

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) and (a) (7) through (9) shall be subject to  
18 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 metals when tested utilizing test method ASTM D3987-85.  
23 The sample or samples tested shall be representative of the  
24 CCB being considered for use. ~~†~~

25 (C) Unless otherwise exempted, users of CCB for the  
26 purposes described in items (a) (3) (A) and (a) (7) through  
27 (9) of this Section shall provide notification to the  
28 Agency for each project utilizing CCB documenting the  
29 quantity of CCB utilized and certification of compliance  
30 with conditions (A) and (B) of this subsection.  
31 Notification shall not be required for users of CCB for  
32 purposes described in items (a) (1), (a) (2), (a) (3) (B),  
33 (a) (4), (a) (5) and (a) (6) of this Section, or as required  
34 specifically under a beneficial use determination as  
35 provided under this Section, or pavement base, parking lot  
36 base, or building base projects utilizing less than 10,000

1 tons, flowable fill/grout projects utilizing less than  
2 1,000 cubic yards or other applications utilizing less than  
3 100 tons. ~~†~~

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

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

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

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

35 The Agency's beneficial use determinations may allow the  
36 uses set forth in items (a) (3) (A) and (a) (7) through (9) of

1 this Section without the CCB being subject to the restrictions  
2 set forth in subdivisions (a-5)(B) and (a-5)(E) of this  
3 Section.

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

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

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

28 Notwithstanding the other provisions of this subsection  
29 (b), written beneficial use determination applications for the  
30 use of CCB at sites governed by the federal Surface Mining  
31 Control and Reclamation Act of 1977 (P.L. 95-87) or the rules  
32 and regulations thereunder, or by any law or rule or regulation  
33 adopted by the State of Illinois pursuant thereto, shall be  
34 reviewed and approved by the Office of Mines and Minerals  
35 within the Department of Natural Resources pursuant to 62 Ill.  
36 Adm. Code §§ 1700-1850. Further, appeals of those

1 determinations shall be made pursuant to the Illinois  
2 Administrative Review Law.

3 The Board shall adopt rules establishing standards and  
4 procedures for the Agency's issuance of beneficial use  
5 determinations under this subsection (b). The Board rules may  
6 also, but are not required to, include standards and procedures  
7 for the revocation of the beneficial use determinations. Prior  
8 to the effective date of Board rules adopted under this  
9 subsection (b), the Agency is authorized to make beneficial use  
10 determinations in accordance with this subsection (b).

11 The Agency is authorized to prepare and distribute guidance  
12 documents relating to its administration of this Section.  
13 Guidance documents prepared under this subsection are not rules  
14 for the purposes of the Illinois Administrative Procedure Act.

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