

# 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

Re-referred to: Economic Matters, February 25, 2008

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 28, 2008

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## CHAPTER \_\_\_\_\_

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **9-279. RESERVED.**

2 **9-280. RESERVED.**

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

4 **9-281.**

5 (A) IN THIS ~~SUBTITLE~~ PART THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

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

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

15 (C) "FUND" MEANS THE STATE COAL COMBUSTION BY-PRODUCTS  
16 MANAGEMENT FUND.

17 (D) (1) "GENERATOR" MEANS A PERSON WHOSE OPERATIONS,  
18 ACTIVITIES, PROCESSES, OR ACTIONS CREATE COAL COMBUSTION  
19 BY-PRODUCTS.

20 (2) "GENERATOR" DOES NOT INCLUDE A PERSON WHO ONLY  
21 GENERATES COAL COMBUSTION BY-PRODUCTS BY BURNING COAL AT A PRIVATE  
22 RESIDENCE.

23 **9-282.**

24 (A) THERE IS A STATE COAL COMBUSTION BY-PRODUCTS  
25 MANAGEMENT FUND.

26 (B) THE FUND SHALL CONSIST OF:

27 (1) FEES COLLECTED BY THE DEPARTMENT UNDER § 9-283 OF  
28 THIS ~~TITLE~~ SUBTITLE;

29 (2) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR  
30 DEPOSIT TO THE FUND; AND

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

4           (C) (1) THE FUND IS A SPECIAL, CONTINUING, NONLAPSING FUND  
5 WHICH IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND  
6 PROCUREMENT ARTICLE, ~~AND NOTWITHSTANDING.~~

7           (2) NOTWITHSTANDING ANY LAW TO THE CONTRARY, UNUSED  
8 MONEYS IN THE FUND MAY NOT REVERT TO THE GENERAL FUND.

9           (D) THE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE  
10 DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS PART VII AND  
11 ANY REGULATIONS THE DEPARTMENT ADOPTS IN ACCORDANCE WITH THIS  
12 PART VII.

13 **9-283.**

14           (A) BY REGULATION, THE DEPARTMENT MAY ESTABLISH, IMPOSE, AND  
15 COLLECT A FEE TO BE PAID BY A GENERATOR OF COAL COMBUSTION  
16 BY-PRODUCTS, BASED ON A PER TON RATE OF COAL COMBUSTION  
17 BY-PRODUCTS GENERATED BY THE GENERATOR ~~ANNUALLY~~ EACH YEAR.

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

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

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

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

30           (3) THE DIFFERENT TYPES OF USES OR PROPOSED USES OF THE  
31 COAL COMBUSTION BY-PRODUCTS AND WHETHER ~~SUCH~~ THE USES ARE  
32 CONSIDERED BENEFICIAL USES, AS DETERMINED BY THE DEPARTMENT; AND

33           (4) ~~SUCH~~ ANY OTHER FACTORS AS THE DEPARTMENT MAY  
34 DETERMINE.

1           **(D) THE DEPARTMENT MAY NOT ESTABLISH OR IMPOSE A FEE ON COAL**  
2 **COMBUSTION BY-PRODUCTS THAT ARE:**

3           **(1) BENEFICIALLY USED, INCLUDING THOSE USED IN COAL MINE**  
4 **RECLAMATION, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE**  
5 **DEPARTMENT; OR**

6           **(2) DISPOSED OF OUTSIDE OF THE STATE.**

7           ~~(B)~~ **(E) A GENERATOR SHALL PAY THE FEE REQUIRED BY THIS**  
8 **SECTION TO THE DEPARTMENT ANNUALLY EACH YEAR AT THE TIME THE**  
9 **GENERATOR SUBMITS TO THE DEPARTMENT THE ANNUAL REPORT ON ITS**  
10 **GENERATION OF COAL COMBUSTION BY-PRODUCTS, AS REQUIRED BY**  
11 **REGULATIONS OF THE DEPARTMENT.**

12           ~~(C)~~ **(F) THE FEES COLLECTED BY THE DEPARTMENT UNDER THIS**  
13 **SECTION SHALL BE DEPOSITED INTO THE FUND AND USED IN ACCORDANCE**  
14 **WITH § 9-284 OF THIS SUBTITLE.**

15           **(G) IF THE FEE SCHEDULE ESTABLISHED BY THE DEPARTMENT**  
16 **EXCEEDS THE AMOUNT NECESSARY TO OPERATE A REGULATORY PROGRAM TO**  
17 **CONTROL THE MANAGEMENT OF COAL COMBUSTION BY-PRODUCTS, THE**  
18 **DEPARTMENT SHALL REDUCE THE FEE SCHEDULE ACCORDINGLY.**

19 **9-284.**

20           **(A) THE DEPARTMENT SHALL USE MONEYS IN THE FUND:**

21           **(1) TO ADMINISTER AND MANAGE DEPARTMENT PROGRAMS**  
22 **RELATED TO THE DISPOSAL, USE, BENEFICIAL USE, RECYCLING, PROCESSING,**  
23 **HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT OF COAL COMBUSTION**  
24 **BY-PRODUCTS;**

25           **(2) TO FUND ALL COSTS INCURRED BY THE STATE FOR**  
26 **REVIEWING, INSPECTING, AND EVALUATING MONITORING DATA, APPLICATIONS,**  
27 **LICENSES, PERMITS, UTILIZATION REQUESTS, PLANS, ANALYSES, AND REPORTS,**  
28 **AND FOR ASSOCIATED ADMINISTRATIVE COSTS RELATED TO THE DISPOSAL,**  
29 **USE, BENEFICIAL USE, RECYCLING, PROCESSING, HANDLING, STORAGE,**  
30 **TRANSPORT, OR MANAGEMENT OF COAL COMBUSTION BY-PRODUCTS;**

31           **(3) FOR SITE ASSESSMENTS, INVESTIGATIONS, RESEARCH AND**  
32 **REMEDIAL ACTIVITIES RELATED TO THE DISPOSAL, USE, BENEFICIAL USE,**  
33 **RECYCLING, PROCESSING, HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT**  
34 **OF COAL COMBUSTION BY-PRODUCTS; AND**

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

6 **9-285.**

7           BEGINNING NOVEMBER 1, 2008, THE DEPARTMENT SHALL ~~ANNUALLY~~  
8 REPORT EACH YEAR TO THE GENERAL ASSEMBLY, ~~SUBJECT TO~~ IN ACCORDANCE  
9 WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON ~~THE STATUS OF THE~~  
10 ~~FUND AND ON THE REVENUES TO AND EXPENDITURES FROM THE FUND:~~

11           (1) THE STATUS OF THE FUND;

12           (2) REVENUES OF AND EXPENDITURES FROM THE FUND;

13           (3) THE EFFICIENCY OF THE REGULATORY PROGRAM UNDER  
14 THIS PART;

15           (4) COMPLIANCE RATES WITHIN THE REGULATORY PROGRAM  
16 UNDER THIS PART; AND

17           (5) BASED ON THE FACTORS LISTED IN ITEMS (1) THROUGH (4)  
18 OF THIS SECTION, THE NECESSITY TO ADJUST THE FEE IN ACCORDANCE WITH §  
19 9-248(G) OF THIS SUBTITLE.

20 **9-286.**

21           THE DEPARTMENT SHALL ADOPT REGULATIONS:

22           (1) TO CARRY OUT THIS ~~SUBTITLE~~ PART, INCLUDING  
23 REGULATIONS SETTING THE FEE UNDER § 9-283 OF THIS SUBTITLE;

24           (2) ESTABLISHING PROCEDURES FOR IMPOSING AND  
25 COLLECTING THE FEE; AND

26           (3) GENERALLY RELATING TO THE MANAGEMENT AND  
27 ADMINISTRATION OF THE FUND IN ACCORDANCE WITH THIS ~~SUBTITLE~~ PART.

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