



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**HB 1193 ENVIRONMENT – COAL COMBUSTION BY-PRODUCTS
SUPPORT WITH AMENDMENTS**

GOOD AFTERNOON CHAIR WILSON, VICE CHAIR CROSBY, AND COLLEAGUES. FOR THE RECORD I'M DELEGATE MARY LEHMAN ASKING YOUR FAVORABLE REPORT OF HB 1193 WITH AMENDMENTS.

HB 1193 AIMS TO PROTECT SURFACE WATER, GROUND WATER, AND DRINKING WATER PLUS THE OVERALL ENVIRONMENT FROM THE POLLUTING EFFECTS OF ABOUT 700 MILLION TONS OF COAL ASH THAT THE MD DEPT. OF NATURAL RESOURCES ESTIMATES HAS BEEN LEFT BY COAL-FIRED POWER PLANTS AT APPROXIMATELY 68 SITES THROUGHOUT THE STATE.

COAL ASH, ALSO KNOWN AS FLY ASH OR COAL COMBUSTION RESIDUALS (CCRs), IS PRODUCED PRIMARILY FROM THE BURNING OF COAL IN COAL-FIRED POWER PLANTS. "COAL ASH CONTAINS HAZARDOUS POLLUTANTS INCLUDING ARSENIC, BORON, COBALT, CHROMIUM, LEAD, LITHIUM, MERCURY, RADIUM, SELENIUM, AND OTHER HEAVY METALS, WHICH HAVE BEEN LINKED TO CANCER, HEART AND THYROID DISEASE, REPRODUCTIVE FAILURE, AND NEUROLOGICAL HARM."¹

WHILE THE FEDERAL EPA PROMULGATED REGULATIONS IN 2015 TO ADDRESS COAL ASH POLLUTION, "MOST COAL ASH DUMPS REMAIN UNREGULATED DUE TO SWEEPING EXEMPTIONS FOR LEGACY COAL ASH PONDS AND INACTIVE LANDFILLS,"² INCLUDING MANY IN MARYLAND.

¹ <https://waterkeeperschesapeake.org/buried-but-not-forgotten-coal-ash-in-the-chesapeake/>.

² <https://waterkeeperschesapeake.org/buried-but-not-forgotten-coal-ash-in-the-chesapeake/>.

ADDITIONALLY, WHILE THE EPA RECENTLY PROPOSED NEW REGULATIONS IN 2023, THESE PROPOSED RULES WILL SEEK TO SET A NATIONAL STANDARD AND ARE UNLIKELY TO SUFFICIENTLY ADDRESS THE COAL ASH PROBLEM IN MARYLAND. FOR EXAMPLE, THE AGENCY IS NOT EXPECTED TO ADDRESS COAL ASH THAT WAS DUMPED OFF SITE, AWAY FROM THE POWER PLANT, OR USED AS FILL. IN THE EARLY 1990'S ANNE ARUNDEL COUNTY PASSED A LAW ENCOURAGING THE USE OF COAL ASH AS FILL IN THE PROCESS OF RECLAIMING OLD SAND AND GRAVEL PITS. THERE OF COURSE WAS NO RECOGNITION AT THE TIME THAT COAL ASH USED IN THIS WAY WOULD NOT STAY STATIONARY BUT WOULD MIGRATE OFFSITE.

POWER PLANTS IN MARYLAND HAVE HISTORICALLY DUMPED THEIR COAL ASH INTO UNLINED LANDFILLS THAT CAN LEAK AND "POLLUTE GROUNDWATER AND SURFACE WATERWAYS."³ IN 2024, ALL BUT TWO COAL FIRED POWER PLANTS IN MARYLAND HAVE BEEN PHASED OUT, HOWEVER, THE POLLUTION HAS REMAINED. AT A BRIEFING BEFORE THE ENVIRONMENT AND TRANSPORTATION COMMITTEE IN JANUARY 2024, DNR IDENTIFIED AT LEAST 68 SITES WHERE COAL ASH REMAINS IN VARYING STATES WITH EVIDENCE THAT IT CONTINUES TO POLLUTE OUR ENVIRONMENT AND POSE SERIOUS HEALTH RISKS TO MARYLANDERS.

AS OF FEB. 29, 2024, THE MARYLAND DEPARTMENT OF NATURAL RESOURCES THROUGH ITS POWER PLANT RESEARCH PROGRAM HAS IDENTIFIED AT LEAST 68 COAL ASH SITES ACROSS 13 COUNTIES. HOWEVER, BECAUSE OF THE POTENTIAL FOR ASH TO MIGRATE AND POLLUTE SURFACE AND GROUND WATER, AIR AND SOIL, THE, RESIDENTS IN *EVERY* MARYLAND COUNTY ARE AT RISK OF BEING EXPOSED TO COAL ASH CONTAMINATION.

EARTHJUSTICE'S ENVIRONMENTAL INTEGRITY PROJECT RELEASED A REPORT IN 2022 THAT FOUND THAT 91% OF COAL ASH SITES IN THE US ARE "CURRENTLY POLLUTING GROUNDWATER ABOVE FEDERAL HEALTH STANDARDS WITH TOXIC POLLUTANTS."⁴ THIS BILL ADDRESSES THE URGENT NEED TO REGULATE AND CLEAN UP THESE TOXIC COAL-ASH SITES.

³ <https://waterkeeperschesapeake.org/buried-but-not-forgotten-coal-ash-in-the-chesapeake/>.

⁴ <https://earthjustice.org/feature/coal-ash-states/maryland>.

FUTHERMORE, WATER KEEPERS OF THE CHESAPEAKE AND OTHER ADVOCACY GROUPS CONSIDER COAL ASH POLLUTION “AN ENVIRONMENTAL JUSTICE ISSUE BECAUSE HISTORICALLY A HIGH NUMBER OF COAL-FIRED POWER PLANTS AND COAL ASH LANDFILLS HAVE BEEN SITUATED IN LOW INCOME COMMUNITIES OF COLOR.”⁵

THIS BILL REQUIRES POWER PLANTS TO:

- IDENTIFY ALL OF THEIR ONSITE AND OFFSITE COAL ASH DISPOSAL SITES;
- IDENTIFY KNOWN AND POTENTIAL LEAKS OF CONTAMINATION TO GROUND AND SUFRACE WATER;
- DEVELOP AND SUBMIT CLOSURE PLANS FOR THEIR COAL ASH STORAGE SITES INCLUDING A PLAN CONCERNING THE EXTRACTION OF THE COAL ASH WASTE WITH EITHER A DOUBLE LINED LANDFILL OR RECYCLING FOR ENCAPSULATED BENEFICIAL REUSE IN CONCRETE SO THAT THE HAZARDOUS CHEMICALS ARE BOUND; AND
- PAY A FEE TO COVER ADMINISTRATIVE COSTS OF MANAGING AND PERMITTING REMOVAL OF THIS WASTE.

HB 1193 ALSO MANDATES THE CREATION A COMMUNITY ADVISORY COUNCIL, CONSISTING OF LOCAL RESIDENTS FROM IMPACTED COMMUNITIES WHO WILL FINALLY HAVE A SAY ABOUT THE CLEANUP AND THE SAFETY OF THEIR COMMUNITIES.

THERE ARE ADDITIONAL AMENDMENTS TO THIS BILL THAT:

1. DIRECT MDE TO WRITE WATER QUALITY MONITORING REGULATIONS IN PLACE OF THE MONITORING SPECIFICATIONS CURRENTLY OUTLINED IN THE BILL.
2. STRIKE ALL OF THE TRANSPORTATION PLANNING REQUIREMENTS, INCLUDING LOCAL HIRING AND ORGANIZED LABOR PROVISIONS.
3. CREATE A NEW FEE ON INDUSTRY.
4. MAKE ALTERATIONS TO THE COMMUNITY ADVISORY COUNCIL.

MARYLANDERS SHOULD NO LONGER HAVE TO INCUR THE TOXIC IMPACTS OF THIS INDUSTRY’S CARELESS AND HARMFUL ACTIONS IN FAILING TO CLEANUP THE TONS OF COAL ASH THAT HAS BEEN PRODUCED FROM THEIR FACILITIES.

⁵ <https://waterkeeperschesapeake.org/buried-but-not-forgotten-coal-ash-in-the-chesapeake/>.

HB 1193 IS A STEP FORWARD IN CLEANING UP OUR COMMUNITIES, GIVING LOCAL RESIDENTS A SAY IN THAT PROCESS, AND HOLDING POWER PLANTS ACCOUNTABLE FOR THE POLLUTION THEY CAUSED.

THANK YOU AND I URGE A FAVORABLE REPORT.