

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 14-200—SB 237**

*Environment Committee*

*Judiciary Committee*

**AN ACT PROHIBITING THE STORAGE OR DISPOSAL OF FRACKING WASTE IN CONNECTICUT**

**SUMMARY:** This act establishes a moratorium on certain activities associated with hydraulic fracturing (“fracking”) waste in Connecticut until the Department of Energy and Environmental Protection (DEEP) commissioner adopts regulations to (1) control it as a hazardous waste and (2) impose certain licensing and disclosure requirements. Information disclosed under this act is subject to the state Freedom of Information Act. DEEP may, under certain conditions, choose not to adopt the regulations, in which case the ban would remain in force. The moratorium applies to any person accepting, receiving, collecting, storing, treating, disposing of, or transferring between vehicles or modes of transportation any fracking waste. It also includes the sale, manufacture, and distribution of de-icing and dust suppression products derived from or containing the waste.

The act also:

1. requires DEEP to submit regulations to the Regulations Review Committee between July 1, 2017 and July 1, 2018, imposing a de facto three-year moratorium;
2. requires DEEP to collect fracking waste and waste product information;
3. requires any person transporting fracking waste in the state, after the regulations are adopted, to obtain a DEEP permit; and
4. creates an exception to the moratorium to conduct research on small amounts of fracking waste.

EFFECTIVE DATE: July 1, 2014

**COVERED WASTES**

The wastes covered by this act include any wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance generated as a part of or in the process of fracking. The moratorium includes products derived from or containing any of these wastes.

**DEFINITIONS**

The act includes the following definitions related to the moratorium:

1. “Hydraulic fracturing” means the process of pumping a fluid underground to create fractures in rock for exploration, development, production, or recovery of oil or gas. Hydraulic fracturing does not include drilling of geothermal water wells or any other well drilled for drinking water.
2. “Person” means any individual, firm, partnership, association, company,

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trust, corporation, limited liability company, municipality, agency, or political subdivision of the state.

3. “Dispose” means discharging, depositing, injecting, dumping, spilling, leaking, or placing any waste into or on land or water that allows it to enter the environment.
4. “Gas” means all natural gas, whether hydrocarbon or nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluid hydrocarbons not defined as oil under the act.
5. “Radioactive materials” means any material, solid, liquid, or gas, including waste that emits spontaneously ionizing radiation.

### ESTABLISHING REGULATIONS

The act requires DEEP to submit regulations to the Regulations Review Committee for approval after June 30, 2017 and no later than July 1, 2018. Until the regulations are approved, activities involving any wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance generated as a part of or in the process of fracking as well as products derived from or containing any of these wastes are prohibited in Connecticut. The regulations must (1) subject these wastes from energy production to the state’s hazardous waste management regulations; (2) ensure any radioactive components of fracking waste do not pollute the air, land, or waters or otherwise threaten human health or the environment; and (3) require disclosure of the composition of the waste. But the DEEP commissioner has discretion to not adopt regulations under certain conditions (see below).

The act prohibits the sale, manufacture, and distribution of de-icing and dust suppression products derived from or containing fracking waste until DEEP adopts regulations controlling these products.

### INFORMATION ON FRACKING AND FRACKING WASTE PRODUCTS

The act requires the DEEP commissioner to request, at a minimum, the following information about fracking waste products from any person (presumably people or firms involved in the industry):

1. extent to which an anti-icing, de-icing, pre-wetting, or dust suppression product is or could be derived from or contain fracking waste;
2. origin of the materials used for the product; and
3. product’s chemical composition.

Any information DEEP gathers in this process is subject to disclosure under the Freedom of Information Act.

### DISCRETION TO ADOPT REGULATIONS

The act authorizes the DEEP commissioner to ban a particular product or not adopt regulations if a person fails to provide information requested under the act. The option to not adopt regulations applies to both the fracking waste and the de-

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icing and dust suppression product regulations.

### PERMITS

The act requires any person collecting or transporting fracking waste for receipt, acceptance, or transfer between vehicles in Connecticut to obtain a DEEP permit before bringing the material into the state. This requirement applies even if the person collecting or transporting the material is not in the waste management business. The permit must require that records be kept of the waste's origin and all intermediate and final delivery points.

### MORATORIUM EXCEPTION FOR RESEARCH

The act exempts certain research from the moratorium. Before adopting regulations, DEEP may grant up to three requests to allow a person to treat no more than a total of 330 gallons. DEEP may permit a single treatment in excess of this if the approval is issued to a single person and does not exceed 500 gallons.

Such treatment must be for determining whether fracking waste can be made suitable for use or reuse. Applicants must be professionally qualified to treat fracking waste. DEEP's approval must include conditions designed to protect human health and the environment. All waste treated under this exception must be handled as hazardous waste in accordance with applicable state law, which provides standards and requirements for treatment, storage, and disposal.

### BACKGROUND

#### *Federal Regulation*

Federal regulations currently exempt fracking waste from hazardous waste requirements under the Resource Conservation and Recovery Act (RCRA).

RCRA hazardous waste regulations exempt drilling fluids, produced waters, and other wastes. The exception is linked to the source of these exempt materials, which must result from the exploration, development, or production of crude oil, natural gas, or geothermal energy (40 CFR § 261.4(b)(5)).

OLR Tracking: TB:KM:PF:ro