

REUSE OF INDUSTRIAL BYPRODUCT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill enacts provisions relating to the reuse of an industrial byproduct.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the Solid and Hazardous Waste Control Board to make rules;
- ▶ authorizes the executive secretary to receive and act upon an application for reuse of an industrial byproduct; and
- ▶ requires the Department of Transportation to allow and encourage the reuse of an industrial byproduct in the construction of department projects.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

19-6-1101, Utah Code Annotated 1953

19-6-1102, Utah Code Annotated 1953

19-6-1103, Utah Code Annotated 1953

19-6-1104, Utah Code Annotated 1953

72-6-106.5, Utah Code Annotated 1953

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **19-6-1101** is enacted to read:

32 **Part 11. Industrial Byproduct Reuse**

33 **19-6-1101. Title.**

34 This part is known as "Industrial Byproduct Reuse."

35 Section 2. Section **19-6-1102** is enacted to read:

36 **19-6-1102. Definitions.**

37 As used in this part:

38 (1) "Board" means the Solid and Hazardous Waste Control Board created under
39 Section 19-1-106.

40 (2) "Executive secretary" means the executive secretary of the board.

41 (3) (a) "Industrial byproduct" means an industrial residual, including:

42 (i) inert construction debris;

43 (ii) fly ash;

44 (iii) bottom ash;

45 (iv) slag;

46 (v) flue gas emission control residuals generated primarily from the combustion of
47 coal or other fossil fuel;

48 (vi) residual from the extraction, beneficiation, and processing of an ore or mineral;

49 (vii) cement kiln dust; or

50 (viii) contaminated soil extracted as a result of a corrective action subject to an
51 operation plan under Part 1, Solid and Hazardous Waste Act.

52 (b) "Industrial byproduct" does not include material that:

53 (i) causes a public nuisance or public health hazard; or

54 (ii) is a hazardous waste under Part 1, Solid and Hazardous Waste Act.

55 (4) "Public project" means a project of the Department of Transportation to construct:

56 (a) a highway or road;

57 (b) a curb;

- 58 (c) a gutter;
- 59 (d) a walkway;
- 60 (e) a parking facility;
- 61 (f) a public transportation facility; or
- 62 (g) a facility, infrastructure, or transportation improvement that benefits the public.
- 63 (5) "Reuse" means to use an industrial byproduct in place of a raw material.

64 Section 3. Section **19-6-1103** is enacted to read:

65 **19-6-1103. Rulemaking.**

66 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
67 board may make rules to implement this part, including:

- 68 (1) a streamlined application procedure designed to encourage and allow reuse of an
69 industrial byproduct in a public project; and
- 70 (2) reasonable, objective standards for demonstrating, without regard to the industrial
71 byproduct's source, the safety of the reuse and future reuse of an industrial byproduct.

72 Section 4. Section **19-6-1104** is enacted to read:

73 **19-6-1104. Applications for industrial byproduct reuse -- Approval by the**
74 **executive secretary.**

- 75 (1) A person may submit to the executive secretary an application for reuse of an
76 industrial byproduct from an inactive industrial site, as defined in Section 17C-1-102.
- 77 (2) The executive secretary shall respond to an application submitted under Subsection
78 (1) within 60 days of the day on which the executive secretary determines the application is
79 complete.
- 80 (3) The executive secretary shall approve an application submitted under Subsection
81 (1) if the applicant shows:
 - 82 (a) the industrial byproduct meets the applicable health risk standard;
 - 83 (b) the industrial byproduct satisfies the applicable toxicity characteristic leaching
84 procedure; and
 - 85 (c) the proposed method of installation and type of reuse meet the applicable health

86 risk standard.

87 Section 5. Section **72-6-106.5** is enacted to read:

88 **72-6-106.5. Reuse of industrial byproducts.**

89 (1) As used in this section:

90 (a) "Executive secretary" has the same meaning as defined in Section 19-6-1102.

91 (b) "Industrial byproduct" has the same meaning as defined in Section 19-6-1102.

92 (c) "Public project" has the same meaning as defined in Section 19-6-1102.

93 (d) "Reuse" has the same meaning as defined in Section 19-6-1102.

94 (2) Consistent with the protection of public health and the environment and generally

95 accepted engineering practices, the department shall, to the maximum extent possible

96 considering budgetary factors:

97 (a) allow and encourage the reuse of an industrial byproduct in:

98 (i) a plan, specification, and estimate for a public project; and

99 (ii) advertising for a bid for a public project;

100 (b) allow for the reuse of an industrial byproduct in, among other uses:

101 (i) landscaping;

102 (ii) a general geotechnical fill;

103 (iii) a structural fill;

104 (iv) concrete or asphalt;

105 (v) a base or subbase; and

106 (vi) geotechnical drainage materials; and

107 (c) promulgate and apply public project specifications that allow reuse of an industrial

108 byproduct based upon:

109 (i) cost;

110 (ii) performance; and

111 (iii) engineered equivalency in lifespan, durability, and maintenance.

112 (3) After the executive secretary issues an approval under Section 19-6-1104 and the

113 department uses the industrial byproduct in compliance with the executive secretary's

114 approval:

115 (a) the department is not responsible for further management of the industrial

116 byproduct; and

117 (b) the generator or originator of the industrial byproduct is not responsible for the

118 industrial byproduct under Title 19, Environmental Quality Code.