

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 Section 3.135 as follows:

6 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

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

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

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

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

23 (3) CCB used (A) in accordance with the Illinois

1 Department of Transportation ("IDOT") standard
2 specifications and subsection (a-5) of this Section or (B)
3 under the approval of the Department of Transportation for
4 IDOT projects.

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

7 (5) Use in the stabilization or modification of soils
8 providing the CCB meets the IDOT specifications for soil
9 modifiers.

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

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

14 (8) Structural fill, designed and constructed
15 according to ASTM standard E2277-03, when used in an
16 engineered application or combined with cement, sand, or
17 water to produce a controlled strength fill material and
18 covered with 12 inches of soil unless infiltration is
19 prevented by the material itself or other cover material.

20 (9) Mine subsidence, mine fire control, mine sealing,
21 and mine reclamation.

22 (a-5) Except to the extent that the uses are otherwise
23 authorized by law without such restrictions, the uses specified
24 in items (a) (3) (A) and (a) (7) through (9) shall be subject to
25 the following conditions:

26 (A) CCB shall not have been mixed with hazardous waste

1 prior to use.

2 (B) CCB shall not exceed Class I Groundwater Standards
3 for metals when tested utilizing test method ASTM D3987-85.
4 The sample or samples tested shall be representative of the
5 CCB being considered for use.

6 (C) Unless otherwise exempted, users of CCB for the
7 purposes described in items (a)(3)(A) and (a)(7) through
8 (9) of this Section shall provide notification to the
9 Agency for each project utilizing CCB documenting the
10 quantity of CCB utilized and certification of compliance
11 with conditions (A) and (B) of this subsection.
12 Notification shall not be required for users of CCB for
13 purposes described in items (a)(1), (a)(2), (a)(3)(B),
14 (a)(4), (a)(5) and (a)(6) of this Section, or as required
15 specifically under a beneficial use determination as
16 provided under this Section, or pavement base, parking lot
17 base, or building base projects utilizing less than 10,000
18 tons, flowable fill/grout projects utilizing less than
19 1,000 cubic yards or other applications utilizing less than
20 100 tons.

21 (D) Fly ash shall be managed in a manner that minimizes
22 the generation of airborne particles and dust using
23 techniques such as moisture conditioning, granulating,
24 inground application, or other demonstrated method.

25 (E) CCB is not to be accumulated speculatively. CCB is
26 not accumulated speculatively if during the calendar year,

1 the CCB used is equal to 75% of the CCB by weight or volume
2 accumulated at the beginning of the period.

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

7 (b) To encourage and promote the utilization of CCB in
8 productive and beneficial applications, upon request by the
9 applicant, the Agency shall make a written beneficial use
10 determination that coal-combustion waste is CCB when used in a
11 manner other than those uses specified in subsection (a) of
12 this Section if the applicant demonstrates that use of the
13 coal-combustion waste satisfies all of the following criteria:
14 the use will not cause, threaten, or allow the discharge of any
15 contaminant into the environment; the use will otherwise
16 protect human health and safety and the environment; and the
17 use constitutes a legitimate use of the coal-combustion waste
18 as an ingredient or raw material that is an effective
19 substitute for an analogous ingredient or raw material.

20 The Agency's beneficial use determinations may allow the
21 uses set forth in items (a)(3)(A) and (a)(7) through (9) of
22 this Section without the CCB being subject to the restrictions
23 set forth in subdivisions (a-5)(B) and (a-5)(E) of this
24 Section.

25 Within 90 days after the receipt of an application for a
26 beneficial use determination under this subsection (b), the

1 Agency shall, in writing, approve, disapprove, or approve with
2 conditions the beneficial use. Any disapproval or approval with
3 conditions shall include the Agency's reasons for the
4 disapproval or conditions. Failure of the Agency to issue a
5 decision within 90 days shall constitute disapproval of the
6 beneficial use request. These beneficial use determinations
7 are subject to review under Section 40 of this Act.

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

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

23 Notwithstanding the other provisions of this subsection
24 (b), written beneficial use determination applications for the
25 use of CCB at sites governed by the federal Surface Mining
26 Control and Reclamation Act of 1977 (P.L. 95-87) or the rules

1 and regulations thereunder, or by any law or rule or regulation
2 adopted by the State of Illinois pursuant thereto, shall be
3 reviewed and approved by the Office of Mines and Minerals
4 within the Department of Natural Resources pursuant to 62 Ill.
5 Adm. Code §§ 1700-1850. Further, appeals of those
6 determinations shall be made pursuant to the Illinois
7 Administrative Review Law.

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

16 The Agency is authorized to prepare and distribute guidance
17 documents relating to its administration of this Section.
18 Guidance documents prepared under this subsection are not rules
19 for the purposes of the Illinois Administrative Procedure Act.

20 (Source: P.A. 94-66, eff. 1-1-06.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.