

# HOUSE BILL 1466

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By: **Chair, Economic Matters Committee (By Request - Departmental - Environment)**

Introduced and read first time: February 15, 2008

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Coal Combustion By-Products - Fees**

3 FOR the purpose of authorizing the Department of the Environment to establish a  
4 fund for the management of coal combustion by-products; providing that the  
5 fund is a special, continuing, nonlapsing fund; authorizing the Department to  
6 establish and collect a certain fee; requiring the Department to consider certain  
7 factors in establishing a fee; requiring the fee to be paid into the fund at a  
8 certain time; requiring the Department to use the fund for certain purposes;  
9 requiring the Department annually to submit a certain report; requiring the  
10 Department to adopt certain regulations; defining certain terms; and generally  
11 relating to coal combustion by-products.

12 BY adding to

13 Article - Environment

14 Section 9-281 through 9-286, to be under the new part "Part VII. Coal  
15 Combustion By-Products Management Fund"

16 Annotated Code of Maryland

17 (2007 Replacement Volume and 2007 Supplement)

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

20 **Article - Environment**

21 **9-279. RESERVED.**

22 **9-280. RESERVED.**

23 **PART VII. STATE COAL COMBUSTION BY-PRODUCTS MANAGEMENT FUND.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **9-281.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (B) (1) "COAL COMBUSTION BY-PRODUCTS" MEANS THE RESIDUE  
5 GENERATED BY OR RESULTING FROM THE BURNING OF COAL.

6 (2) "COAL COMBUSTION BY-PRODUCTS" INCLUDES FLY ASH,  
7 BOTTOM ASH, BOILER SLAG, POZZOLAN, AND OTHER SOLID RESIDUALS  
8 REMOVED BY AIR POLLUTION CONTROL DEVICES FROM THE FLUE GAS AND  
9 COMBUSTION CHAMBERS OF COAL-BURNING FURNACES AND BOILERS,  
10 INCLUDING FLUE GAS DESULFURIZATION SLUDGE AND OTHER SOLID  
11 RESIDUALS RECOVERED FROM FLUE GAS BY WET OR DRY METHODS.

12 (C) "FUND" MEANS THE STATE COAL COMBUSTION BY-PRODUCTS  
13 MANAGEMENT FUND.

14 (D) (1) "GENERATOR" MEANS A PERSON WHOSE OPERATIONS,  
15 ACTIVITIES, PROCESSES, OR ACTIONS CREATE COAL COMBUSTION  
16 BY-PRODUCTS.

17 (2) "GENERATOR" DOES NOT INCLUDE A PERSON WHO ONLY  
18 GENERATES COAL COMBUSTION BY-PRODUCTS BY BURNING COAL AT A PRIVATE  
19 RESIDENCE.

20 **9-282.**

21 (A) THERE IS A STATE COAL COMBUSTION BY-PRODUCTS  
22 MANAGEMENT FUND.

23 (B) THE FUND SHALL CONSIST OF:

24 (1) FEES COLLECTED BY THE DEPARTMENT UNDER § 9-283 OF  
25 THIS TITLE;

26 (2) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR  
27 DEPOSIT TO THE FUND; AND

28 (3) ANY ADDITIONAL MONEYS MADE AVAILABLE FROM ANY  
29 SOURCES, PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE FUND HAS  
30 BEEN ESTABLISHED.

1           (C) THE FUND IS A SPECIAL, CONTINUING, NONLAPSING FUND WHICH  
2 IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT  
3 ARTICLE, AND NOTWITHSTANDING ANY LAW TO THE CONTRARY, UNUSED  
4 MONEYS IN THE FUND MAY NOT REVERT TO THE GENERAL FUND.

5           (D) THE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE  
6 DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS PART VII AND  
7 ANY REGULATIONS THE DEPARTMENT ADOPTS IN ACCORDANCE WITH THIS  
8 PART VII.

9 **9-283.**

10           (A) BY REGULATION, THE DEPARTMENT MAY ESTABLISH, IMPOSE, AND  
11 COLLECT A FEE TO BE PAID BY A GENERATOR OF COAL COMBUSTION  
12 BY-PRODUCTS, BASED ON A PER TON RATE OF COAL COMBUSTION  
13 BY-PRODUCTS GENERATED BY THE GENERATOR ANNUALLY.

14           (B) BY REGULATION, THE DEPARTMENT MAY ESTABLISH AND IMPOSE A  
15 FEE IN A SINGLE AMOUNT, OR IN A RANGE OF AMOUNTS, NECESSARY TO  
16 OPERATE A REGULATORY PROGRAM TO CONTROL THE PROPER DISPOSAL OF  
17 COAL COMBUSTION BY-PRODUCTS, BASED ON THE FACTORS LISTED IN  
18 SUBSECTION (C) OF THIS SECTION.

19           (C) IN ESTABLISHING A FEE, OR A RANGE OF FEES, UNDER THIS  
20 SECTION, THE DEPARTMENT SHALL GIVE CONSIDERATION TO THE FOLLOWING  
21 FACTORS:

22                   (1) THE TYPE AND VOLUME OF COAL COMBUSTION BY-PRODUCTS  
23 GENERATED BY THE GENERATOR;

24                   (2) WHETHER THE GENERATOR USES OR DISPOSES OF, OR  
25 INTENDS TO USE OR DISPOSE OF, THE COAL COMBUSTION BY-PRODUCTS;

26                   (3) THE DIFFERENT TYPES OF USES OR PROPOSED USES OF THE  
27 COAL COMBUSTION BY-PRODUCTS AND WHETHER SUCH USES ARE CONSIDERED  
28 BENEFICIAL USES, AS DETERMINED BY THE DEPARTMENT; AND

29                   (4) SUCH OTHER FACTORS AS THE DEPARTMENT MAY  
30 DETERMINE.

31           (B) A GENERATOR SHALL PAY THE FEE REQUIRED BY THIS SECTION TO  
32 THE DEPARTMENT ANNUALLY AT THE TIME THE GENERATOR SUBMITS TO THE  
33 DEPARTMENT THE ANNUAL REPORT ON ITS GENERATION OF COAL

1 COMBUSTION BY-PRODUCTS, AS REQUIRED BY REGULATIONS OF THE  
2 DEPARTMENT.

3 (C) THE FEES COLLECTED BY THE DEPARTMENT UNDER THIS SECTION  
4 SHALL BE DEPOSITED INTO THE FUND AND USED IN ACCORDANCE WITH § 9-284  
5 OF THIS SUBTITLE.

6 **9-284.**

7 (A) THE DEPARTMENT SHALL USE MONEYS IN THE FUND:

8 (1) TO ADMINISTER AND MANAGE DEPARTMENT PROGRAMS  
9 RELATED TO THE DISPOSAL, USE, BENEFICIAL USE, RECYCLING, PROCESSING,  
10 HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT OF COAL COMBUSTION  
11 BY-PRODUCTS;

12 (2) TO FUND ALL COSTS INCURRED BY THE STATE FOR  
13 REVIEWING, INSPECTING, AND EVALUATING MONITORING DATA, APPLICATIONS,  
14 LICENSES, PERMITS, UTILIZATION REQUESTS, PLANS, ANALYSES, AND REPORTS,  
15 AND FOR ASSOCIATED ADMINISTRATIVE COSTS RELATED TO THE DISPOSAL,  
16 USE, BENEFICIAL USE, RECYCLING, PROCESSING, HANDLING, STORAGE,  
17 TRANSPORT, OR MANAGEMENT OF COAL COMBUSTION BY-PRODUCTS;

18 (3) FOR SITE ASSESSMENTS, INVESTIGATIONS, RESEARCH AND  
19 REMEDIAL ACTIVITIES RELATED TO THE DISPOSAL, USE, BENEFICIAL USE,  
20 RECYCLING, PROCESSING, HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT  
21 OF COAL COMBUSTION BY-PRODUCTS; AND

22 (4) TO DEVELOP, PROPOSE, OR IMPLEMENT REGULATIONS,  
23 PROGRAMS, OR INITIATIVES TO ADDRESS RISKS TO HUMAN HEALTH AND THE  
24 ENVIRONMENT RELATED TO THE DISPOSAL, USE, BENEFICIAL USE, RECYCLING,  
25 PROCESSING, HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT OF COAL  
26 COMBUSTION BY-PRODUCTS.

27 **9-285.**

28 BEGINNING NOVEMBER 1, 2008, THE DEPARTMENT SHALL ANNUALLY  
29 REPORT TO THE GENERAL ASSEMBLY, SUBJECT TO § 2-1246 OF THE STATE  
30 GOVERNMENT ARTICLE, ON THE STATUS OF THE FUND AND ON THE REVENUES  
31 TO AND EXPENDITURES FROM THE FUND.

32 **9-286.**

33 THE DEPARTMENT SHALL ADOPT REGULATIONS:

1                   **(1) TO CARRY OUT THIS SUBTITLE, INCLUDING REGULATIONS**  
2 **SETTING THE FEE UNDER § 9-283 OF THIS SUBTITLE;**

3                   **(2) ESTABLISHING PROCEDURES FOR IMPOSING AND**  
4 **COLLECTING THE FEE; AND**

5                   **(3) GENERALLY RELATING TO THE MANAGEMENT AND**  
6 **ADMINISTRATION OF THE FUND IN ACCORDANCE WITH THIS SUBTITLE.**

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 July 1, 2008.