

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 (6.5) CCB that is a synthetic gypsum that:

13 (A) has a calcium sulfate dihydrate content
14 greater than 90%, by dry weight, and is generated by the
15 lime or limestone forced oxidation process;

16 (B) is registered with the Illinois Department of
17 Agriculture as a fertilizer or soil amendment and is used
18 as a fertilizer or soil amendment;

19 (C) is a functionally equivalent substitute for
20 mined gypsum (calcium sulfate dihydrate) used as a
21 fertilizer or soil amendment;

22 (D) is used in accordance with, and applied at a
23 rate consistent with, documented recommendations of a
24 qualified agricultural professional or institution,
25 including, but not limited to any of the following:
26 certified crop adviser, agronomist, university researcher,

1 federal Natural Resources Conservation Service
2 Conservation Practice Standard regarding the amendment of
3 soil properties with gypsum, or State-approved nutrient
4 management plan; but in no case is applied at a rate
5 greater than 5 dry tons per acre per year; and

6 (E) has not been mixed with any waste.

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

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

16 (9) Mine subsidence, mine fire control, mine sealing,
17 and mine reclamation.

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

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

24 (B) CCB shall not exceed Class I Groundwater Standards
25 for metals when tested utilizing test method ASTM D3987-85.
26 The sample or samples tested shall be representative of the

1 CCB being considered for use.

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

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

21 (E) CCB is not to be accumulated speculatively. CCB is
22 not accumulated speculatively if during the calendar year,
23 the CCB used is equal to 75% of the CCB by weight or volume
24 accumulated at the beginning of the period.

25 (F) CCB shall include any prescribed mixture of fly
26 ash, bottom ash, boiler slag, flue gas desulfurization

1 scrubber sludge, fluidized bed combustion ash, and stoker
2 boiler ash and shall be tested as intended for use.

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

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

21 Within 90 days after the receipt of an application for a
22 beneficial use determination under this subsection (b), the
23 Agency shall, in writing, approve, disapprove, or approve with
24 conditions the beneficial use. Any disapproval or approval with
25 conditions shall include the Agency's reasons for the
26 disapproval or conditions. Failure of the Agency to issue a

1 decision within 90 days shall constitute disapproval of the
2 beneficial use request. These beneficial use determinations
3 are subject to review under Section 40 of this Act.

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

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

19 Notwithstanding the other provisions of this subsection
20 (b), written beneficial use determination applications for the
21 use of CCB at sites governed by the federal Surface Mining
22 Control and Reclamation Act of 1977 (P.L. 95-87) or the rules
23 and regulations thereunder, or by any law or rule or regulation
24 adopted by the State of Illinois pursuant thereto, shall be
25 reviewed and approved by the Office of Mines and Minerals
26 within the Department of Natural Resources pursuant to 62 Ill.

1 Adm. Code §§ 1700-1850. Further, appeals of those
2 determinations shall be made pursuant to the Illinois
3 Administrative Review Law.

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

12 The Agency is authorized to prepare and distribute guidance
13 documents relating to its administration of this Section.
14 Guidance documents prepared under this subsection are not rules
15 for the purposes of the Illinois Administrative Procedure Act.
16 (Source: P.A. 97-510, eff. 8-23-11.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.