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## SENATE BILL NO. 1743

Offered January 17, 2019

A *BILL to amend the Code of Virginia by adding in Chapter 3.1 of Title 62.1 an article numbered 2.7, consisting of sections numbered 62.1-44.15:85 through 62.1-44.15:91, relating to Coal Ash Management.*

Patron—Chase

Referred to Committee on Agriculture, Conservation and Natural Resources

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

**1. That the Code of Virginia is amended by adding in Chapter 3.1 of Title 62.1 an article numbered 2.7, consisting of sections numbered 62.1-44.15:85 through 62.1-44.15:91, as follows:**

*Article 2.7.**Coal Ash Management.***§ 62.1-44.15:85. Definitions.**

"Board" means the Virginia Waste Management Board.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility or independent power producer.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility or independent power producer.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility or independent power producer. "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility or independent power producer.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

"Owner of a CCR unit" means the owner or operator of any CCR unit.

**§ 62.1-44.15:86. Closure of CCR units.**

A. Beginning July 1, 2020, the construction of any new CCR unit, the expansion of any existing CCR unit, or the disposal of CCR into a CCR unit at an electric generating facility where no coal-fired generating unit is producing CCR is prohibited.

B. Each CCR unit shall be closed in compliance with the provisions of this article as soon as practicable, but no later than January 1, 2023.

**§ 62.1-44.15:87. Submission of closure plans.**

A. An owner of a CCR unit shall submit a proposed CCR unit closure plan for the Department's approval as soon as practicable, but no later than January 1, 2020. If corrective action to restore ground water has not been completed pursuant to the requirements of § 62.1-44.15:89, the proposed closure plan shall include provisions for completion of activities to restore ground water in conformance with § 62.1-44.15:89.

B. A closure plan for each CCR unit shall include all of the following:

1. A description of the operation of the site that includes, at a minimum, a site history and history of site operations, including details on the manner in which CCR have been stored and disposed of historically; estimated volume of material contained in the CCR unit; analysis of the structural integrity of dikes or dams associated with impoundment; all sources of discharge into the CCR unit, including volume and characteristics of each discharge; whether the CCR unit is lined, and, if so, the composition thereof; and a summary of all information available concerning the CCR unit as a result of inspections and monitoring conducted pursuant to this article and otherwise available.

2. Site maps that, at a minimum, illustrate all structures associated with the operation of any CCR unit located on the site. For purposes of this section, "site" means the land or waters within the property boundary of the applicable electric generating station; all current and former CCR disposal and storage areas on the site, including details concerning CCR produced historically by the electric generating station and disposed of through transfer to structural fills; the property boundary for the

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59 applicable site, including established compliance boundaries within the site; all potential receptors  
60 within 2,640 feet from established compliance boundaries; locations of all permitted sanitary landfills  
61 that are actively receiving waste or are closed, as well as the established compliance boundaries and  
62 components of associated ground water and surface water monitoring systems; all existing and proposed  
63 ground water monitoring wells associated with any CCR unit on the site; and all existing and proposed  
64 surface water sample collection locations associated with any CCR unit on the site.

65 3. The results of a hydrogeologic, geologic, and geotechnical investigation of the site, including, at a  
66 minimum, a description of the hydrogeology and geology of the site; a description of the stratigraphy of  
67 the geologic units underlying each CCR unit located on the site; the saturated hydraulic conductivity for  
68 (i) the CCR within any CCR unit located on the site and (ii) the saturated hydraulic conductivity of any  
69 existing liner installed at a CCR unit, if any; the geotechnical properties for (a) the CCR within any  
70 CCR unit located on the site, (b) the geotechnical properties of any existing liner installed at a CCR  
71 unit, if any, and (c) the uppermost identified stratigraphic unit underlying the CCR unit, including the  
72 soil classification based upon the Unified Soil Classification System, in-place moisture content, particle  
73 size distribution, Atterberg limits, specific gravity, effective friction angle, maximum dry density,  
74 optimum moisture content, and permeability; a chemical analysis of the CCR unit, including water,  
75 CCR, and CCR-affected soil; identification of all substances with concentrations determined to be in  
76 excess of the ground water quality standards for the substance established by regulation, including all  
77 laboratory results for such analyses; summary tables of historical records of ground water sampling  
78 results; a map that illustrates the potentiometric contours and flow directions for all identified aquifers  
79 underlying impoundments (shallow, intermediate, and deep) and the horizontal extent of areas where  
80 ground water quality standards established by regulation for a substance are exceeded; and  
81 cross-sections that illustrate the vertical and horizontal extent of the CCR within a CCR unit, the  
82 stratigraphy of the geologic units underlying an impoundment, and the vertical extent of areas where  
83 ground water quality standards established by regulation are exceeded.

84 4. The results of ground water modeling of the site that shall include, at a minimum, an account of  
85 the design of the proposed closure plan that is based on the site hydrogeologic conceptual model  
86 developed and includes (i) predictions on post-closure ground water elevations and ground water flow  
87 directions and velocities, including the effects on and from the potential receptors and (ii) predictions at  
88 the compliance boundary for substances with concentrations determined to be in excess of the ground  
89 water quality standards for the substance established by regulation; (iii) predictions that include the  
90 effects on the ground water chemistry and shall describe migration, concentration, mobilization, and fate  
91 for substances with concentrations determined to be in excess of the ground water quality standards for  
92 the substance established by regulation pre- and post-closure, including the effects on and from  
93 potential receptors; and (iv) a description of the ground water trend analysis methods used to  
94 demonstrate compliance with regulatory ground water quality standards for the substance and  
95 regulatory requirements for corrective action of ground water contamination.

96 5. A description of any plans for beneficial use of the CCR in compliance with applicable state and  
97 federal regulations.

98 6. All engineering drawings, schematics, and specifications for the proposed closure plan. If required  
99 by law, engineering design documents shall be prepared, signed, and sealed by a professional engineer.

100 7. A description of the construction quality assurance and quality control program to be implemented  
101 in conjunction with the closure plan, including the responsibilities and authorities for monitoring and  
102 testing activities, sampling strategies, and reporting requirements.

103 8. A description of the provisions for disposal of wastewater and management of stormwater and the  
104 plan for obtaining all required permits.

105 9. A description of the provisions for the final disposition of the CCR. If the CCR are to be removed,  
106 the owner shall identify (i) the location and permit number for the CCR landfills, industrial landfills, or  
107 municipal solid waste landfills in which the CCR will be disposed and (ii) in the case where the CCR  
108 are planned for beneficial use, the location and manner in which the residuals will be temporarily  
109 stored. If the CCR are to be left in the CCR unit, the owner shall provide a description of how the ash  
110 will be stabilized prior to completion of closure in accordance with closure and post-closure  
111 requirements established by regulation. If the CCR are to be left in the CCR unit, the owner shall  
112 provide an estimate of the volume of CCR remaining.

113 10. A list of all permits that will need to be acquired or modified to complete closure activities.

114 11. A description of the plan for post-closure monitoring and care for a CCR unit for a minimum of  
115 30 years. The length of the post-closure care period may be (i) proposed to be decreased or the  
116 frequency and parameter list modified if the owner demonstrates that the reduced period or  
117 modifications are sufficient to protect public health, safety, and welfare, the environment, and natural  
118 resources and (ii) increased by the Department at the end of the post-closure monitoring and care  
119 period if there are statistically significant increasing ground water quality trends or if contaminant  
120 concentrations have not decreased to a level protective of public health, safety, and welfare, the

environment, and natural resources. If the owner determines that the post-closure care monitoring and care period is no longer needed and the Department agrees, the owner shall provide a certification, signed and sealed by a professional engineer, verifying that post-closure monitoring and care has been completed in accordance with the post-closure plan. If required by law, the proposed plan for post-closure monitoring and care shall be signed and sealed by a professional engineer. The plan shall include, at a minimum, a demonstration of the long-term control of all leachate, affected ground water, and stormwater; and a description of a ground water monitoring program that includes (a) post-closure ground water monitoring, including parameters to be sampled and sampling schedules; (b) any additional monitoring well installations, including a map with the proposed locations and well construction details; and (c) the actions proposed to mitigate statistically significant increasing ground water quality trends.

12. An estimate of the milestone dates for all activities related to closure and post-closure.

13. Projected costs of assessment, corrective action, closure, and post-closure care for each CCR unit.

14. A description of the anticipated future use of the site and the necessity for the implementation of institutional controls following closure, including property use restrictions, and requirements for recordation of notices documenting the presence of contamination, if applicable, or historical site use.

**§ 62.1-44.15:88. Review of closure plans.**

A. The Department shall review a proposed closure plan for (i) consistency with the minimum requirements set forth in § 62.1-44.15:87; (ii) protection of public health, safety, and welfare, the environment, and natural resources; and (iii) compliance with the requirements of this article. Prior to issuing a decision on a proposed closure plan, the Department shall provide for public participation on the proposed closure plan as follows:

1. The Department shall make copies of the proposed closure plan available for inspection as follows: a copy of the proposed closure plan shall be provided to the local health director; a copy of the proposed closure plan shall be provided to the public library located in closest proximity to the site in the locality in which the site is located; the Department shall post a copy of the proposed closure plan on the Department's website; and the Department shall place copies of the declaration in other locations so as to assure the reasonable availability thereof to the public.

2. Before approving a proposed closure plan, the Department shall give notice as follows: a notice and summary of the proposed closure plan shall be published weekly for a period of three consecutive weeks in a newspaper having general circulation in the locality where the site is located, and notice that a proposed closure plan has been developed shall be given by first-class mail to persons who have requested such notice. Such notice shall include a summary of the proposed closure plan and state the locations where a copy of the proposed closure plan is available for inspection. The Department shall maintain a mailing list of persons who request notice pursuant to this section, and notice that a proposed closure plan has been developed shall be given by electronic mail to persons who have requested such notice. Such notice shall include a summary of the proposed closure plan and state the locations where a copy of the proposed closure plan is available for inspection. The Department shall maintain a mailing list of persons who request notice pursuant to this clause.

3. No later than 60 days after receipt of a proposed closure plan, the Department shall conduct a public meeting in the locality in which the site is located to explain the proposed closure plan and alternatives to the public. The Department shall give notice of the hearing at least 30 days prior to the date thereof by publication as provided in subdivision 1, with first publication to occur not less than 30 days prior to the scheduled date of the hearing; first-class mail to persons who have requested such notice as provided in subdivision 2; and electronic mail to persons who have requested such notice as provided in subdivision 2.

4. At least 30 days from the latest date on which notice is provided pursuant to subdivision 2 shall be allowed for the receipt of written comment on the proposed closure plan prior to its approval. At least 20 days shall be allowed for receipt of written comment following a hearing conducted pursuant to subdivision 3 prior to the approval of the proposed closure plan.

B. The Department shall disapprove a proposed CCR Unit closure plan unless the Department finds that the closure plan (i) is protective of public health, safety, and welfare, the environment, and natural resources and (ii) otherwise complies with the requirements of this article. The Department shall provide specific findings to support its decision to approve or disapprove a proposed closure plan. If the Department disapproves a proposed closure plan, the person who submitted the closure plan may seek review as provided in the Administrative Process Act (§ 2.2-4000 et seq.). If the Department fails to approve or disapprove a proposed closure plan within 120 days after a complete closure plan has been submitted, the person who submitted the proposed closure plan may treat the closure plan as having been disapproved at the end of such time period. The Department may require a person who proposes a closure plan to supply any additional information necessary for the Department to approve or

182 *disapprove the closure plan.*

183 *C. Within 30 days of its approval of a CCR unit closure plan, the Department shall submit the*  
184 *closure plan to the Board. The Board shall evaluate all information submitted that is related to the*  
185 *closure plan and any other information the Board deems relevant. The Board shall approve the closure*  
186 *plan if it determines that the closure plan was developed in accordance with this article, that*  
187 *implementation of the closure plan according to the closure plan's schedule is technologically and*  
188 *economically feasible, and that the closure plan is protective of the public health, safety, and welfare,*  
189 *the environment, and natural resources. In addition, the Board may consider any impact on electricity*  
190 *costs and reliability, but this factor shall not be dispositive of the Board's determination. The Board*  
191 *shall issue its determination in writing, including findings in support of its determination. If the Board*  
192 *fails to act on a closure plan within 60 days of receipt of the closure plan, the closure plan shall be*  
193 *deemed approved. Parties aggrieved by a final decision of the Board pursuant to this subsection may*  
194 *appeal the decision as provided under the Administrative Process Act (§ 2.2-4000 et seq.).*

195 *D. As soon as practicable, but no later than 60 days after a CCR unit closure plan has been*  
196 *approved by the Board, the owner of the CCR unit shall begin implementation of the approved plan.*  
197 *Modifications to an approved closure plan may only be allowed in conformance with the requirements*  
198 *of this article, upon written request of an owner of a CCR unit, with the written approval of the*  
199 *Department, and after public notice of the change in accordance with the requirements of subdivision A*  
200 *2. However, minor technical modifications may be made in accordance with standard Department*  
201 *procedures for such minor modifications and may be made without written approval of the Department*  
202 *or public notice of the change.*

203 *E. Nothing in this section shall be construed to obviate any requirement for sampling, remediation,*  
204 *or monitoring activities at the site.*

205 **§ 62.1-44.15:89. Ground water; drinking water survey; reporting.**

206 *A. The owner of a CCR unit shall conduct ground water monitoring and assessment as provided in*  
207 *this subsection. The requirements for ground water monitoring and assessment set out in this subsection*  
208 *are in addition to any other ground water monitoring and assessment requirements applicable to the*  
209 *owners of CCR units.*

210 *1. No later than January 1, 2020, the owner of a CCR unit shall submit a proposed ground water*  
211 *assessment plan for the CCR unit to the Department for its review and approval. The ground water*  
212 *assessment plan shall, at a minimum, provide for a description of all receptors and significant exposure*  
213 *pathways; an assessment of the horizontal and vertical extent of soil and ground water contamination*  
214 *for all contaminants confirmed to be present in ground water in exceedance of ground water quality*  
215 *standards; a description of all significant factors affecting movement and transport of contaminants; a*  
216 *description of the geological and hydrogeological features influencing the chemical and physical*  
217 *character of the contaminants; a schedule for continued ground water monitoring; and any other*  
218 *information related to ground water assessment required by the Department.*

219 *2. The Department shall approve the ground water assessment plan if it determines that the Plan*  
220 *complies with the requirements of this subsection and will be sufficient to protect public health, safety,*  
221 *and welfare, the environment, and natural resources.*

222 *3. No later than 10 days after approval of the ground water assessment plan, the owner shall begin*  
223 *implementation of the plan.*

224 *4. No later than 180 days after approval of the ground water assessment plan, the owner shall*  
225 *submit a ground water assessment report to the Department. The report shall describe all exceedances*  
226 *of ground water quality standards associated with the CCR unit.*

227 *B. The owner of a CCR unit shall implement corrective action for the restoration of ground water*  
228 *quality as provided in this subsection. The requirements for corrective action for the restoration of*  
229 *ground water quality set out in this subsection are in addition to any other corrective action for the*  
230 *restoration of ground water quality requirements applicable to the owners of CCR units.*

231 *1. No later than 90 days after submission of the ground water assessment report required by*  
232 *subsection A, or a time frame otherwise approved by the Department not to exceed 180 days from*  
233 *submission of the ground water assessment report, the owner of the CCR unit shall submit a proposed*  
234 *ground water corrective action plan to the Department for its review and approval. The ground water*  
235 *corrective action plan shall provide for the restoration of ground water in conformance with the*  
236 *requirements of applicable regulations. The ground water corrective action plan shall include, at a*  
237 *minimum, a description of all exceedances of the ground water quality standards, including any*  
238 *exceedances that the owner asserts are the result of natural background conditions; a description of the*  
239 *methods for restoring ground water in conformance with regulatory requirements and a detailed*  
240 *explanation of the reasons for selecting such methods; specific plans, including engineering details, for*  
241 *restoring ground water quality; a schedule for implementation of the plan; a monitoring plan for*  
242 *evaluating the effectiveness of the proposed corrective action and detecting movement of any*  
243 *contaminant plumes; and any other information related to ground water assessment required by the*

Department.

2. The Department shall approve the ground water corrective action plan if it determines that the plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare, the environment, and natural resources.

3. No later than 30 days from the approval of the ground water corrective action plan, the owner shall begin implementation of the plan in accordance with the plan's schedule.

C. No later than October 1, 2019, the owner of a CCR unit shall conduct a drinking water supply well survey that identifies all drinking water supply wells within one-half mile of the established compliance boundary of the CCR unit and submit the survey to the Department. The survey shall include well locations, the nature of water uses, available well construction details, and information regarding ownership of the wells. No later than December 1, 2019, the Department shall determine, on the basis of the survey, which drinking water supply wells the owner is required to sample and how frequently and for what period sampling is required. The Department shall require sampling for drinking water supply wells where data regarding ground water quality and flow and depth in the area of any surveyed well provide a reasonable basis to predict that the quality of water from the surveyed well may be adversely impacted by constituents associated with the presence of the CCR unit. No later than January 1, 2020, the owner shall initiate sampling and water quality analysis of the drinking water supply wells. A property owner may elect to have an independent third party selected from a certified laboratory sample wells located on their property in lieu of sampling conducted by the owner of the CCR unit. The owner of the CCR unit shall pay for the reasonable costs of such sampling. Nothing in this subsection shall be construed to preclude or impair the right of any property owner to refuse such sampling of wells on their property. If the sampling and water quality analysis indicates that water from a drinking water supply well exceeds ground water quality standards for constituents associated with the presence of the CCR unit, the owner shall replace the contaminated drinking water supply well with an alternate supply of potable drinking water and an alternate supply of water that is safe for other household uses. The alternate supply of potable drinking water shall be supplied within 24 hours of the Department's determination that there is an exceedance of ground water quality standards attributable to constituents associated with the presence of the CCR unit. The alternate supply of water that is safe for other household uses shall be supplied within 30 days of the Department's determination that there is an exceedance of ground water quality standards attributable to constituents associated with the presence of the CCR unit. The requirement to replace a contaminated drinking water supply well with an alternate supply of potable drinking water and an alternate supply of water that is safe for other household uses set out in this subsection is in addition to any other requirements to replace a contaminated drinking water supply well with an alternate supply of potable drinking water or an alternate supply of water that is safe for other household uses applicable to the owners of CCR units.

D. In addition to any other reporting required by the Department, the owner of a CCR unit shall submit an annual ground water protection and restoration report to the Department no later than February 1 of each year. The report shall include a summary of all ground water monitoring, protection, and restoration activities related to the CCR unit for the preceding year, including the status of the ground water assessment plan, the ground water assessment report, the ground water corrective action plan, the drinking water supply well survey, and the replacement of any contaminated drinking water supply wells. The owner of a CCR unit shall also submit all information required to be submitted to the Department pursuant to this section to the Board.

**§ 62.1-44.15:90. Identification and assessment of discharges; correction of unpermitted discharges.**

A. The owner of a CCR unit shall identify all discharges from the CCR unit as provided in this subsection. The requirements for identifying all discharges from a CCR unit set out in this subsection are in addition to any other requirements for identifying discharges applicable to the owners of CCR units.

No later than December 31, 2019, the owner of a CCR unit shall submit a topographic map that identifies the location of all (i) outfalls from engineered channels designed or improved for the purpose of collecting water from the toe of the CCR unit and (ii) seeps and weeps discharging from the CCR unit that are not captured by engineered channels designed or improved for the purpose of collecting water from the toe of the CCR unit to the Department. The topographic map shall be at a scale as required by the Department; specify the latitude and longitude of each toe drain outfall, seep, and weep; specify whether the discharge from each toe drain outfall, seep, and weep is continuous or intermittent; provide an average flow measurement of the discharge from each toe drain outfall, seep, and weep including a description of the method used to measure average flow; specify whether the discharge from each toe drain outfall, seep, and weep identified reaches the surface waters of the Commonwealth, and specify on the map the latitude and longitude of where such discharge reaches the surface waters of the Commonwealth; and include any other information related to the topographic map required by the Department.

*B. The owner of a CCR unit shall conduct an assessment of discharges from the CCR unit to the surface waters of the Commonwealth as provided in this subsection. The requirements for assessment of discharges from the CCR unit to the surface waters of the Commonwealth set out in this subsection are in addition to any other requirements for the assessment of discharges from CCR units to surface waters of the Commonwealth applicable to the owners of CCR units.*

*1. No later than December 31, 2019, the owner of a CCR unit shall submit a proposed discharge assessment plan to the Department. The discharge assessment plan shall include information sufficient to allow the Department to determine whether any discharge, including a discharge from a toe drain outfall, seep, or weep, has reached the surface waters of the Commonwealth and has caused a violation of surface water quality standards. The discharge assessment plan shall include, at a minimum, upstream and downstream sampling locations within all channels that could potentially carry a discharge; a description of the surface water quality analyses that will be performed; a sampling schedule, including the frequency and duration of sampling activities; reporting requirements; and any other information related to the assessment of discharges required by the Department.*

*2. The Department shall approve the discharge assessment plan if it determines that the plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.*

*3. No later than 30 days from the approval of the discharge assessment plan, the owner shall begin implementation of the plan in accordance with the plan's schedule.*

*C. The owner of a CCR unit shall implement corrective action to prevent unpermitted discharges from the CCR unit to the surface waters of the Commonwealth as provided in this subsection. The requirements for corrective action to prevent unpermitted discharges from CCR units to the surface waters of the Commonwealth set out in this subsection are in addition to any other requirements for corrective action to prevent unpermitted discharges from CCR units to the surface waters of the Commonwealth applicable to the owners of CCR units.*

*1. If the Department determines, on the basis of information provided pursuant to subsection A or B, that an unpermitted discharge from a CCR unit, including an unpermitted discharge from a toe drain outfall, seep, or weep, has reached the surface waters of the Commonwealth, the Department shall notify the owner of the CCR unit of its determination.*

*2. No later than 30 days from a notification pursuant to subdivision 1, the owner of the CCR unit shall submit a proposed unpermitted discharge corrective action plan to the Department for its review and approval. The proposed unpermitted discharge corrective action plan shall include either the elimination of the unpermitted discharge or an application for a National Pollutant Discharge Elimination System (NPDES) permit amendment to bring the unpermitted discharge under permit regulations. The proposed unpermitted discharge corrective action plan also shall include a detailed explanation of the reasons for selecting the method of corrective action; specific plans, including engineering details, to prevent the unpermitted discharge; a schedule for implementation of the plan; a monitoring plan for evaluating the effectiveness of the proposed corrective action; and any other information related to the correction of unpermitted discharges required by the Department.*

*3. The Department shall approve the unpermitted discharge corrective action plan if it determines that the plan complies with the requirements and will be sufficient to protect public health, safety, and welfare, the environment, and natural resources.*

*4. No later than 30 days from the approval of the unpermitted discharge corrective action plan, the owner shall begin implementation of the plan in accordance with the plan's schedule.*

*D. No later than October 1, 2019, the owner of a CCR unit shall submit a proposed plan for the identification of new discharges to the Department for its review and approval as provided in this subsection.*

*1. The proposed plan for the identification of new discharges shall include, at a minimum, a procedure for routine inspection of the CCR unit to identify indicators of potential new discharges, including toe drain outfalls, seeps, and weeps; a procedure for determining whether a new discharge is actually present; a procedure for notifying the Department when a new discharge is confirmed; and any other information related to the identification of new discharges required by the Department.*

*2. The Department shall approve the plan for the identification of new discharges if it determines that the plan complies with the requirements and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.*

*3. No later than 30 days from the approval of the plan for the identification of new discharges, the owner shall begin implementation of the plan in accordance with the plan.*

*E. In addition to any other reporting required by the Department, the owner of a CCR unit shall submit an annual surface water protection and restoration report to the Department no later than February 1 of each year. The report shall include a summary of all surface water sampling, protection, and restoration activities related to the CCR unit for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from CCR units to the surface*

waters of the Commonwealth. The owner of a CCR unit shall also submit all information required to be submitted to the Department pursuant to this section to the Board.

**§ 62.1-44.15:91. Reports.**

A. The Department shall submit quarterly written reports to the Department on its operations, activities, programs, and progress with respect to its obligations under this article concerning all CCR units. At a minimum, the report shall include information concerning the status of assessment, corrective action, prioritization, and closure for each CCR unit and information on costs connected therewith. The report shall include an executive summary of each annual ground water protection and restoration report submitted to the Department by the operator of any CCR unit pursuant to § 62.1-44.15:90 and a summary of all ground water sampling, protection, and restoration activities related to the CCR unit for the preceding year. The report shall also include an executive summary of each annual surface water protection and restoration report submitted to the Department by the operator of any CCR units pursuant to § 62.1-44.15:90 and a summary of all surface water sampling, protection, and restoration activities related to the CCR unit for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from CCR units to the surface waters of the Commonwealth. The Department shall supplement the written reports required by this subsection with additional written and oral reports as it may request. The Department shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

B. On or before October 1 of each year, the Department shall report to each member of the General Assembly whose district contains a CCR unit. Such report shall include the location of each CCR unit in the member's district, the amount of CCR known or believed to be located in the CCR unit, the last action taken at the CCR unit, and the date of that last action.

C. On or before October 1 of each year, a public utility generating CCR and coal combustion products shall submit an annual summary to the Department. The annual summary shall be for the period of July 1 through June 30 and shall include the volume of CCR and products produced, the volume of CCR disposed of, the volume of coal combustion products used in structural fill projects, and the volume of coal combustion products beneficially used, other than for structural fill.

**§ 62.1-44.15:91. Regulatory fee for combustion residuals units.**

Each public utility with a CCR unit shall pay a regulatory fee, to be established by the Board, for the purpose of defraying the costs of oversight of CCR. The fee is in addition to any other fee imposed by the Board or the Department. The fees collected under this section shall only be used to pay the expenses of the Board and the Department in providing oversight of CCR.

2. That each owner of a CCR unit as defined in Article 2.7 (§ 62.1-44.15:85 et seq.) of Title 62.1 of the Code of Virginia, as created by this act, shall, by January 1, 2020, identify two or more sites that contain CCR suitable for processing as specification material suitable for use as supplementary cementitious material in concrete. The Department of Environmental Quality (the Department) shall require each owner of a CCR unit to enter into binding agreements to (i) supply annually a combined total of at least 600,000 tons of coal ash from CCR units at the two identified sites to a CCR beneficiation project and (ii) install and operate at least one CCR beneficiation plant for the production of such specification material. As soon as legally practicable thereafter, the CCR unit owner shall apply for all permits necessary for the ash beneficiation project. The Department may allow for temporary closure of impoundments located at the identified sites if the CCR unit owner can demonstrate that the CCR in such impoundments is capable of being removed in the future for the purpose of encapsulated beneficial use. The Department shall allow closed impoundments to be reopened to facilitate the removal of CCR for encapsulated beneficial use if the CCR unit owner can demonstrate that such removal will not increase the potential threat to water quality. The Department shall expedite any permits and approvals required for such projects. The owner of the CCR units shall commence removal of CCR from both sites and operation of the beneficiation plant within two years of the issuance of the final required permit.