

HOUSE No. 3669

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:
Mary E. Grant	6th Essex
Lori Ehrlich	8th 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
Carl M. Sciortino, Jr.	34th Middlesex
Bruce E. Tarr	First Essex and Middlesex
Steven J. D'Amico	4th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

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

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

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

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

13 Section 2. Section 150A of Chapter 111 of the General Laws is hereby further amended by striking
14 the paragraph added by Chapter 118 of the Acts of 1976 and inserting in place thereof the following
15 paragraphs:

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

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

22 The requirements of this section shall not apply to Coal Ash used as a raw material for concrete
23 block manufacture, base for road construction, or generated from a family residence. A person who uses
24 Coal Ash for such purposes can do so without assignment or approval from the Department or local board
25 of health, provided, however, the Department and local board of health shall have jurisdiction to
26 determine, after notice and hearing, that the use or storage of coal ash has created a nuisance condition by

27 reason of odor, dust, fires, smoke, the breeding or harboring of rodents, flies or vermin, or other causes,
28 and to prevent or order abatement thereof.

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

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

49 Section 3. This Act shall take effect upon its passage.