

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Mary E. Grant, Lori Ehrlich

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.

PETITION OF:

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

In the Year Two Thousand and Nine

AN ACT TO REGULATE COAL ASH AS SOLID WASTE.

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

3
4 **Section 1.**

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

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

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

14
15 Section 150A of Chapter 111 of the General Laws is hereby amended in paragraph one by
16 inserting after the definition of "Facility," the following definition:

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

20 **Section 2.**

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

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

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

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

37 A person storing Coal Ash shall do so in a manner that does not create a nuisance condition,
38 cause a discharge of pollutants to waters of the Commonwealth in violation of M.G.L. c. 21, s.26 - 56 and
39 regulations promulgated thereto, or create a condition of air pollution. If the Department or local board
40 of health determines that Coal Ash storage has a significant potential to create a nuisance condition,
41 cause a discharge of pollutants to waters of the Commonwealth in violation of M.G.L. c. 21, s.26 - 56 and
42 regulations promulgated thereto, or create a condition of air pollution, the Department or local board of
43 health shall require permits pursuant to this section for such storage. A person who stores more than
44 100 cubic yards of Coal Ash at any one time shall make a one-time notification to the Department prior
45 to commencement of storage. In the case of storage that began prior to the effective date of this
46 section, the person shall provide notice to the Department or local board of health within 180 days of
47 the effective date of this section.

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

58 Section 3.

59 This Act shall take effect upon its passage.