



CONNECTICUT'S FRACKING WASTE MORATORIUM

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FRACKING

Fracking, also known as hydraulic fracturing, is the process of pumping fluid into or under the surface of the ground to create fractures in rock for exploration, development, production, or recovery of natural gas. It does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes ([CGS § 22a-472](#)).

ISSUE

Describe Connecticut's fracking waste moratorium and related requirements of [Public Act \(PA\) 14-200](#).

SUMMARY

[PA 14-200](#), which took effect July 1, 2014, established a moratorium on certain activities associated with fracking waste in Connecticut ([CGS § 22a-472\(a\)-\(g\)](#)).

The moratorium lasts until the Department of Energy and Environmental Protection (DEEP)

adopts regulations to, among other things, control fracking waste as a hazardous waste. DEEP may, under certain conditions, choose not to adopt the regulations, in which case the moratorium would remain in force.

Under the act, the moratorium applies to any person accepting, receiving, collecting, storing, treating, disposing of, or transferring between vehicles or modes of transportation any fracking waste. The wastes covered by the act include wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance used or generated in the process of fracking.

The act requires DEEP to submit regulations to the legislature's Regulations Review Committee between July 1, 2017 and July 1, 2018. It also (1) requires DEEP to collect fracking waste product information, (2) requires anyone transporting fracking waste in Connecticut after the regulations are adopted to obtain a DEEP permit, and (3) exempts certain research on small amounts of fracking waste from the moratorium.

ESTABLISHING REGULATIONS

[PA 14-200](#) requires DEEP to submit regulations to the Regulations Review Committee for approval after June 30, 2017 and no later than July 1, 2018. The DEEP commissioner has discretion to not adopt regulations under certain conditions (see below).

Until regulations are approved, activities involving fracking waste, as well as products derived from or containing any of these wastes, are prohibited in Connecticut.

The regulations must:

1. subject fracking waste to the state's hazardous waste management regulations;
2. ensure that 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 waste's composition.

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

COLLECTING INFORMATION ON FRACKING WASTE PRODUCTS

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

1. the extent to which anti-icing, de-icing, pre-wetting, or dust suppression products are or could be derived from or contain fracking waste;
2. the origin of the materials used for the products; and
3. the products' or fracking wastes' chemical composition.

Any information the commissioner acquires is subject to disclosure under the Freedom of Information Act.

DISCRETION TO ADOPT REGULATIONS

[PA 14-200](#) 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-icing and dust suppression product regulations.

PERMITS

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

RESEARCH EXEMPTION

The act exempts certain research activities 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 of fracking waste. 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.

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

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