

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 19-112—sSB 753

Environment Committee

Judiciary Committee

AN ACT CONCERNING THE STATE-WIDE BAN ON FRACKING WASTE

SUMMARY: This act, with a limited exception for research, permanently bans accepting, receiving, collecting, storing, treating, transferring, selling, acquiring, handling, applying, processing, and disposing of hydraulic fracturing (“fracking”) waste, natural gas waste, or oil waste in Connecticut. Prior law imposed a narrower ban that generally applied to accepting, receiving, collecting, storing, treating, transferring, and disposing of fracking waste until the Department of Energy and Environmental Protection (DEEP) commissioner adopted regulations to, among other things, control it as hazardous waste. (DEEP has not adopted such regulations.)

The act maintains existing law’s exception for conducting certain fracking waste research. However, it requires the DEEP commissioner, before approving a research request, to adopt regulations that, among other things, eliminate the exemption in the state’s hazardous waste management regulations for drilling fluids, produced waters, and other wastes associated with exploring, developing, or producing crude oil, natural gas, or geothermal energy.

The act bans the sale, offer, barter, manufacture, distribution, and use of anti-icing, de-icing, pre-wetting, or dust suppression products derived from or containing fracking waste, natural gas waste, or oil waste. Under prior law, the DEEP commissioner could regulate such products derived from fracking waste through regulations.

The act also requires anyone exploring for oil or gas to register with DEEP on a form the commissioner prescribes. Under prior law, a person wanting to explore for oil or gas had to register only after the commissioner adopted regulations providing (1) standards for oil and gas exploration and production wells and (2) the registration fee. The act continues to require these regulations.

Lastly, the act specifies that the state law on fracking, natural gas, and oil waste preempts any municipal ordinance or act on accepting, receiving, collecting, storing, treating, transferring, selling, acquiring, handling, applying, processing, and disposing of such waste, including the discharge of wastewaters into or from a pollution abatement facility.

EFFECTIVE DATE: Upon passage

BAN ON FRACKING, NATURAL GAS, OR OIL WASTE

Under the act, no person, including an individual, business, or political subdivision of the state, may accept, receive, collect, store, treat, transfer, sell,

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acquire, handle, apply, process, or dispose of fracking, natural gas, or oil waste (see Expanded Definitions below). The ban includes discharging wastewaters into or from a pollution abatement facility or introducing natural gas or oil waste into a solid waste management facility in, or operated by, the state.

The act eliminates a provision that allows a person to collect or transport fracking waste for receipt, acceptance, or transfer in the state if he or she obtains a DEEP permit before doing so. Consequently, it prohibits the practice.

It also eliminates the DEEP commissioner's authority to adopt regulations allowing the sale, offer, barter, manufacture, distribution, or use of an anti-icing, de-icing, pre-wetting, or dust suppression product derived from or containing fracking waste. Thus, the act bans these actions and also applies the ban to products derived from natural gas and oil waste.

RESEARCH EXCEPTION

The act maintains a provision in existing law that allows certain fracking waste research to be conducted in the state, but it prohibits the DEEP commissioner from approving such a request until there are applicable regulations. The act also expands the type of waste that a person may conduct research on to include natural gas or oil waste, but it does not increase the amount of waste that can be used for research.

As under existing law, DEEP may approve up to three requests for a person to treat up to 330 gallons of waste for research purposes or a single request to treat up to 500 gallons. The research is limited to determining whether the waste can be made suitable for use or reuse.

Regulations Required

Before approving a research request, the act requires the commissioner to adopt regulations, which must:

1. eliminate the exemption in the state's hazardous waste management regulations for drilling fluids, produced waters, and other wastes associated with exploring, developing, or producing crude oil, natural gas, or geothermal energy;
2. ensure that any radioactive materials that may be in the waste do not pollute the state's air, land, or waters or threaten human health or the environment;
3. require disclosure of the waste's composition; and
4. require that records be kept on the waste's origins and intermediate and final delivery points.

EXPANDED DEFINITIONS

Under prior law, "hydraulic fracturing" referred to the process of pumping fluid into or under the ground's surface for purposes of fracturing rock to explore for, develop, produce, or recover natural gas. The act broadens the definition by

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also applying it to oil and other subsurface hydrocarbons. The act additionally provides that “waste from hydraulic fracturing” includes any substances that are associated with, instead of only used for or generated secondarily to, fracking.

Under the act, “natural gas waste” is:

1. liquid or solid waste, or its parts, from natural gas extraction activity;
2. solid waste leachate associated with the activity;
3. waste from, or associated with, natural gas underground storage;
4. waste from, or associated with, liquefied petroleum gas well storage operations; and
5. products or byproducts from treating, modifying, or processing these wastes.

The act defines “oil waste” as (1) liquid or solid waste, or its parts, from oil extraction activity; (2) solid waste leachate associated with the activity; and (3) products or byproducts from treating, modifying, or processing these wastes.

Extraction activity refers to geological or geophysical activities related to exploring for or extracting natural gas or oil, such as core and rotary drilling and fracking.