

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 or Illinois Department  
16 of Transportation specifications, when used in an  
17 engineered application or combined with cement, sand, or  
18 water to produce a controlled strength fill material and  
19 covered with 12 inches of soil unless infiltration is  
20 prevented by the material itself or other cover material.

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

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

1           (A) CCB shall not have been mixed with hazardous waste  
2 prior to use.

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

7           (C) Unless otherwise exempted, users of CCB for the  
8 purposes described in items (a)(3)(A) and (a)(7) through  
9 (9) of this Section shall provide notification to the  
10 Agency for each project utilizing CCB documenting the  
11 quantity of CCB utilized and certification of compliance  
12 with conditions (A) and (B) of this subsection.  
13 Notification shall not be required for users of CCB for  
14 purposes described in items (a)(1), (a)(2), (a)(3)(B),  
15 (a)(4), (a)(5) and (a)(6) of this Section, or as required  
16 specifically under a beneficial use determination as  
17 provided under this Section, or pavement base, parking lot  
18 base, or building base projects utilizing less than 10,000  
19 tons, flowable fill/grout projects utilizing less than  
20 1,000 cubic yards or other applications utilizing less than  
21 100 tons.

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

26           (E) CCB is not to be accumulated speculatively. CCB is

1 not accumulated speculatively if during the calendar year,  
2 the CCB used is equal to 75% of the CCB by weight or volume  
3 accumulated at the beginning of the period.

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

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

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

26 Within 90 days after the receipt of an application for a

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

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

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

24 Notwithstanding the other provisions of this subsection  
25 (b), written beneficial use determination applications for the  
26 use of CCB at sites governed by the federal Surface Mining

1 Control and Reclamation Act of 1977 (P.L. 95-87) or the rules  
2 and regulations thereunder, or by any law or rule or regulation  
3 adopted by the State of Illinois pursuant thereto, shall be  
4 reviewed and approved by the Office of Mines and Minerals  
5 within the Department of Natural Resources pursuant to 62 Ill.  
6 Adm. Code §§ 1700-1850. Further, appeals of those  
7 determinations shall be made pursuant to the Illinois  
8 Administrative Review Law.

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

17 The Agency is authorized to prepare and distribute guidance  
18 documents relating to its administration of this Section.  
19 Guidance documents prepared under this subsection are not rules  
20 for the purposes of the Illinois Administrative Procedure Act.  
21 (Source: P.A. 94-66, eff. 1-1-06.)

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