

LOCAL LAW NO. "C" FOR 2013

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK IN RELATION TO THE SALE, APPLICATION, AND DISPOSAL OF WASTE ASSOCIATED WITH NATURAL GAS EXPLORATION AND EXTRACTION ACTIVITIES

Introduced: 4/8/13

By Messrs. Clenahan, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Comisso, Ms. Connolly, Messrs. Ethier, Feeney, Jacobson, Ms. Kinsch, Mr. Mackey, Mss. Maffia-Tobler, McLean Lane, Messrs. Nichols, O'Brien, Rahm and Reilly:

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. Legislative Findings

The Legislature finds and determines that hydraulic fracturing is a highly controversial form of mining which uses pressurized fluid to break rock formations and release natural gas that is then collected and the fluids used in hydraulic fracturing produce a liquid waste product with high levels of salinity, commonly known in the industry as fracking brine.

The Legislature further finds and determines that some businesses that perform hydraulic fracturing would like to dispose of such brine by providing it to local governments as a road de-icing agent for use in wintry weather conditions and the ingredients in fracking brine are vastly different from the brine commonly applied to roadways by municipalities prior to and during a winter storm, which is composed primarily of water and salt.

The Legislature further finds and determines that fracking brine contains toxic substances and many of the chemicals found in fracking brine have been linked to health problems associated with the respiratory system and other organs and when applied to roadways, fracking brine has the potential to pollute surface and groundwater.

The Legislature further finds and determines that the chemicals found in fracking brine cannot be filtered by waste water treatment facilities and that the introduction of brine into such facilities poses a health risk to County residents.

The Legislature further finds and determines that it is in the best interests of the residents of Albany County to protect the health and safety of Albany County residents and local drinking water by prohibiting the use of hydraulic fracturing brine on Albany County roadways and properties and prohibiting the introduction of brine into waste water treatment plants in Albany County.

Section 3. Definitions

As used in this law, the following terms shall have the meanings indicated:

A) “Hydraulic Fracturing” shall mean the fracturing of shale formations by man-made fluid-driven techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.

B) “Natural Gas Extraction Activities” shall mean all geologic or geophysical activities related to the exploration for or extraction of natural gas or other subsurface hydrocarbon deposits, including, but not limited to, core and rotary drilling and hydraulic fracturing.

C) “Natural Gas Waste” shall mean any waste which is generated as a result of natural gas extraction activities, which may consist of water, chemical additives, or naturally occurring radioactive materials (“NORMs”) and heavy metals. Natural gas waste includes, but is not limited to, leachate from solid wastes associated with natural gas extraction activities.

D) “Application” shall mean the physical act of placing or spreading natural gas waste on any road or real property located within Albany County.

Section 4. Prohibitions.

A) The introduction of natural gas waste into any wastewater treatment facility within or operated within Albany County (hereinafter “County”) is prohibited.

B) The sale, purchase, or acquisition of natural gas waste within the County is prohibited.

C) The application of natural gas waste on any road or real property located within the County is prohibited.

Section 5. Bid and Contract Provisions Related to the Construction or Maintenance of County Roads.

A) All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain a County road shall include a provision stating that no materials containing natural gas waste shall be provided to the County.

B) All bids and contracts related to the retention of services to construct or maintain a County road shall include a provision stating that no materials containing natural gas waste shall be utilized in providing such a service.

Section 6. Duty of Employees.

A) The Albany County Department of Public Works is hereby authorized, empowered and directed to enforce this Local Law with all subcontractors it engages for road work.

B) The Albany County Sewer District is hereby authorized to develop policies to carry out the requirements of this Local Law regarding wastewater treatment facilities.

C) The Albany County Department of Public Works and the Albany County Sewer District are authorized to develop policies to ensure that the County employees under their respective supervision are familiar with the provisions of this Local Law and take such steps to ensure a diligent effort by the County that materials supplied to the County or used on roads within the County comply with this Local Law. This subsection shall not excuse non-compliance by a contractor or vendor of the County.

Section 7. Penalties.

Any violation of Section 4 of this Local Law shall be an unclassified misdemeanor punishable by a fine not to exceed \$25,000 per violation and/or up to thirty days' imprisonment. Each sale and/or application of natural gas waste shall constitute a separate and distinct violation.

Section 8. Severability

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as limited by such order or judgment.

Section 9. Effective Date and Applicability.

This Local Law shall be effective ninety (90) days subsequent to filing in the Office of the Secretary of State and shall apply to all transactions occurring on or after the effective date of this local law.

Referred to Law and Health Committees. 4/8/13