

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 451 (Delegate Beitzel)
 Environmental Matters

Garrett County - Coal Combustion By-Products - Storage

This bill authorizes Garrett County to store coal combustion by-products (CCBs) used as a traction aid in winter driving conditions in the same locations and manner as CCBs were stored on January 1, 2013, despite specified existing regulations.

The bill takes effect June 1, 2013.

Fiscal Summary

State Effect: Special fund expenditures from the Coal Combustion By-Products Management Fund increase by \$23,200 in FY 2014 for the Maryland Department of the Environment (MDE) to conduct additional inspection and groundwater monitoring and sampling in Garrett County; this assumes that MDE begins the additional inspection and sampling activities on July 1, 2013. Future year expenditures reflect inflation. Revenues are not affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	23,200	23,500	23,700	23,900	24,200
Net Effect	(\$23,200)	(\$23,500)	(\$23,700)	(\$23,900)	(\$24,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local expenditures decrease significantly in Garrett County as the county no longer needs to procure means of storage for CCBs used for winter application on highways that it otherwise must procure to meet existing regulatory requirements.

Small Business Effect: Minimal.

Analysis

Current Law/Background: The bill specifies that the bill's authorization applies notwithstanding the requirements of regulation 26.04.10.05 of the Code of Maryland Regulations (COMAR). This regulation governs the storage of CCBs, including the prohibition on storing CCBs directly on the ground or in an unlined surface impoundment, pit, pond, or lagoon without authorization from MDE. This regulation is one of several comprising a new chapter in Title 26 of COMAR that became effective on December 1, 2008, to regulate the handling of CCBs. These regulations are comprehensive, imposing new requirements pertaining to the disposal of CCBs and their use in mine reclamation. Under the regulations, disposal facilities need to meet all of the same standards required for industrial solid waste landfills, such as leachate collection, groundwater monitoring, the use of liners, and routine analysis of CCBs.

While the regulations were not immediately enforced due to a lack of funding, Chapter 480 of 2009 (HB 1556) established a Coal Combustion By-Products Management Fund comprising fees collected by MDE on each ton of CCBs generated. In fiscal 2012, \$906,638 in fees were collected by MDE, which was slightly more than the \$904,001 expended to support the State's CCB regulatory activities, which includes scientific, engineering, and other technical staff. The fee is adjusted annually to ensure that fee revenues approximate the cost of regulatory activities.

Garrett County was recently issued a citation by MDE for storing fly ash in three piles covered by gravel, which the county believes is sufficient to prevent the fly ash from exposure to wind, but which is not in compliance with the CCB regulations. The fly ash was being kept for use on highways as a relatively inexpensive traction aid for winter driving. According to MDE, proper storage of fly ash could include locating the piles within salt domes or other similar structures or covering the piles with a tarp. MDE advises that a gravel cover erodes under rain and wind and allows CCBs to wash into streams.

Generally, CCBs are noncombustible materials generated from burning coal. Current law defines a CCB as the residue generated by or resulting from the burning of coal and includes fly ash, bottom ash, boiler slag, pozzolan, and solid residuals removed by air pollution control devices from the flue gas and combustion chambers of coal-burning furnaces and boilers.

In 2010, approximately 1.8 million tons of CCBs were generated in Maryland, primarily from eight power plants. This amount has grown in recent years as a result of new environmental controls being installed at power plants to collect CCBs from the combustion process.

CCBs are currently either disposed of or beneficially used. According to MDE, uses of coal ash include mine reclamation, structural fill applications, or as a substitute for cement in the production of concrete. According to a 2012 report by the Department of Natural Resources, in 2010, 582,417 tons of CCBs were placed in five major disposal sites, while about 66% of CCBs were used in 10 major beneficial use projects in Maryland.

Under certain geologic conditions, certain types of coal ash can produce high concentrations of potentially toxic constituents (such as arsenic, boron, cadmium, iron, lead, manganese, selenium, sulfate, and thallium) in soil that may leach into surface or groundwater. According to a 2007 report by the U.S. Environmental Protection Agency, groundwater contaminated with CCB waste poses a cancer risk. In addition, without proper controls, MDE reports that coal ash released into the air in large quantities can create a public nuisance and/or cause respiratory problems.

State Expenditures: If the storage of CCBs used as a traction aid in winter driving conditions in Garrett County is exempt from existing State regulation, MDE special fund expenditures increase by \$23,220 in fiscal 2014 for existing staff to conduct bimonthly groundwater and stream sampling around the sites of the CCB piles to monitor any potential pollution of surrounding water bodies.

Contractual Laboratory Work	\$16,200
Supplies	5,400
Travel Expenses	<u>1,620</u>
Total FY 2014 State Expenditures	\$23,220

This estimate accounts for the cost of travel, supplies, and contractual assistance from environmental laboratories. Workloads increase for existing MDE inspectors and scientists to conduct the monitoring and sampling, and for assistant Attorneys General to the extent that enforcement actions are necessary for restoration and remediation of polluted sites. Future year expenditures reflect inflation.

Local Expenditures: Garrett County expenditures decrease significantly to the extent that the county is not required to purchase buildings or equipment to store the CCB piles that are currently covered by gravel. Garrett County advises that to store the current volume of CCBs in accordance with existing regulations will require four storage buildings at a cost of about \$728,000. However, MDE advises that proper storage of CCBs does not require the procurement of storage structures and that other less expensive storage methods are available, such as the use of tarps, which may cost less than \$100,000 to procure and install.

Additional Information

Prior Introductions: None.

Cross File: SB 310 (Senator Edwards) - Education, Health, and Environmental Affairs.

Information Source(s): Garrett County, Maryland Department of the Environment, Department of Natural Resources, Maryland Department of Transportation, U.S. Environmental Protection Agency, Department of Legislative Services

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mc/lgc

Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510