



POTOMAC
RIVERKEEPER®
NETWORK

3070 M Street, NW
Washington, DC 20007
202.888.2037 (main)
www.prknetwork.org

HOUSE - ECONOMIC MATTERS COMMITTEE

House Bill 1193
Coal Combustion ByProducts

March 7, 2024

Dear Chairman Wilson and Members of the Committee:

Maryland has a problem it thought it could bury and forget – the ash and residual materials from the generations of burning coal. But the solution for coal ash is not so simple. 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. Maryland's Power Plant Research Program has identified 50 million tons of coal ash in the state of Maryland at 70 different sites.

Riverkeepers 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 Riverkeepers 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 the impacts of 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, James, Patuxent, Susquehanna and many other rivers and



Potomac Riverkeeper Network is the trade name of Potomac Riverkeeper, Inc.
a 501(c)3 tax-exempt nonprofit organization #54-1982624 EarthShare # 87828 * CFC # 87828
Recognized as "one of the best small nonprofits" by the Catalogue for Philanthropy



streams. 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.

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 Maryland's Patuxent River watershed as one of the 10 worst coal ash contamination cases in the country.

The EPA is currently poised to enact new regulations later this year 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 mandates 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.

What the bill will do

It is cases like Morgantown and others that have spurred Potomac Riverkeeper Network and Waterkeepers Chesapeake to work with Del. Mary Lehman, and Senator Michael Jackson to introduce a bill in Maryland that will require an assessment of groundwater and surface water contamination, 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. Specifically, this bill will:

- 1) Require an assessment of groundwater and surface water contamination from coal ash and other coal residuals, and identify impacts to drinking water and an alternate supply of water for impacted community members at the expense of the coal company. These plans will be developed through regulations by MDE.
- 2) Prioritization of coal ash impoundments, including landfills, for remediation and removal of the ash from areas where it is in contact with groundwater or surface water as the highest priority due the public health threats; Preference for the ash is reuse through encapsulated beneficial reuse (extraction and

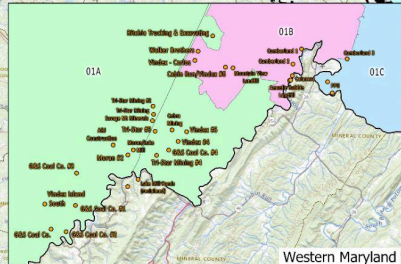
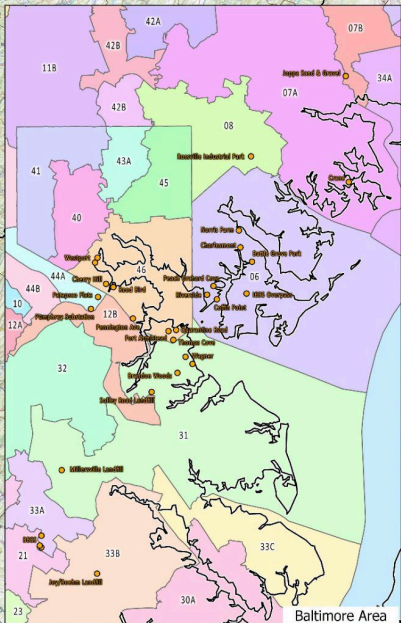
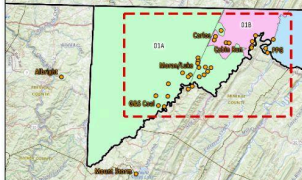
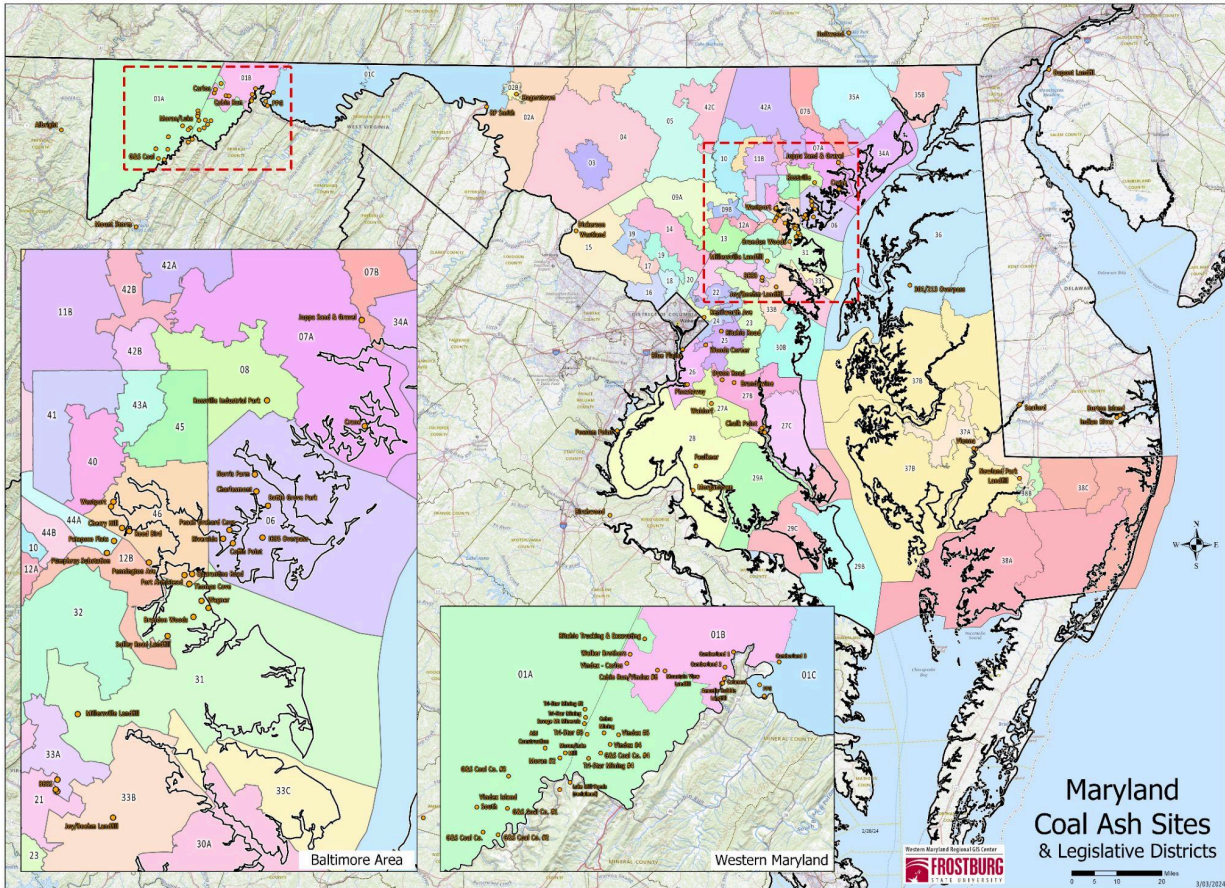
recycling into products such as cement, bricks, or ceramics. If encapsulated beneficial reuse is not possible due to site specific issues, then the ash shall be extracted and disposed of in a double-lined landfill with leachate collection systems;

3) Establishment of a long-term regulatory fee for surface impoundments of coal ash fees to be paid yearly and deposited in a special fund in MDE to provide oversight of coal ash facility closures and ongoing monitoring and enforcement post closure.

4) Creation of an advisory council, that includes community members impacted by coal ash, to evaluate plans created under this bill and implementing regulations, as well as consideration of the plans for these sites following the closure of the coal ash management units. Additionally, this council shall develop plans for local hiring and training to help ensure a more just and equitable future for these communities.

We ask for a favorable vote. Thank you for this opportunity.

Betsy Nicholas
Vice President of Programs
Potomac Riverkeeper Network
Betsy@prknetwork.org
202-423-0504



Western Maryland



Maryland Coal Ash Sites & Legislative Districts

Scale: 0 5 10 20 Miles
 3/13/2024