HOUSE DOCKET, NO. FILED ON: 1/13/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Mary E. Grant, Lori Ehrlich**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to regulate coal ash as solid waste.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Lori Ehrlich | 8th Essex |
| Mary E. Grant | 6th Essex |
| Matthew C. Patrick | 3rd Barnstable |
| Frank I. Smizik | 15th Norfolk |
| Katherine Clark | 32nd Middlesex |
| Peter v. Kocot | 1st Hampshire |
| David B. Sullivan | 6th Bristol |
| Barbara A. L'Italien | 18th Essex |
| William N. Brownsberger | 24th Middlesex |
| Denise Provost | 27th Middlesex |
| Theodore C. Speliotis | 13th Essex |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act to regulate coal ash as solid waste.

 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Section 1.

Section 150A of Chapter 111 of the General Laws is hereby amended in paragraph one by inserting in the definition of “Refuse,” following the word “Refuse,” the words “Coal Ash.”

Section 150A of Chapter 111 of the General Laws is hereby amended in paragraph one by inserting before the definition of “Department,” the following definition:

Coal Ash means waste produced from the combustion of coal, including but not limited to fly ash, bottom ash and slag, and including wastes associated with the combustion of coal when added to fly ash, bottom ash or slag.

Section 150A of Chapter 111 of the General Laws is hereby amended in paragraph one by inserting after the definition of “Facility,” the following definition:

 Fill means a material used to fill a cavity, passage or hole in the ground, or to raise the level of the ground or to alter the grades of the ground.

Section 2.

 Section 150A of Chapter 111 of the General Laws is hereby further amended by striking the paragraph added by Chapter 118 of the Acts of 1976 and inserting in place thereof the following paragraphs:

 As of the effective date of this act, coal ash shall not be used as fill, deposited in a landfill, or disposed of by burial, until such time as a site assignment for such site has been obtained from the board of health. The use of coal ash as fill at any site prior to the effective date of this act does not require site assignment.

**Construction and expansion of new surface impoundments (waste ponds) for the storage or disposal of coal ash shall be prohibited upon passage of this legislation.**

 The requirements of this section shall not apply to Coal Ash used as a raw material for concrete block manufacture, base for road construction, or generated from a family residence. A person who uses Coal Ash for such purposes can do so without assignment or approval from the Department or local board of health, provided, however, the Department and local board of health shall have jurisdiction to determine, after notice and hearing, that the use or storage of coal ash has created a nuisance condition by reason of odor, dust, fires, smoke, the breeding or harboring of rodents, flies or vermin, or other causes, and to prevent or order abatement thereof.

A person storing Coal Ash shall do so ina manner that does not create a nuisance condition, cause a discharge of pollutants to waters of the Commonwealth in violation of M.G.L. c. 21, s.26 - 56 and regulations promulgated thereto, or create a condition of air pollution. If the Department or local board of health determines that Coal Ash storage has a significant potential to create a nuisance condition, cause a discharge of pollutants to waters of the Commonwealth in violation of M.G.L. c. 21, s.26 - 56 and regulations promulgated thereto, or create a condition of air pollution, the Department or local board of health shall require permits pursuant to this section for such storage. A person who stores more than 100 cubic yards of Coal Ash at any one time shall make a one-time notification to the Department prior to commencement of storage. In the case of storage that began prior to the effective date of this section, the person shall provide notice to the Department or local board of health within 180 days of the effective date of this section.

 As of the effective date of this Act, on-going use of Coal Ash as refuse, except for use as fill, may continue as an interim use where either the generator or user of the Coal Ash submits an application for a permit to the Department or local board of health within 180 days of the effective date of this Act. Such interim use may continue until such time as the Department or local board of health issues an approval or denial of the use, or one year from the date the application was submitted to the Department or local board of health, whichever is earlier. At its discretion, the Department or local board of health may extend the time period of the interim use when further information is required before the Department or local board of health can make a determination on the application. In no case shall this interim period exceed two years from the date the application was submitted to the Department or local board of health.

Section 3.

This Act shall take effect upon its passage.