

Maryland sues NRG Energy, alleging water pollution at two coal-fired generators

By [Max Ehrenfreund](#), [E-mail the writer](#)

The Maryland Department of the Environment has brought another water pollution lawsuit against a subsidiary of NRG Energy, just weeks after the company agreed to pay millions of dollars in penalties and mitigation costs to settle a suit related to other facilities.

The new suit, filed in June, concerns coal-fired generators at two plants, in Dickerson, in Montgomery County, and at Chalk Point in Aquasco, in Prince George's County. The state contends that wastewater released into the Potomac and Patuxent rivers, respectively, contained illegal amounts of nitrogen and, in one instance, phosphorus.

The parties are trying to negotiate a settlement in the case, the latest in a series of legal disputes involving facilities that were owned by GenOn Energy before NRG bought the company in December. The lawsuit names GenOn entities as defendants.

NRG, a publicly traded company based in Princeton, N.J., reported \$8.4 billion in revenue in 2012, and the firm owns dozens of power plants across the country.

David Hill, executive vice president and general counsel at NRG, declined to comment on the continuing litigation.

According to Maryland's complaint, sulfur dioxide scrubbers and wastewater treatment systems were added at the two plants in 2009 and 2010 to comply with the Maryland Healthy Air Act, enacted in 2006. The treatment systems included bacteria to remove pollutants from wastewater, but the organisms died soon after installation, the state contends.

Citing monitoring data submitted by GenOn, the state contends that the Chalk Point plant discharged as much as 20 times its annual allotment of nitrogen into the Patuxent in some years. Nitrogen, like phosphorus, is a common component of fertilizer. Released into water, it can exacerbate algal blooms, which in turn create the oxygen-depleted dead zones that have plagued the Chesapeake Bay.

"It's what's killing the bay," said Scott Edwards, a lawyer at Food and Water Watch. The advocacy group was one of several organizations that threatened to sue NRG this year, prodding state officials to take action.

Another of those organizations was Patuxent Riverkeeper, which is led by Fred Tutman. He called the alleged violations "part of a persistent pattern of misbehavior."

NRG's Hill said there is not necessarily any connection between legal disputes involving facilities formerly controlled by GenOn, and he noted that facilities are located in different states with varying approaches to enforcement.

Hill also said GenOn and NRG had similar protocols for preventing pollution. "We believe that GenOn had acted reasonably and responsibly before the merger," he said.

Maryland's previous suit, settled in early May, dealt with the landfills in Prince George's, Montgomery and Charles counties that were used to dispose fly ash from coal-fired generators, including the Dickerson and Chalk Point plants. Coal ash can contain an array of heavy metals and other toxins, including arsenic and selenium.

As part of a settlement in that suit, NRG agreed to determine whether pollution from the ash dumps has contaminated drinking water in nearby wells.

In addition to paying a \$1.9 million penalty, the settlement requires NRG to take action to control pollution at the sites. Among other measures, the company has agreed to cap the ash pits that are no longer in use with an impermeable layer, which will prevent rainwater from leaching pollutants into groundwater. NRG has set aside \$47 million to install the caps, but it cannot predict the total cost of implementing the settlement, according to a Securities and Exchange Commission filing.

NRG maintains that GenOn's operations were legal, and the company did not admit wrongdoing in the settlement.

GenOn and Maryland settled another case in December. The state contended that the company, acting without the proper permits, filled wetlands at the Prince George's landfill, in the unincorporated community of Brandywine. The company agreed to a \$300,000 fine. In an incident not related to the settlement, ash overflowed at the Brandywine site after Hurricane Irene in 2011, flooding 18 acres of private property.

In May, NRG also settled a lawsuit concerning air pollution from a coal-fired plant formerly owned by GenOn in Mount Bethel, Pa.