



HB 1331
Coal Ash - Use, Recycling, and Management (Coal Ash Recycling Act of 2022)
Environment and Transportation & Health and Government Operations
Committees
Position: Favorable with Amendments

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, both open shop and union. AGC of America is the nation's largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America's leading general contractors, and over 9,000 specialty-contracting firms, all through a nationwide network of chapters. Maryland AGC believes that HB 1331 should be amended and, as amended, be given a favorable report.

HB 1331 mandates the use of coal ash from Maryland sources in shoreline stabilization, precast concrete, and concrete forms, castings, and wind turbine foundations. More specifically, it would require any off-shore wind project to give preference to cement materials that use coal ash. The broader objective is to help Maryland producers of coal ash to reduce their inventory of environmentally undesirable coal ash and generate a profitable market for the benefit of the producers and the communities in which they operate.

Coal ash is commonly used in concrete in a variety of construction projects. Its use has both advantages and disadvantages, so that the degree of coal ash included in concrete on a specific project application varies. Contractors rely on project specifications and engineering requirements to dictate the degree of use of coal ash. The burden of determining the extent to which coal ash will be used should not fall on contractors. The architects and engineers hired by the owner to create project design and engineering specifications determine the composition of the concrete, not the contractor. For example, MDOT contracts set material specifications, including concrete composition. As introduced, HB 1331 does not recognize this limitation. This can be cured by recognizing that contractors must conform to project and engineering specifications. An amendment to accomplish is attached.

HB 1331 also would require MDE to develop a program to track and manage the use of Maryland coal ash and would create a government operated coal ash disposal and recycling facility. As part of that effort, contractors would be required to make semi-annual reports to MDE on their use of coal ash. Particularly for small contractors, this is burdensome and should be limited to no more than annually. Moreover, the bill mandates MDE to request from a person using materials in the state that include coal ash "any information necessary" for the development and use of the tracking system. This is overly broad and places a potentially overwhelming burden on contractors using coal ash in concrete. Giving MDE the option of asking or not and imposing a test of reasonableness on the degree of the inquiry would protect against such a burden. Amendments to accomplish this are attached.

Accordingly, for the reasons set forth above, Maryland AGC respectfully urges HB 1331 be amended and, as amended, be given a favorable report.

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McCulloch Government Relations, Inc.
Lobbyist for Maryland AGC

HOUSE BILL 1331
First Reading File Bill

Amendment No. 1

On page 2, in line 6, immediately preceding "THE", insert "TO THE EXTENT REQUIRED BY PROJECT SPECIFICATIONS AND CONSISTENT WITH SOUND ENGINEERING PRINCIPLES,".

Amendment No. 2

On page 2, in line 21, strike "FEASIBLE" and insert "REQUIRED BY PROJECT SPECIFICATIONS AND CONSISTENT WITH SOUND ENGINEERING PRINCIPLES,".

Amendment No. 3

On page 2, in line 29, strike "TWICE" and insert "ONCE".

Amendment No. 4

On page 3, in line 7, strike "SHALL" and insert "MAY", and in line 8, following "INFORMATION", insert "REASONABLY".