



Maryland Conservation Council  
*Protecting Maryland's Natural Heritage Since 1969*



**SIERRA CLUB**  
MARYLAND CHAPTER

## HB1193 - Coal Combustion By-Products

Hearing Date: Wednesday, March 7, 2024

**Position: FAVORABLE (with sponsor amendments)**

Dear Chair Wilson and Members of the Economic Matters Committee:

Waterkeepers Chesapeake and the below signed organizations urge a FAVORABLE report for HB1193 - Coal Combustion By-Products as amended by the sponsor. HB1193 will require an assessment of groundwater and surface water contamination from coal ash, prioritization of coal ash storage and disposal sites for encapsulated beneficial reuse or disposal in a double-lined landfill with leachate collection systems, establishment of a long-term regulatory fee for surface impoundments of coal ash, and require community input on remediation and recycling plans encourage local hiring of workers from the impacted communities.

### The Problem

Maryland has a toxic problem that has been buried and often forgotten or ignored – the ash and residual materials from the generations of burning coal. **Maryland's Power Plant Research Program has identified 50 million tons of coal ash in the state of Maryland at 70 different sites** (see coal ash site map below). Coal ash, also referred to as coal combustion residuals (CCRs) or byproducts (CCBs), 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](#). Without proper management, these contaminants can pollute groundwater and surface waterways and the air causing severe health issues.

Riverkeepers and other groups have spent several years [taking action](#) to ensure the cleanup of toxic coal ash at these sites. Back in 2013, Maryland Department of the Environment issued a Consent Order, based on information provided by Potomac Riverkeeper and Patuxent Riverkeeper, along with Environmental Integrity Project, that the coal ash landfills operated by GenOn at Brandywine, Faulkner, and Westland landfills were leaching toxic chemicals into groundwater and had contaminated numerous private drinking water wells of residents. This order required payment of a fine of \$1.8 million dollars to the state of Maryland, as well as remediation of these sites. Unfortunately, for two of the sites –

Faulkner and Brandywine Fly Ash Landfills – virtually nothing has been accomplished since that time and residents continue to suffer harm from this toxic pollution.

### Why Maryland Needs to Act Now

Many of our communities have been impacted by the legacy of toxic coal ash that has been stored in leaking ponds along the banks of the Potomac, Patuxent, Susquehanna and many other rivers and streams in the Chesapeake Bay region. **Coal ash is 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 such as Brandywine and the Baltimore area** (see map of coal ash sites below).

The [EPA's 2015 Coal Ash Rule](#) created the first-ever safeguards for coal ash disposal, and ushered in an era of rapid closure of coal-fired power plants. Unfortunately, there is very little compliance with those rules as documented in a [report](#) released in March 2019 by Earthjustice and Environmental Integrity Project revealed widespread coal ash contamination in 39 states — and at more than 91 percent of the power plants monitored, all in violation of EPA's Rules. It cited the Brandywine coal ash landfill in the Patuxent River watershed as one of the 10 worst coal ash contamination cases in the country.

The EPA is poised to enact new regulations to address legacy pollution from the coal fired power plants. The [EPA proposed to establish regulatory requirements for inactive surface impoundments](#) — shallow pits used to store waste — of coal ash at inactive facilities. EPA also proposed to establish groundwater monitoring, corrective action, closure, and post-closure care requirements for all facilities (regardless of how or when the coal ash was placed). Based on the shockingly poor compliance with the 2015 rules, even if these regulations are finalized, **we are not confident that there will be significant improvement without independent state enforcement authority**. In fact, all of the progress on cleaning up contaminated coal ash sites and remediation drinking water supplies of affected communities, has come through state legislative actions such as the 2015 legislation in North Carolina to require groundwater and surface water monitoring as well as extraction of coal ash waste that either was contaminating or had the potential to contaminate water supplies. And in 2019, Potomac Riverkeeper Network, James Riverkeeper, Southern Environmental Law Center, and a host of other advocates and community groups worked to pass legislation that mandated the safe disposal of 28 million tons of toxic coal ash Dominion Energy has stored on the banks of the Potomac, James and Elizabeth Rivers, contaminating the communities in these areas. This bill set a national precedent for how to safely remove a legacy of toxic coal ash stored along our waterways in our region and across the nation. **We call on Maryland to act, too.**

### What the Bill Will Do

HB1193 will require an assessment of groundwater and surface water contamination from coal ash, prioritization of coal ash storage and disposal sites for encapsulated beneficial reuse or disposal in a double-lined landfill with leachate collection systems, establishment of a long-term regulatory fee for surface impoundments of coal ash, and require community input on remediation and recycling plans and a certain percentage of workers hired be from the local, impacted communities.

Given the urgency and wide-impact of this toxic coal ash legacy in Maryland, we respectfully request that the committee give a FAVORABLE report for HB1193.

Contact: Robin Broder, Deputy Director, Waterkeepers Chesapeake,  
robin@waterkeeperschesapeake.org

Betsy Nicholas, VP of Programs  
Dean Naujoks, Potomac Riverkeeper  
Brent Walls, Upper Potomac Riverkeeper  
Potomac Riverkeeper Network

Elle Bassett  
South, West & Rhode Riverkeeper  
Arundel Rivers Federation

Ted Evgeniadis  
Lower Susquehanna Riverkeeper & Executive  
Director  
Lower Susquehanna Riverkeeper Association

Fred Tutman  
Patuxent Riverkeeper

Alice Volpitta  
Baltimore Harbor Waterkeeper  
Blue Water Baltimore

Evan Isaacson  
Directory of Advocacy  
Chesapeake Legal Alliance

Abel Russ  
Senior Attorney  
Environmental Integrity Project

Josh Tulkin  
Chapter Director  
Sierra Club Maryland Chapter

Marisa Olszewski  
Environmental Policy Manager  
Maryland League of Conservation Voters

Matt Stegman  
Maryland Staff Attorney  
Chesapeake Bay Foundation

Dave Arndt  
Co-Lead  
Maryland Legislative Coalition Climate Justice Wing

Ernesto Villaseñor  
Policy Manager  
Chesapeake Climate Action Network Action Fund

Paulette Hammond  
President  
Maryland Conservation Council

Cait Kerr  
State Policy Manager  
The Nature Conservancy - MD/DC Chapter

Tom Taylor  
Co-Chair  
Beaverdam Creek Watershed Watch Group

Greg Bowen  
Executive Director  
American Chestnut Land Trust

Virginia Smith  
Indivisible HoCoMD

