

LOCAL LAW “E” FOR 2024

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK AMENDING CHAPTER 146 OF THE ALBANY COUNTY CODE TO INCLUDE A PROHIBITION ON THE USAGE OF HAZARDOUS WASTE ASH IN PRODUCTS

Introduced: 4/8/24

By Reinhardt, Simpson and Fein:

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. § 146-34 – Title.

This local law hereby creates Chapter 146, Article 5, **Prohibition on Usage of Hazardous Waste Ash.**

Section 2. § 146-35 - Legislative Purpose and Intent.

The Albany County Legislature hereby finds and determines that the incineration of hazardous waste produces fly ash, flue gas emission control waste, and slag (hereinafter collectively as "hazardous waste ash"). Hazardous waste ash may contain chemicals and heavy metals such as arsenic, barium, cadmium, chromium, lead, mercury, and nickel, which are all potentially toxic to humans and are known to cause or contribute to cancer, lung and heart ailments, liver and kidney damage, neurological damage, and premature mortality.

Hazardous waste ash may also contain mineralogical toxins such as fine crystalline when the feedstock to the industrial process contain silica. Fine particulate crystalline silica induces silicosis when inhaled and is a known respiratory health risk. Hazardous waste ash may be inhaled and become lodged in the deepest parts of the human respiratory system, leading to potentially fatal inflammation and immunological reactions. Fine particulate crystalline silica can induce silicosis and lung cancer separate from silicosis and smoking when inhaled and is a known health risk for chronic obstructive pulmonary disease (COPD) and kidney disease.

Under certain existing commercial practices, hazardous waste ash is included in aggregate material used to formulate commonly encountered compounds such as concrete, pavement, and other compounds found in commerce. The inclusion of hazardous waste ash in aggregate material and commonly encountered compounds exposes the public to potentially toxic substances and endangers public health.

Section 3. § 146-36 – Definitions.

"Aggregate" -- any natural or artificial mixture typically consisting of but not limited to sand, gravel, crushed stone, vermiculite, clinker, expanded or sintered clay or shale, foamed slag, or recycled concrete or asphalt that is used as an ingredient in compound materials.

"Product" -- any aggregate, compound, item, substance, material, component, system, or subsystem sold or traded or produced for sale or trade to the general public in the course of normal business operations.

"Compound" -- asphalt concrete, portland cement concrete, concrete block, structural concrete, unreinforced or lightweight concrete, or any other substance composed of aggregate that is used in construction and engineering applications.

"Fine-Particle Control Device" -- any apparatus, structure, or method of filtration that falls into any of the following general categories:

- (i) fabric filters, also known as baghouses or bag filters;
- (ii) electrostatic collectors, including dry and wet electrostatic precipitators and ionizing wet scrubbers;
- (iii) wet inertial-impaction collectors, including venturi scrubbers and advanced designs that use flux-force condensation-enhancement techniques; or
- (iv) cyclone separators or any other apparatus, structure, or method that is capable of separating fine particles from gas.

"Flue Gas Emission Control Waste" -- the particulates recovered from fine-particle control devices and other receptacles during the treatment of flue gas.

"Fly Ash" -- the fine, lightweight particulates that are transported from the combustion chamber by flue gases into exhaust stacks or other receptacles.

"Hazardous Waste Ash" -- fly ash, flue gas emission control waste, and slag produced as a byproduct of incineration of hazardous waste.

"Slag" -- the molten or once-molten ash that collects on fine-particle control devices or other receptacles as well as chunks in bottom ash.

"Person" -- any individual, public or private corporation, industry, co-partnership, association, firm, trust, estate or private legal entity.

Section 4. § 146-37 - Prohibition on Usage of Hazardous Waste Ash in Products.

No person shall mix, combine or blend hazardous waste ash with any product. This prohibition shall also apply to any material collected from fine-particle control devices

serving as pollution control or containment systems at any hazardous waste incinerator or kiln that is permitted by the department to receive and combust hazardous waste with or without energy recovery.

This prohibition shall not apply to the use or reuse of hazardous waste materials by any Department or Division of Albany County. Specifically, ash product that is produced through the incineration of wastewater sludge at the Albany County Water Purification District is not considered a hazardous material pursuant to this Local Law and is thereby exempt from the provisions of this legislation.

Section 5. § 146-38 - Enforcement.

Any person or entity who violates the provisions of this Local Law shall be subject to the imposition of a civil penalty by the Commissioner of Health of not more than \$5,000 for a first violation, \$10,000 for a second violation, and \$20,000 for each violation thereafter.

The civil penalties provided by this section shall be recoverable in an action instituted in the name of the County of Albany. The County of Albany may also institute a suit in equity where unlawful conduct exists for an injunction to restrain a violation of this Local Law.

Section 6. Severability

The provisions of this Act shall be severable, and if any phrase, clause, sentence or provision is declared to be invalid or is preempted by Federal or State law or regulation, the validity of the remainder of this Act shall not be affected.

Section 7. SEQRA Compliance.

This County Legislature determines that this local law constitutes a “Type II action” pursuant to the provisions of the State Environmental Quality Review Act (SEQRA), and that no further action under SEQRA is required.

Section 8. Effective Date.

This Local Law act shall take effect on the ninetieth day after it shall have become a law.

*Referred to Conservation, Sustainability, and Green Initiatives and Law
Committees – 4/8/24*