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## SENATE BILL NO. 1398

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources  
on February 15, 2017)

(Patron Prior to Substitute—Senator Surovell)

*A BILL to require evaluation of closure of coal combustion residuals units.*

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That every owner or operator of a coal combustion residuals (CCR) surface impoundment, as that term is defined at 40 C.F.R. § 257.53, that is located within the Chesapeake Bay watershed shall conduct an assessment of each such CCR surface impoundment (CCR unit) regarding the closure of any such unit. At a minimum, an assessment shall, for each CCR unit:*

*1. Identify and describe any groundwater or surface water pollution located at or stemming from the CCR unit, including pollution identified through past monitoring, and evaluate corrective measures to resolve such pollution. Any such evaluation shall address the issues set forth in 40 C.F.R. § 257.96(c) and shall describe and demonstrate how the proposed corrective measures will restore groundwater or surface water quality.*

*2. Evaluate the clean closure of the CCR unit through excavation and responsible recycling or reuse of coal ash residuals by incorporating them into concrete or other products in a manner that prevents the release into the environment of the pollutants contained within the coal ash residuals. Such evaluation shall consider the feasibility of the onsite processing of a CCR unit for cementitious purposes as well as the feasibility of creating a processing facility or facilities to serve multiple CCR units, including offsite CCR units.*

*3. Evaluate the clean closure of the CCR unit through the excavation and removal of coal ash residuals to dry, lined storage in an appropriately permitted and monitored landfill, including an analysis of the impact that any responsible recycling or reuse options would have on such excavation and removal.*

*4. Demonstrate the long-term safety of the CCR unit, addressing any long-term risks posed by the proposed closure plan and siting, including risks related to extreme weather events, flooding, hurricanes, storm surges, and erosive forces.*

**2.** *That no later than January 1, 2018, the owner or operator of any coal combustion residuals surface impoundment (CCR unit) subject to the assessment requirement of the first enactment of this act shall transmit a report on its progress to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources and to the Departments of Environmental Quality and Conservation and Recreation.*

**3.** *That notwithstanding the provisions of this act, the Director of the Department of Environmental Quality (the Director) shall not suspend, delay, or defer the issuance of any permit to provide for the closure of any CCR unit pending the completion by the owner or operator of the assessment of such CCR unit required by the first enactment of this act. In deciding whether to issue any such permit, the Director need not include or rely upon his review of any such assessment.*