

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 3.135 and 39 and by adding Section 9.14 as
6 follows:

7 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

8 Sec. 3.135. Coal combustion by-product; CCB.

9 (a) "Coal combustion by-product" (CCB) means coal
10 combustion waste when used beneficially in ~~for~~ any of the
11 following ways ~~purposes~~:

12 (1) The extraction or recovery of material compounds
13 contained within CCB.

14 (2) The use of CCB as a raw ingredient or mineral
15 filler in the manufacture of the following commercial
16 products: cement; concrete and concrete mortars;
17 cementious ~~concrete~~ products including block, pipe and
18 precast/prestressed components; asphalt or cementious
19 ~~ement-based~~ roofing products ~~shingles~~; plastic products
20 including pipes and fittings; paints and metal alloys; kiln
21 fired products including bricks, blocks, and tiles;
22 abrasive media; gypsum wallboard; asphaltic concrete, or
23 asphalt based paving material.

24 (3) CCB used (A) in accordance ~~conformance~~ with the
25 Illinois Department of Transportation ("IDOT") standard
26 specifications and subsection (a-5) of this Section or (B)
27 ~~and~~ under the approval of the Department of Transportation
28 for IDOT projects.

29 (4) Bottom ash used as antiskid material, athletic
30 tracks, or foot paths.

31 (5) Use ~~as a substitute for lime (CaO and MgO)~~ in the
32 lime stabilization or modification of soils providing the

1 CCB meets the IDOT ~~Illinois Department of Transportation~~
2 ~~("IDOT")~~ specifications for soil modifiers ~~byproduct~~
3 ~~limes~~.

4 (6) CCB used as a functionally equivalent substitute
5 for agricultural lime as a soil conditioner.

6 (7) Bottom ash used in non-IDOT pavement sub-base or
7 base, pipe bedding, or foundation backfill.

8 (8) Structural fill, when used in an engineered
9 application or combined with cement, sand, or water to
10 produce a controlled strength fill material and covered
11 with 12 inches of soil unless infiltration is prevented by
12 the material itself or other cover material.

13 (9) Mine subsidence, mine fire control, mine sealing,
14 and mine reclamation.

15 (a-5) ~~(10)~~ Except to the extent that the uses are otherwise
16 authorized by law without such restrictions, the uses specified
17 in items (a) (3) (A), (a) (7), and (a) (8) ~~(7) through (9)~~ shall be
18 subject to the following conditions:

19 (A) CCB shall not have been mixed with hazardous waste
20 prior to use. †

21 (B) CCB shall not exceed Class I Groundwater Standards
22 for the following parameters ~~metals~~ when tested utilizing
23 test method ASTM D3987-85: arsenic, barium, cadmium,
24 antimony, beryllium, chromium, cobalt, copper, iron, lead,
25 manganese, mercury, nickel, selenium, silver, thallium,
26 and zinc. The sample or samples tested shall be
27 representative of the CCB being considered for use. †

28 (C) Unless otherwise exempted, users of CCB for the
29 purposes described in items (a) (3) (A), (a) (7), and (a) (8)
30 of this Section shall provide notification to the Agency
31 for each project utilizing CCB documenting the quantity of
32 CCB utilized and certification of compliance with
33 conditions (A) and (B) of this subsection. Notification
34 shall not be required for users of CCB for purposes
35 described in items (a) (1), (a) (2), (a) (3) (B), (a) (4),
36 (a) (5), (a) (6), and (a) (9) of this Section, or as required

1 specifically under a beneficial use determination as
2 provided under this Section, or pavement base, parking lot
3 base, or building base projects utilizing less than 10,000
4 tons, flowable fill/grout projects utilizing less than
5 1,000 cubic yards or other applications utilizing less than
6 100 tons. ~~†~~

7 (D) Fly ash shall be managed ~~applied~~ in a manner that
8 minimizes the generation of airborne particles and dust
9 using techniques such as moisture conditioning,
10 granulating, inground application, or other demonstrated
11 method. ~~† and~~

12 (E) CCB is not to be accumulated speculatively. CCB is
13 not accumulated speculatively if during the calendar year,
14 the CCB used is equal to 75% of the CCB by weight or volume
15 accumulated at the beginning of the period.

16 (F) CCB shall include any prescribed mixture of fly
17 ash, bottom ash, boiler slag, flue gas desulfurization
18 scrubber sludge, fluidized bed combustion ash, and stoker
19 boiler ash and shall be tested as intended for use.

20 (b) To encourage and promote the utilization of CCB in
21 productive and beneficial applications, upon request by the
22 applicant, the Agency shall ~~may~~ make a written beneficial use
23 determination ~~determination~~ that coal-combustion waste is CCB
24 when used in a manner other than those uses specified in
25 subsection (a) of ~~that specified in~~ this Section if the
26 applicant demonstrates that use of the coal-combustion waste
27 satisfies all of the following criteria: the use will not
28 cause, threaten, or allow the discharge of any contaminant into
29 the environment; the use will otherwise protect human health
30 and safety and the environment; and the use constitutes a
31 legitimate use of the coal-combustion waste as an ingredient or
32 raw material that is an effective substitute for an analogous
33 ingredient or raw material ~~if the use has been shown to have no~~
34 adverse environmental impact greater than the beneficial uses
35 specified, in consultation with the Department of Mines and
36 Minerals, the Illinois Clean Coal Institute, the Department of

1 ~~Transportation, and such other agencies as may be appropriate.~~

2 The Agency's beneficial use determinations may allow the
3 uses set forth in items (a)(3)(A), (a)(7), and (a)(8) of this
4 Section without the CCB being subject to the restrictions set
5 forth in subdivisions (a-5)(B) and (a-5)(E) of this Section.

6 Within 90 days after the receipt of an application for a
7 beneficial use determination under this subsection (b), the
8 Agency shall, in writing, approve, disapprove, or approve with
9 conditions the beneficial use. Any disapproval or approval with
10 conditions shall include the Agency's reasons for the
11 disapproval or conditions. Failure of the Agency to issue a
12 decision within 90 days shall constitute disapproval of the
13 beneficial use request. These beneficial use determinations
14 are subject to review under Section 40 of this Act.

15 Any approval of a beneficial use under this subsection (b)
16 shall become effective upon the date of the Agency's written
17 decision and remain in effect for a period of 5 years. If an
18 applicant desires to continue a beneficial use after the
19 expiration of the 5-year period, the applicant must submit an
20 application for renewal no later than 90 days prior to the
21 expiration. The beneficial use approval shall be automatically
22 extended unless denied by the Agency in writing with the
23 Agency's reasons for disapproval, or unless the Agency has
24 requested an extension for review, in which case the use will
25 continue to be allowed until an Agency determination is made.

26 Coal-combustion waste for which a beneficial use is
27 approved pursuant to this subsection (b) shall be considered
28 CCB during the effective period of the approval, as long as it
29 is used in accordance with the approval and any conditions.

30 The Board shall adopt rules establishing standards and
31 procedures for the Agency's issuance of beneficial use
32 determinations under this subsection (b). The Board rules may
33 also, but are not required to, include standards and procedures
34 for the revocation of the beneficial use determinations. Prior
35 to the effective date of Board rules adopted under this
36 subsection (b), the Agency is authorized to make beneficial use

1 determinations in accordance with this subsection (b).

2 The Agency is authorized to prepare and distribute guidance

3 documents relating to its administration of this Section.

4 Guidance documents prepared under this subsection are not rules

5 for the purposes of the Illinois Administrative Procedure Act.

6 (Source: P.A. 92-574, eff. 6-26-02.)