(III) THE SOLAR FARM DOES NOT EXCEED 25 ACRES IN SIZE;**  
33 **AND**

1                   **(IV) THE ELECTRICITY THAT MAY BE EXPORTED FOR SALE**  
2 **FROM THE GENERATING STATION TO THE ELECTRIC SYSTEM IS SOLD ONLY ON**  
3 **THE WHOLESALE MARKET IN ACCORDANCE WITH AN INTERCONNECTION,**  
4 **OPERATION, AND MAINTENANCE AGREEMENT WITH THE LOCAL ELECTRIC**  
5 **COMPANY.**

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

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

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

13                           (ii)   be verified by oath or affirmation; and

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

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

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

21           **[(c)] (D)**   On receipt of an application for approval under this section, the  
22 Commission shall provide notice immediately or require the applicant to provide  
23 notice immediately of the application to:

24                           (1)   the governing body of each county or municipal corporation in  
25 which any portion of the generating station is proposed to be constructed;

26                           (2)   the governing body of each county or municipal corporation within  
27 1 mile of the proposed location of the generating station;

28                           (3)   each member of the General Assembly representing any part of a  
29 county in which any portion of the generating station is proposed to be constructed;  
30 and

31                           (4)   each member of the General Assembly representing any part of  
32 each county within 1 mile of the proposed location of the generating station.

1           **[(d)] (E)**     When reviewing an application for approval under this section, the  
2 Commission shall:

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

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

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

8           **[(e)] (F)**     Except for the notice required under subsection **[(c)](D)** of this  
9 section, the Commission may waive an element of the approval process under this  
10 section if the Commission determines that the waiver is in the public interest.

11           **[(f)] (G)**     (1)     The Commission shall provide an opportunity for public  
12 comment and hold a public hearing as provided under this subsection on an  
13 application for approval made under subsection **[(a)(1)(ii)](B)(1)(I)2** of this section in  
14 each county and municipal corporation in which any portion of the construction of a  
15 generating station is proposed to be located.

16                   (2)     Upon the request of the governing body of a county or municipal  
17 corporation in which any portion of the construction of a generating station is proposed  
18 to be located, the Commission shall hold the public hearing jointly with the governing  
19 body.

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

25           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2014.