HOUSE DOCKET, NO. 2081 FILED ON: 1/20/2011

HOUSE . . . . . No. 1991

The Commonwealth of Massachusetts

PRESENTED BY:

Lori A. 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 adoption of the accompanying bill:

An Act to regulate coal ash as solid waste.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Lori A. Ehrlich	*8th Essex*
William N. Brownsberger	
Sean Garballey	*23rd Middlesex*
Jason M. Lewis	*31st Middlesex*
John W. Scibak	*2nd Hampshire*
Thomas M. Stanley	*9th Middlesex*
Michael D. Brady	*9th Plymouth*
James B. Eldridge	
Jonathan Hecht	*29th Middlesex*
Cleon H. Turner	*1st Barnstable*
Denise Provost	*27th Middlesex*

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HOUSE . . . . . No. 1991

By Ms. Ehrlich of Marblehead, a petition (accompanied by bill, House, No. 1991) of Lori A. Ehrlich and others relative to the use of coal ash as a solid waste. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3669* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 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:

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

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

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

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

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

28 A person storing Coal Ash shall do so in a manner that does not create a nuisance
29 condition, cause a discharge of pollutants to waters of the Commonwealth in violation of M.G.L.
30 c. 21, s.26 - 56 and regulations promulgated thereto, or create a condition of air pollution. If the
31 Department or local board of health determines that Coal Ash storage has a significant potential

32 to create a nuisance condition, cause a discharge of pollutants to waters of the Commonwealth in
33 violation of M.G.L. c. 21, s.26 - 56 and regulations promulgated thereto, or create a condition of
34 air pollution, the Department or local board of health shall require permits pursuant to this
35 section for such storage. A person who stores more than 100 cubic yards of Coal Ash at any one
36 time shall make a one-time notification to the Department prior to commencement of storage. In
37 the case of storage that began prior to the effective date of this section, the person shall provide
38 notice to the Department or local board of health within 180 days of the effective date of this
39 section.

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

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