

HB 902 ENVIRONMENT – COAL COMBUSTION BY-PRODUCTS SUPPORT

GOOD AFTERNOON CHAIR KORMAN, VICE CHAIR BOYCE AND MEMBERS OF THE COMMITTEE.

I AM DENISE KEEHNER, A LEGACY LEADER VOLUNTEER IN DELEGATE LEHMAN'S OFFICE AND A FORMER EXECUTIVE WITH USEPA AND AN ASSISTANT SECRETARY AT MDE. I HAVE OVER 40 YEARS OF EXPERIENCE IN ENVIRONMENTAL POLICY AND REGULATION INCLUDING TOXICS, WATER AND SOLID WASTE. I AM ASKING THE COMMITTEE FOR A FAVORABLE REPORT OF HB 902.

THE RESIDUALS FROM THE BURNING OF COAL TO MAKE ELECTRICITY CONTAIN MANY TOXIC CHEMICALS INCLUDING ARSENIC, MERCURY AND LEAD. WHEN COAL ASH IS DUMPED ONTO THE LAND OR PLACED IN UNLINED PONDS OR IMPOUNDMENTS, THESE TOXIC CHEMICALS CAN MOVE OUT OF THE ASH AND MIGRATE INTO GROUNDWATER OR RUN-OFF INTO NEARBY STREAMS AND OTHER BODIES OF WATER POSING RISKS OF CONTAMINATION OF DRINKING WATER.

IT HAS BEEN A LONG AND HARD-FOUGHT BATTLE FOR EPA AND MDE TO PUT IN PLACE THE NECESSARY REGULATIONS TO MANAGE COAL ASH DISPOSAL-RELATED RISKS. FINALLY IN MAY 2024 EPA TOOK ACTION TO ADDRESS THE ONE REMAINING MAJOR GAP IN REGULATION—THEY ISSUED FINAL REGULATIONS TO ADDRESS LEGACY COAL ASH DISPOSAL SITES. THESE ARE SITES WHERE COAL ASH WAS DISPOSED OF PRIOR TO EPA'S 2015 RULE THAT REGULATED ONGOING COAL ASH DISPOSAL.

EPA FOUND THAT LEGACY SITES ARE MORE LIKELY TO BE UNLINED AND UNMONITORED, MAKING THEM MORE PRONE TO LEAKS AND STRUCTURAL PROBLEMS THAN UNITS THAT ARE CURRENTLY IN SERVICE. TO ADDRESS THESE CONCERNS, WITH THIS FINAL RULE, EPA CREATED SAFEGUARDS FOR LEGACY SITES, INCLUDING REQUIRING THE PROPER CLOSURE OF THE SITES AND REMEDIATING CONTAMINATED GROUNDWATER.

- THE RULE CONTAINS SPECIFIC DEADLINES DESIGNED TO PROVIDE FACILITIES WITH ADEQUATE TIME TO MEET THE NEW REQUIREMENTS WHILE ENSURING PROMPT ACTION ON ENVIRONMENTAL AND SAFETY CONCERNS.
- THE RULE REQUIRES FACILITIES TO IMPLEMENT COMPREHENSIVE GROUNDWATER MONITORING PROGRAMS AND, IF CONTAMINATION IS DETECTED, CORRECTIVE ACTIONS MUST BE TAKEN TO ADDRESS THE ISSUES AND PREVENT FURTHER ENVIRONMENTAL IMPACT.
- THE RULE ESTABLISHES CLEAR REQUIREMENTS TO ENSURE THAT SITES ARE PROPERLY DECOMMISSIONED AND MAINTAINED IN A SAFE AND ENVIRONMENTALLY SOUND MANNER. POST-CLOSURE CARE PLANS MUST BE DEVELOPED TO MANAGE THE SITES LONG-TERM.

THE MAY 2024 ACTION BY USEPA NOT ONLY PUTS IN PLACE REQUIREMENTS FOR MONITORING OF RELEASES AND CLEANUP OF COAL ASH RESIDUALS AS THEY SIT IN THE GROUND. THE RULE ALSO HAS THE EFFECT OF CREATING INCENTIVES FOR REMOVAL OF THE MATERIAL AND BENEFICIAL RE-USE.

THIS IS A "WIN/WIN". A WIN FOR INDUSTRIES LIKE CEMENT PRODUCERS WHO CAN BENEFICALLY USE THESE MATERIALS IN CEMENT PRODUCTION AND A WIN FOR THE ENVIRONMENT –BECAUSE RE-USE IN CEMENT PRODUCTION IS BETTER FOR THE ENVIRONMENT THAN LEAVING THE MATERIAL IN PLACE.

THIS BILL REQUIRES MDE TO PROMULGATE THE MAY 2024 EPA RULE IN THE CODE OF MARYLAND REGULATIONS TO ENSURE THAT THIS IMPORTANT REGULATION STAYS IN EFFECT IN MARYLAND REGARDLESS OF WHAT THE NEW FEDERAL ADMINISTRATION MAY DO WITH REGARD TO RESCINDING OR WEAKENING THE MAY 2024 FINAL EPA RULE. THE BILL ALSO PROVIDES MDE WITH THE EXPLICIT AUTHORITY TO GO FURTHER THAN THE MAY 2024 RULE WITH REGARD TO REQUIREMENTS IN CASES WHERE MDE FINDS THAT THIS IS NECESSARY TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT.

THE MAY 2024 EPA RULE IS SUPPORTED BY SUBSTANTIAL SCIENTIFIC, TECHNICAL AND ECONOMIC ANALYSES AND WAS SUBJECT TO AMPLE OPPORTUNITY FOR PUBLIC COMMENT PRIOR TO BEING FINALIZED. THE HISTORY OF FEDERAL REGULATION OF COAL ASH WASTE IS TORTURED WITH A CYCLE OF PROGRESS AND THEN BACKTRACKING. IT IS IMPORTANT FOR MARYLAND TO ENSURE THAT THESE LEGACY SITES REMAIN REGULATED REGARDLESS OF WHAT HAPPENS FEDERALLY. THIS LEGISLATION ENSURES THAT MARYLANDERS REMAIN PROTECTED EVEN IF THE NEW FEDERAL ADMINISTRATION WITHDRAWS OR WEAKENS THE MAY 2024 LEGACY COAL ASH SITE REGULATIONS.

THANK YOU AND I ASK FOR A FAVORABLE REPORT.