

(2) If the Secretary does not consult with the Commission before the issuance of the order or of the seeking of an injunction, the Secretary shall consult with the Commission as soon thereafter as practicable.

(i) The failure of the Department or the Public Service Commission to comply with this section is not a defense to an action against [an electric company] A PERSON to enforce, to obtain, or to punish for noncompliance with any permit, certificate, order, or injunction.

(i) The Secretary may adopt regulations to carry out the provisions of this section. The Secretary may not require a permit nor require the payment of a permit fee in violation of the federal Clean Air Act.

### Article - Public Utility Companies

7-205.

(a) (1) In this section, "modification" means a physical alteration of, replacement of, or other change to the facilities at a power plant, or a change in the fuel used by the plant, that could result in a change of the air emissions from the plant or from a generating unit of the plant.

(2) "Modification" does not include:

(i) routine maintenance or repairs of the facilities of a power plant;  
or

(ii) a change that would result in ambient air quality levels less than or equal to the levels that were a basis for the issuance of a prior certificate of public convenience and necessity under § 7-207 of this subtitle.

(b) Subject to subsections (c) through (e) of this section, [an electric company] A PERSON may not commence a modification without the prior approval of the Commission under this title.

(c) (1) Unless the Commission orders otherwise, an application for a modification to a power plant shall be filed with the Commission at least 180 days before the date on which the modification is to commence.

(2) The applicant for the modification shall submit to the Commission and to the Department of the Environment all information relating to the modification, including:

(i) detailed plans and specifications; and

(ii) the impact of the modification on air quality.

(d) The Commission shall render its decision within 150 days after the day the application is filed.

(e) Notwithstanding the provisions of this section, a modification to a power plant that involves the short-term inability to obtain the type of fuel normally used by the plant is subject to Title 2, Subtitle 5 of the Environment Article.