



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**HB902 - ENVIRONMENT – COAL COMBUSTION BY-PRODUCTS
SUPPORT**

Good Afternoon Chair Korman, Vice Chair Boyce, and Esteemed Colleagues,

For the record I'm Delegate Mary Lehman and I am asking your favorable report of HB 902.

This bill gives the Maryland Department of Environment the tools it needs to monitor the containment, mitigation and potential beneficial reuse of millions of tons of coal ash that has been landfilled across the state and poses a serious threat of contaminating soil, surface water, ground water, and well water in adjacent communities.

Coal ash, also known as coal combustion residuals (CCRs), is produced primarily from the burning of coal in coal-fired power plants. After more than a century of burning coal, U.S. power plants have produced more than 5 billion tons of coal ash and most of this has been dumped in landfills or in ponds. In Maryland, the three largest landfills contain more than 15 million tons of coal ash; the remaining 67 coal ash sites – mapped by the Power Plant Research Program in DNR – range in size but collectively contain tons more. These landfills, also called surface impoundments, are more likely to be unlined and unmonitored, making them more prone to leaking and structural problems.

Coal ash contains toxic chemicals 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 These contaminants leach out of landfills, migrate into soil and surface water, and make their way into groundwater and wells. Finer coal ash, known as fly ash, more readily becomes airborne. The Brandywine fly ash facility in southern Pr. George's County is the seventh most contaminated coal ash dump in the United States.

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

A History of Progress and Setbacks

While the U.S. EPA promulgated regulations in 2015 to stop the then ongoing practice of disposing of coal ash in leaking or unlined ponds and impoundments and to close active ponds and landfills in a safe manner, the 2015 EPA rules left unregulated legacy sites - those sites which were no longer actively receiving coal ash waste - including many locations in Maryland.

That gap in regulation was closed in May of 2024 when EPA promulgated regulations to address legacy coal ash disposal sites. Earthjustice reports that there are at least 18 previously unregulated coal ash sites in Maryland that are newly regulated by the May 2024 EPA final rule with requirements for monitoring for toxic chemical releases and clean-up. This includes the 217-acre Brandywine Ash Management Facility owned by GenOn.

The history of federal regulation of coal ash waste is tortured with a cycle of progress and then backtracking. For example, during the first Trump Administration, the EPA delayed deadlines for compliance with the 2015 federal rule and then proposed weakening the 2015 rule.

It is important for Maryland to ensure that these legacy impoundments remain regulated regardless of what happens federally. This legislation ensures that Marylanders remain protected even if the new Trump administration withdraws or weakens EPA's 2024 effluent guidelines and legacy coal ash site regulations. Also, this legislation gives MDE the authority to go further than the May 2024 federal regulations if necessary to protect human health and the environment.

What this bill does

- Requires MDE to adopt the federal legacy coal ash regulations published by EPA in May 2024. It also directs MDE to adopt EPA's 2024 effluent rule that regulates the release of wastewater that contains toxic metals into bodies of water. MDE disagrees with the need to adopt the effluent rule. I am still in conversation with the agency about this.
- Provides MDE with the authority to go beyond the May 2024 EPA final legacy regulations if necessary to protect human health and the environment. This could include targeting specific additional sites "for cause" - such as a site where the coal ash was used as fill but is leaching toxic contaminants and therefore posing a risk to human health and the environment.
- Creates a statewide Coal Combustion By-Products Coordinating Committee with citizens from impacted communities to help ensure that science and citizen involvement continue to help guide the implementation of the new regulations.

Amendments

Through a series of conversations with MDE staff dating back to last summer, we have reached consensus on some amendments.

- The bill no longer includes a new and higher fee on industry because MDE cannot collect more than it is able to spend on oversight and monitoring of the state's largest coal ash sites.
- A December 2025 deadline for MDE to adopt additional regulations to augment the legacy rule has been pushed back to December 2026. This additional MDE rule could include monitoring for MD specific contaminants (including arsenic, boron, cadmium, hexavalent chromium, radium 226, selenium, vanadium and other chemicals determined by MDE).
- Codifying MDE's authority to use any excess industry fees to monitor smaller coal ash sites across the state and promote beneficial reuse.

Marylanders should no longer have to incur the toxic impacts of this industry's careless and harmful actions in failing to clean up the tons of coal ash that has been produced from coal-fired power plants.

HB 902 ensures that Maryland communities remain protected regardless of potential federal backsliding, ensures that the producers of coal ash waste pay for the government oversight of the cleanup of legacy sites, and provides local communities proximate to legacy coal ash disposal sites a voice in the cleanup of these sites.

I urge you to give this bill a favorable report.

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