

HOUSE No. 4005

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 2, 2014.

The committee on Environment, Natural Resources and Agriculture to whom was referred the petition (accompanied by bill, House, No. 694) of Lori A. Ehrlich and others relative to the use of coal ash as a solid waste, reports recommending that the accompanying bill (House, No. 4005) ought to pass.

For the committee,

ANNE M. GOBI.

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In the Year Two Thousand Fourteen

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:

1 SECTION 1. The first paragraph of section 150A of chapter 111 of the General Laws, as
2 appearing in the 2012 Official Edition, is hereby amended by inserting, in line 10, in the
3 definition of “Refuse,” after the word “rubbish ”, the words:- coal ash,

4 SECTION 2. Said first paragraph of said section 150A of said chapter 111, as so
5 appearing, is hereby further amended by inserting before the definition of “Department,” the
6 following definition:-

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

10 SECTION 3. Said first paragraph of said section 150A of said chapter 111, as so
11 appearing, is hereby further amended by inserting after the definition of “Facility,” the following
12 definition:-

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

15 SECTION 4. Said section 150A of said chapter 111, as so appearing, is hereby further
16 amended by striking the last paragraph and inserting in place thereof the following paragraphs:-

17 No coal ash shall be used as fill, deposited in a landfill, or disposed of by burial, until
18 such time as a site assignment for such site has been obtained from the board of health. The use
19 of coal ash as fill at a site occurring before July 1, 2014 shall not require a site assignment.

20 Construction and expansion of new surface impoundments, commonly known as “waste
21 ponds” for the storage or disposal of coal ash shall be prohibited.

22 The requirements of this section shall not apply to, coal ash that is used as a raw material
23 for the purpose of concrete block manufacturer or as a base for road construction, or any use of
24 coal ash that is generated from a family residence. A person may use coal ash for such purposes
25 without assignment or approval from the department or local board of health, provided, however,
26 the department and local board of health shall have jurisdiction to determine, after notice and
27 hearing, that the use or storage of coal ash has created a nuisance condition by reason of odor,
28 dust, fires, smoke, the breeding or harboring of rodents, flies or vermin, or other causes, and may
29 prevent or order abatement of such use or storage.

30 No person shall store coal ash in a manner that creates nuisance condition, causes
31 a discharge of pollutants to waters of the commonwealth in violation of the provisions of
32 sections 21 through 56, inclusive, of chapter 21 and related regulations, or creates a condition of
33 air pollution. If the department or local board of health determines that such coal ash storage has
34 a significant potential to create a condition or cause a discharge, which if occurred, would violate
35 the prohibitions of the prior sentence, the department or local board of health shall require a
36 permit under this section be obtained for such storage.

37 A person who stores more than 100 cubic yards of coal ash at single location on
38 any occasion shall make a one-time written notification to the department prior the storage of
39 coal ash in excess of said limit. If such storage in excess of said limit occurred prior to July 1,
40 2012, notice shall be provided to the department or local board of health within 180 days from
41 said date.

42 The use of coal ash as refuse, except for use as fill, may continue on an interim
43 basis, on or after July 1, 2014, provided the generator or user of the coal ash submits an
44 application for a permit to the department or local board of health within 180 days of said date.
45 Such use on an interim basis shall be allowed until the department or local board of health issues
46 a determination on the application for the use of coal ash, or 1 year from the date the application
47 was submitted to the department or local board of health, whichever first occurs. At the
48 discretion of the department or local board of health, the time period for the use of coal ash on an
49 interim basis, may be extended when further information is required by the department or local
50 board of health, to make a determination on such application, provided no use shall be allowed
51 on an interim basis after 2 years from the date the application was submitted to the department or
52 local board of health.

53 SECTION 5. This Act shall take effect on July 1, 2014.