

Questions and Clarification of Language in Oil & Gas Drilling Waste Ban Ordinance

Greenwich Conservation Advocates

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1. Does this ordinance ban waste oil drained from automobiles or small engines?

NO. The definitions in this ordinance clearly state it prohibits wastes coming out of wells where oil & gas is being drilled and extracted, or any byproducts made from that waste.

It does not prohibit any refined petroleum products, or any waste that comes from those products, such as used motor oil or waste oil.

“Waste oil” (or used motor oil derived from engine use) is not the same as “oil waste” as defined in this ordinance. Hundreds of towns in neighboring New York and the entire state of Vermont have had similar oil & gas drilling waste bans for several years, and the collection and disposal of “waste oil” from engine use or any other refined petroleum product waste has not been impacted.

2. Does this ordinance ban tar or asphalt used for roadways?

NO. Tar and asphalt for roadways use products from refined petroleum and wastes from the refinement process, not waste that comes from drilling oil & natural gas wells.

A few states are allowing solid wastes from oil & gas drilling wastes to be mixed with an asphalt capping material used to cap brownfields, when remediating toxic, contaminated properties. This ordinance would ban this type of asphalt capping product, due to risks of leaching of chemicals or radioactive materials present in drilling wastes.

3. Does this ordinance ban fracking my drinking water well, if it goes dry?

NO. Though the word “fracking” is similar, this ordinance only applies to fracking or hydraulic fracturing of oil and gas wells, not drinking water wells.

4. Does this ordinance prevent drilling test wells for potential leaking underground oil or gasoline tanks?

NO. This ordinance does not address any type of drilling. It only applies to wastes coming out of wells that are being drilled for natural gas and oil exploration.

5. Does this ordinance ban wastes from being cleaned out of gas pipelines?

NO. This ordinance only deals with wastes coming out of wells where oil and natural gas are being drilled and extracted and where large volumes of gas are stored underground or as

LPG (liquefied petroleum gas). This ordinance does not ban wastes coming out of pipelines where natural gas is transported. (Some towns may have PIGing stations for a gas transmission line. A PIG is a Pipeline Inspection Gadget. PIGs are periodically sent through the pipeline, to check for damage or deterioration, or for cleaning off hazardous and radioactive scale and residue that builds up over time inside the walls of gas transmission pipes. This cleaning off of materials that builds up inside pipelines is not prohibited by this oil & gas drilling waste ban language, and can continue if an ordinance passes.)

6. Why is an ordinance on oil and gas fracturing waste necessary when there is a statewide moratorium in effect? [For full explanation, please see LU & LR Subcommittee report item #'s 1-10 and #6 under 'Pros and Cons of a Local Ordinance'.]

a) While the Connecticut State Legislature has been directed to create regulations, and there *is* a temporary moratorium on the use of fracking waste in Connecticut until those regulations are enacted by CT DEEP, the current draft of the state regulation on fracking waste does not include waste from oil 'fracking' although the legislative history indicates that the legislative intent was to regulate wastes from ALL phases of the fracturing process. Moreover, it is important to note that the current moratorium on the use of fracking waste in Connecticut is by its terms temporary, **and at present, DEEP has confirmed that it has no plan to develop regulations as contemplated by the temporary legislated ban.**

b) Future regulations, however, could be a path to permits for storage tanks, transfer locations, treatment at HazMat facilities and discharge of partially treated effluent. Regulations may permit the re-use of wastes for construction fill or brownfield remediation, as an example. The temporary moratorium currently bans spreading fracking waste products on roads. However, in writing new regulations, the law leaves it to the CT DEEP's discretion if materials spread on roads for de-icing or dust control will be permitted in the future. The CT General Assembly Regulations Review Committee (RRC) members do NOT have the authority to enact a ban. Failure to have a quorum at a future RRC meeting will enact any draft regulations that are on the agenda of that cancelled meeting. Note: Section 561 of the state budget bill created a new rule – permit applications for some wastes will automatically be approved in 90 days, whether or not DEEP finishes its review or Determination Process. The 2018 Senate Bill 103 "An Act Concerning Hydraulic Fracturing Waste in Connecticut" proposes to ban waste from one process, hydraulic fracturing, and from gas wells only. While it is important to contact legislators to support the passage of SB 103 and to amend it to make it stronger, the local ordinance proposed by Greenwich Conservation Advocates does not have these loopholes and affords stronger protections that we can enact locally as a community.

c) This waste stream --- which is specific to oil and gas hydraulic fracturing processes --- is currently exempted under EPA hazardous waste regulations known as the Resource Conservation and Recovery Act (RCRA) even though some of the known constituents have been scientifically and legally identified as hazardous and regulated in other applications.

7. Are there any towns in CT to date that have had a similar ordinance proposed and voted it down? If so, what was the reason for voting it down?

No. Of the thirty-six towns in CT where ordinances have been put forward and reviewed, all have been nearly unanimously supported and passed.

8. Will this bill harm businesses in Greenwich?

No. Fortunately, there are no enterprises currently operating in Greenwich in the business of storage, treatment, or disposal of fracking waste as this would be prohibited under the CT State moratorium. Local businesses will benefit from the protections of this ordinance because like other landowners, their businesses would be harmed if their real estate holdings or water supplies were to be contaminated with toxic waste both in real or marketing values.

9. Will this ordinance create an unintended issue of homeowner liability?

No. The purpose of this ordinance is to deter contaminated waste from being brought and utilized here which should afford homeowners with greater protections related to public health and land values. The end result would also limit Town liability and afford the Town a mechanism for recouping costs should a contamination occur. Additional language has now been drafted on the issue of homeowner liability specifically for inclusion.

10. How much will it cost the Town to enforce this ordinance?

There are no costs associated with this ordinance. It will be managed and enforced through existing Town departments. Preventing potential contamination is cheaper than remediation. The ordinance will also alleviate justified concerns that the broader public might absorb or assume unnecessary health risks.

11. Will this ordinance deter businesses from doing business with the Town of Greenwich?

No. Any reputable business interested in receiving contracts with the Town of Greenwich would not only have a self-interest in avoiding the handling of contaminated material but would also have a disinterest in assuming the economic and associated management risks. This ordinance would operate as a risk management tool to deter unscrupulous businesses from operating here.

12. Are there reasons why this ordinance does not allow 'beneficial uses' of the waste stream?

Yes. While there may be efforts within some industry sectors to find mechanisms for 'cleaning' or reusing and repurposing components of this waste stream, there is insufficient study and data from independent scientists to confirm that it can be done successfully. There is, therefore, no confirmation of substance yet that any byproducts 'produced' from this waste stream are safe to use or to have emitted into the broader environs here in Greenwich.