

## Chapter 26

**(House Bill 777 of the 2021 Regular Session)**

AN ACT concerning

**Power Plant Research Program – Review of Application for Certificate of Public Convenience and Necessity – Alterations**

FOR the purpose of altering the circumstances under which the Public Service Commission must notify the Department of Natural Resources and the Department of the Environment about an application for a certificate of public convenience and necessity associated with power plant construction; altering the timeframe under which the Department of Natural Resources and the Department of the Environment must conduct a certain study and investigation; requiring the Department of Natural Resources to complete a certain report within a certain amount of time after the Commission deems an application complete; altering the timeframe under which the Secretary of Natural Resources and the Secretary of the Environment must submit certain information to the Commission; requiring that certain licensing conditions must be consistent with certain requirements but may not exceed the authority of the Department of the Environment; authorizing the Commission to waive certain deadlines under certain circumstances; repealing the requirement that the Secretary of Natural Resources and the Secretary of the Environment present certain recommendations to the Commission within a certain number of days after a certain hearing; making stylistic and conforming changes; and generally relating to the Power Plant Research Program and the review of applications for a certificate of public convenience and necessity.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 3–306  
Annotated Code of Maryland  
(2018 Replacement Volume and 2020 Supplement)

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

**Article – Natural Resources**

3–306.

(a) **(1)** Notwithstanding anything to the contrary in this article or the Public Utilities Article, on application to the Public Service Commission for a certificate of public convenience and necessity associated with power plant construction [involving, but not limited to, use or diversion of the waters of the State, or private wetlands], the Commission

shall notify immediately the Department of Natural Resources and the Department of the Environment of the application.

(2) The Commission shall supply the Department of Natural Resources and the Department of the Environment with any pertinent information available regarding the application.

(3) The Department of the Environment shall treat the application for a certificate of public convenience and necessity as an application for [appropriation]:

(I) **APPROPRIATION** or use of waters of the State under Title 5 of the Environment Article; and [as an application for a]

(II) A license for dredging and filling under Title 16 of the Environment Article.

(b) (1) [Within 60 days after the application for a certificate of public convenience and necessity has been filed with the Commission, the] **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 6 MONTHS AFTER THE COMMISSION DEEMS AN APPLICATION COMPLETE:**

(I) **THE** Secretary shall require the Department of Natural Resources to complete **AN INDEPENDENT ENVIRONMENTAL AND SOCIOECONOMIC PROJECT ASSESSMENT REPORT AND** any additional **REQUIRED** study and investigation concerning the application[.]; and [the]

(II) **THE** Secretary of the Environment shall require the Department of the Environment to study and investigate the necessity for dredging and filling at the proposed plant site and water appropriation or use. [The Secretary and the Secretary of the Environment jointly shall forward the results of the study and investigation, together with a recommendation that the certificate be granted, denied, or granted with any condition deemed necessary, to the chairman of the Commission.]

(2) (I) **IN ACCORDANCE WITH THE COMMISSION'S PROCEDURAL SCHEDULE FOR AN APPLICATION AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 6 MONTHS AFTER THE COMMISSION DEEMS AN APPLICATION COMPLETE, THE SECRETARY AND THE SECRETARY OF THE ENVIRONMENT JOINTLY SHALL SUBMIT TO THE COMMISSION:**

1. **THE RESULTS OF THE STUDIES, INVESTIGATIONS, AND REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION;**

**2. A RECOMMENDATION THAT THE CERTIFICATE SHOULD BE GRANTED OR DENIED AND THE FACTUAL BASIS FOR THE RECOMMENDATION; AND**

**3. SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, RECOMMENDED LICENSING CONDITIONS FOR THE CONSTRUCTION, OPERATION, OR DECOMMISSIONING OF THE PROPOSED FACILITY.**

**(II) 1. A LICENSING CONDITION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT RELATES TO WETLANDS, STORMWATER MANAGEMENT, OR EROSION AND SEDIMENT CONTROL MUST BE CONSISTENT WITH THE WETLAND, STORMWATER MANAGEMENT, AND EROSION AND SEDIMENT CONTROL REQUIREMENTS IN THE ENVIRONMENT ARTICLE.**

**2. A LICENSING CONDITION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT RELATES TO WETLANDS, STORMWATER MANAGEMENT, OR EROSION AND SEDIMENT CONTROL MAY NOT EXCEED THE AUTHORITY OF THE DEPARTMENT OF THE ENVIRONMENT.**

**(3) THE COMMISSION MAY WAIVE A DEADLINE UNDER THIS SECTION:**

**(I) FOR ~~UNDUE HARDSHIP~~ GOOD CAUSE; OR**

**(II) ON AGREEMENT OF THE PARTIES TO THE PROCEEDING.**

**(c) The [results and recommendations] SUBMISSIONS MADE TO THE COMMISSION UNDER SUBSECTION (B)(2) OF THIS SECTION shall be [open]:**

**(1) OPEN for public inspection; and [shall be presented]**

**(2) PRESENTED JOINTLY by the [Secretaries] SECRETARY AND THE SECRETARY OF THE ENVIRONMENT, or their designees, at the hearing HELD BY the Commission [holds as required by] IN ACCORDANCE WITH Title 7, Subtitle 2 of the Public Utilities Article. [Within 15 days from the conclusion of the hearing, and based on the evidence there presented, the Secretaries jointly shall present their final recommendation to the chairman of the Commission including, but not limited to, any specific conclusions as to any private wetlands involved and any specific conclusions as to any water use or restriction of water use involved.]**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.**

**Gubernatorial Veto Override, December 6, 2021.**