



Connecticut Department of  
**ENERGY &  
ENVIRONMENTAL  
PROTECTION**

**DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 4, 2014  
Energy & Technology Committee

Testimony Submitted by Interim Commissioner Robert J. Klee  
and Deputy Commissioner Katie Dykes and Deputy commissioner Macky McCleary

**House Bill No. 5409 (Raised) - AN ACT CONCERNING HYDRAULIC FRACTURING WASTE**

Thank you for the opportunity to present testimony regarding Raised House Bill No. 5409 – AN ACT CONCERNING HYDRAULIC FRACTURING WASTE. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

DEEP shares the committee's desire to ensure that any wastes generated by hydraulic fracturing that might reach Connecticut be fully regulated. To that end the Environment Committee raised H.B. 5308 at the DEEP's request. DEEP submitted testimony on that bill that asks the Energy and Technology Committee to substitute the following language for that in the Raised House Bill No. 5409 in order to be certain that such wastes become subject to Connecticut's hazardous waste program:

***Section 1. Section 22a-449 of the general statutes is amended by adding subsection (j) as follows (Effective from passage):***

***(NEW) (j) Solid wastes identified in 40 C.F.R . Part 261.4(b)(5) shall be subject to Connecticut's hazardous waste management regulations, sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and section 22a-449(c)-11 of the Regulations of Connecticut State Agencies. Nothing in this section shall affect or be construed to relieve any person from such person's obligation to comply with any other state or federal requirement or regulation applicable to the solid wastes identified in 40 C.F.R. Part 261.4(b)(5).***

Background:

Prompted by recent developments associated with the production of natural gas, DEEP became aware that under current law, drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy are exempt from coverage under the state's hazardous waste program. This is the case regardless of the quantity of such wastes, their nature or toxicity, or the environmental risks posed by such wastes.

Under the federal hazardous waste law, the Solid Waste Disposal Act (later amended by the Resources Conservation and Recovery Act - RCRA), EPA has adopted hazardous waste regulations. States, acting under their own state law, can also adopt hazardous waste regulations. (In Connecticut, DEEP has enacted hazardous waste regulations under 22a-449(c)). At the federal level, RCRA provides a process by which the federal government, through EPA, can review and approve a state's hazardous waste program. Provided a state's program is approved by EPA, with certain exceptions not relevant to the change under consideration, the state's hazardous waste program operates in lieu of the federal program. Connecticut's hazardous waste program was approved by EPA and has operated in lieu of the federal program for more than twenty years.

Thus, Connecticut has adopted a hazardous waste program comprised of a comprehensive set of requirements aimed at ensuring the safe management of wastes. DEEP's proposal, Raised House Bill No. 5308, would ensure that currently federally and state "exempt" wastes from the oil, gas and geothermal energy industries are subject to regulation under Connecticut's program.

Our intent is to remove the exemption for "Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy." (This exemption at 40 CFR Part 261.4(b)(5) has been incorporated by reference into the state's hazardous waste management regulations). As such, these wastes are currently not subject to regulation under the state's hazardous waste program.

In summary, DEEP strongly supports the legislative language included in this testimony (and included in our written testimony on Raised House Bill No. 5308). We would ask that the Energy and Technology Committee work with the Environment Committee and DEEP to ensure that Connecticut properly regulates wastes resulting from the fracking process.

We also look forward to working both Committees to make certain any other by-products of the fracking process are properly regulated (including land application of waste or recycled products originating from the fracking process). DEEP will continue to explore other regulatory approaches to protecting the state and its residents from potential harmful components of fracking wastes or by-products. We would be pleased to report back to the Energy and Technology and Environment Committees on any DEEP findings relating to our regulatory authority over any materials associated with the fracking industry that may not fall under the amended RCRA authority DEEP has proposed in Raised House Bill 5308.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Robert LaFrance, DEEP's Director of Governmental Affairs, at 860.424.3401 or [Robert.LaFrance@ct.gov](mailto:Robert.LaFrance@ct.gov) (or, Elizabeth McAuliffe, DEEP Legislative Liaison, at 860.424.3458 or [Elizabeth.McAuliffe@ct.gov](mailto:Elizabeth.McAuliffe@ct.gov) ).