



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 543

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 543 by replacing  
3 everything after the enacting clause with the following:

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

1 precast/prestressed components; asphalt or cementious  
2 roofing products; plastic products including pipes and  
3 fittings; paints and metal alloys; kiln fired products  
4 including bricks, blocks, and tiles; abrasive media;  
5 gypsum wallboard; asphaltic concrete, or asphalt based  
6 paving material.

7 (3) CCB used (A) in accordance with the Illinois  
8 Department of Transportation ("IDOT") standard  
9 specifications and subsection (a-5) of this Section or (B)  
10 under the approval of the Department of Transportation for  
11 IDOT projects.

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

14 (5) Use in the stabilization or modification of soils  
15 providing the CCB meets the IDOT specifications for soil  
16 modifiers.

17 (6) CCB used as a functionally equivalent substitute  
18 for agricultural lime or mined gypsum (calcium sulfate  
19 dehydrate) as a soil conditioner, amendment, fertilizer,  
20 or other agricultural purposes when using appropriate  
21 agronomic rates.

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

24 (8) Structural fill, designed and constructed  
25 according to ASTM standard E2277-03 or Illinois Department  
26 of Transportation specifications, when used in an

1           engineered application or combined with cement, sand, or  
2           water to produce a controlled strength fill material and  
3           covered with 12 inches of soil unless infiltration is  
4           prevented by the material itself or other cover material.

5           (9) Mine subsidence, mine fire control, mine sealing,  
6           and mine reclamation.

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

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

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

17          (C) Unless otherwise exempted, users of CCB for the  
18          purposes described in items (a) (3) (A) and (a) (7) through  
19          (9) of this Section shall provide notification to the  
20          Agency for each project utilizing CCB documenting the  
21          quantity of CCB utilized and certification of compliance  
22          with conditions (A) and (B) of this subsection.  
23          Notification shall not be required for users of CCB for  
24          purposes described in items (a) (1), (a) (2), (a) (3) (B),  
25          (a) (4), (a) (5) and (a) (6) of this Section, or as required  
26          specifically under a beneficial use determination as

1 provided under this Section, or pavement base, parking lot  
2 base, or building base projects utilizing less than 10,000  
3 tons, flowable fill/grout projects utilizing less than  
4 1,000 cubic yards or other applications utilizing less than  
5 100 tons.

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

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

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

18 (b) To encourage and promote the utilization of CCB in  
19 productive and beneficial applications, upon request by the  
20 applicant, the Agency shall make a written beneficial use  
21 determination that coal-combustion waste is CCB when used in a  
22 manner other than those uses specified in subsection (a) of  
23 this Section if the applicant demonstrates that use of the  
24 coal-combustion waste satisfies all of the following criteria:  
25 the use will not cause, threaten, or allow the discharge of any  
26 contaminant into the environment; the use will otherwise

1 protect human health and safety and the environment; and the  
2 use constitutes a legitimate use of the coal-combustion waste  
3 as an ingredient or raw material that is an effective  
4 substitute for an analogous ingredient or raw material.

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

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

19 Any approval of a beneficial use under this subsection (b)  
20 shall become effective upon the date of the Agency's written  
21 decision and remain in effect for a period of 5 years. If an  
22 applicant desires to continue a beneficial use after the  
23 expiration of the 5-year period, the applicant must submit an  
24 application for renewal no later than 90 days prior to the  
25 expiration. The beneficial use approval shall be automatically  
26 extended unless denied by the Agency in writing with the

1 Agency's reasons for disapproval, or unless the Agency has  
2 requested an extension for review, in which case the use will  
3 continue to be allowed until an Agency determination is made.

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

8 Notwithstanding the other provisions of this subsection  
9 (b), written beneficial use determination applications for the  
10 use of CCB at sites governed by the federal Surface Mining  
11 Control and Reclamation Act of 1977 (P.L. 95-87) or the rules  
12 and regulations thereunder, or by any law or rule or regulation  
13 adopted by the State of Illinois pursuant thereto, shall be  
14 reviewed and approved by the Office of Mines and Minerals  
15 within the Department of Natural Resources pursuant to 62 Ill.  
16 Adm. Code §§ 1700-1850. Further, appeals of those  
17 determinations shall be made pursuant to the Illinois  
18 Administrative Review Law.

19 The Board shall adopt rules establishing standards and  
20 procedures for the Agency's issuance of beneficial use  
21 determinations under this subsection (b). The Board rules may  
22 also, but are not required to, include standards and procedures  
23 for the revocation of the beneficial use determinations. Prior  
24 to the effective date of Board rules adopted under this  
25 subsection (b), the Agency is authorized to make beneficial use  
26 determinations in accordance with this subsection (b).

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