

Introduced by: Presiding Officer Norma Gonsalves, Deputy Presiding Officer Richard Nicoletto, Alt. Deputy Presiding Officer Howard Kopel, Minority Leader Kevan Abrahams, and Legislators Siela Bynoe, Carrie Solages, Denise Ford, Laura Curran, Francis X. Becker, Vincent Muscarella, Ellen Birnbaum, Delia DeRiggi-Whitton, Michael Venditto, Laura Schaefer, Dennis Dunne, Judy Jacobs, Rose Marie Walker, Donald MacKenzie and David Denenberg

LOCAL LAW NO. 15-2014

A LOCAL LAW AMENDING LOCAL LAW NO. 3-2012 IN RELATION TO PROHIBITING THE APPLICATION, SALE, TREATMENT AND IMPORTATION OF NATURAL GAS WASTE AND OIL EXTRACTION WASTE.

Passed by the Nassau County Legislature on October 29, 2014  
Voting: ayes: 19 nays: 0 abstained: 0

Became a law on November 7, 2014 with the approval of the County Executive.

APPROVED AS TO FORM  
  
DEPUTY COUNTY ATTORNEY

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF NASSAU, as follows:

Section 1. Local Law No. 3-2012 is hereby amended to read:

§1. Short Title.

This law shall be known as the "Law Against the Application, Sale, Treatment and Importation of Natural Gas Wastes and Oil Extraction Wastes."

§ 2. Legislative Intent.

This Legislature finds that hydraulic fracturing is a mining technique used to extract fossil fuels that have collected in layers of porous rock.

This Legislature further finds that hydraulic fracturing, commonly known as “hydrofracking,” involves the injection of fracturing fluids through a well into a rock formation at a force exceeding the parting pressure of the rock, which causes fractures in the rock through which oil and natural gas can be released and captured for further processing and use.

This Legislature further finds that fracturing fluids are comprised of water and chemical additives, including, but not limited to, biocides, surfactants, viscosity-modifiers and emulsifiers, which vary in toxicity and include known carcinogens.

This Legislature further finds that once hydraulic fracturing has been completed at a well site, the fluids used to fracture the rock, commonly referred to as flowback water, return to the surface.

This Legislature further finds that the New York State Department of Environmental Conservation identified few sewage treatment plants in Nassau County as facilities capable of handling flowback water or other wastewater from hydraulic fracturing activities.

This Legislature further finds that tertiary wastewater treatment facilities treat water to remove nitrogen, phosphorous, and carbons, but do not treat for all of the chemicals in fracturing fluid and flowback water.

This Legislature further finds that Nassau County's wastewater treatment facilities discharge treated water into waterways which feed into Long Island's sole source aquifer.

This Legislature further finds that it is not in the best interests of Nassau County or its

residents to accept toxic byproducts of hydraulic fracturing into Nassau County sewage treatment facilities for processing.

This Legislature further finds that several municipalities have prohibited the use of hydraulic fracturing waste on municipal property and roadways and that several states and municipalities, including the counties of Westchester and Rockland, have enacted laws to prohibit the use or sale of hydrofracking waste within their jurisdictions.

This Legislature also finds that relatively safe extraction of oil and natural gas via vertical wells does indeed create waste and byproducts that are similar to that of hydraulic fracturing, which also contaminates our groundwater, the environment and threatens biological health.

This Legislature concludes that it is in the best interests of Nassau County residents to take additional steps at this time to ensure that the waste products generated by hydrofracking and the extraction of oil and natural gas via vertical wells will not threaten the environment of Nassau County or the health of its citizens.

Therefore, the primary purpose of this local law is to prohibit the acceptance of wastewater produced by hydraulic fracturing by sewage treatment facilities located in, owned and/or operated in or by Nassau County, as well as prohibit the use of hydraulic fracturing waste, oil extraction waste and natural gas waste on County property and roadways and the sale of hydrofracking waste, oil extraction waste, and/or natural gas waste within the jurisdiction of Nassau County.

§ 3. Definitions. As used in this law, the following terms shall have the meanings indicated:

“Application” shall mean the act of placing or spreading of natural gas waste, hydrofracking waste, and/or oil extraction waste

“County” shall mean Nassau County.

“Hydraulic fracturing” shall mean fracturing of a rock by man-made fluid-driven fracturing techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.

“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, rotary and vertical drilling, hydraulic fracturing and storage and storage operations involving natural gas extraction waste.

“Natural gas waste” shall mean any waste that 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, hydraulic fracturing waste and leachate from solid wastes associated with natural gas extraction activities, including derivative materials formed by processing and/or breaking down natural gas waste.

“Oil extraction activities” shall mean all geological and geophysical activities related to the exploration or extraction of oil by way of vertical drilling, and storage and storage operations involving ~~natural oil extraction~~ waste.

“Oil extraction waste” shall mean any waste that is generated as a result of oil extraction activities by way of vertical drilling, which waste may consist of water, chemical additives or naturally occurring radioactive materials (“NORMS”) and heavy metals, including derivative materials formed by processing and/or breaking down oil extraction waste.

§4. Prohibition.

- A. No sewage treatment facility located in, owned and/or operated in or by Nassau County shall accept or treat flowback water, natural gas waste, oil extraction waste or any other wastewater resulting from hydraulic fracturing activities.

- B. The sale or distribution of natural gas waste and oil extraction waste within the County is prohibited.
- C. The application of natural gas waste on any road or real property in the County is prohibited.
- D. No natural gas waste shall be permitted to enter the County.
- E. No oil extraction waste shall be permitted to enter the County.
- F. The application or distribution of oil extraction waste on any road or real property in the County is prohibited.
- G. No products with ingredients or additives that originated from natural gas waste may be sold or distributed within the County.
- H. No products with ingredients or additives that originated from oil extraction waste may be sold or distributed within the County.

§ 5. County Bids and Contracts.

- A. All County bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any roads or real property located within the County shall contain a provision stating that no materials containing natural gas waste or oil extraction waste shall be utilized in the performance of such contracts.
- B. All County bids and contracts related to the retention of services to construct or maintain any roads or real property located within the County shall include a provision stating that no materials containing natural gas waste or oil extraction waste shall be utilized in providing such a service.
- C. All County bids shall include the following statement: "We, \_\_\_\_\_ of the \_\_\_\_\_ hereby submit a bid for materials, equipment or labor for the \_\_\_\_\_. The bid is for bid documents titled \_\_\_\_\_. We hereby certify under penalty of perjury that no natural gas waste or oil extraction waste will be utilized by the undersigned bidder or any contractor, sub-contractor, agent or vendor thereof in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor thereof apply or supply any natural gas waste or oil extraction waste to any property or road(s) of Nassau County as a result of the

58

submission of this bid if selected.” The Statement shall otherwise be sworn to under penalty of perjury in a form satisfactory to the Nassau County Attorney.

§ 6. Enforcement and Promulgation of Rules. The County Board of Health and the Commissioner of the County Department of Public Works and the Commissioner of the County Office of Consumer Affairs, in consultation with one another, are hereby authorized and empowered to jointly promulgate such rules and regulations as they deem necessary for the implementation and enforcement of the provisions of this law. Furthermore, in addition to any other enforcement power conferred by this local law or other applicable law, the County Department of Health, Environmental Health Division, the County Department of Public Works and the County Office of Consumer Affairs, Weights and Measures Division, shall be authorized and empowered to participate with other local, state and federal law enforcement agencies, including the Environmental Crimes Unit of the Office of the Nassau County District Attorney, in joint initiatives to enforce the provisions of this local law.

§ 7. Penalties. Any violation of Section 4 of this law shall constitute an unclassified misdemeanor, punishable by a fine not to exceed \$25,000 per violation and/or up to 30 days imprisonment. Each sale, distribution or application of natural gas waste or oil extraction waste shall constitute a separate and distinct violation. Each violation of Section 4 of this law shall also constitute a civil violation. The County Attorney is hereby authorized to bring and maintain a civil proceeding in a court of competent jurisdiction to recover the fines imposed under this Section, as well as to enforce the provisions of this local law through appropriate monetary and equitable relief.

§ 8. Applicability. This law shall apply to all actions occurring on or after the effective date of this law.


§9. Reverse Preemption. This law shall be null and void on the day that state or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law. The County Legislature may determine via resolution whether or not identical or substantially similar state or federal legislation has been enacted for the purposes of triggering the provisions of this section.

§ 10. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 11. SEQRA Determination. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et seq. and its implementing regulations Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local is an "Unlisted" Action within the meaning of 6 N.Y.C.R.R. Part 617, and has directed the preparation of an Environmental Assessment Form , and based on the information in the Environmental Assessment Form and the criteria in Section 617.7 of 6N.Y.C.R.R. Part 617 has determined in accordance with the mandates of SEQRA that this proposed local law will not have a significant impact on the environment, and no further review is required.

§ 12. Effective Date. This local law shall take effect sixty (60) days after it shall have become a law.

**APPROVED**

  
**County Executive**

**DATE** November 7, 2017

## Short Environmental Assessment Form

### Part 1 - Project Information

#### Instructions for Completing

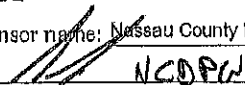
**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Local Law prohibiting the the application, sale, treatment and importation of natural gas wastes and oil extraction wastes In Nassau County			
Project Location (describe, and attach a location map): County-wide			
Brief Description of Proposed Action: The Nassau County Legislature is considering a local law to prohibit the acceptance of wastewater produced by hydraulic fracturing by sewage treatment facilities located in, owned and/or operated in or by Nassau County, as well as prohibit the use of hydraulic fracturing waste, oil extraction waste and natural gas waste on County property and roadways and the sale of hydrofracking waste, oil extraction waste, and/or natural gas waste within the jurisdiction of Nassau County.			
Name of Applicant or Sponsor: Nassau County Legislature		Telephone:	
		E-Mail:	
Address: 1650 Franklin Avenue			
City/PO: Mineola		State: NY	Zip Code: 11501
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ N/A acres	
b. Total acreage to be physically disturbed?		_____ N/A acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ N/A acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): <u>N/A</u>			
<input checked="" type="checkbox"/> Parkland			





18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ The local law covers sewage treatment plants that have been the subject of past environmental remediation.	NO	YES
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>Nassau County Legislature</u>	Date: <u>10.28.14</u>	
Signature: <u> NCDFW</u>		

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63

Agency Use Only [If applicable]

Project:

Date:

*Short Environmental Assessment Form  
Part 2 - Impact Assessment*

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Agency Use Only [If applicable]

Project:	
Date:	

### Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Nassau County Legislature	10.28.14
Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

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65

State Environmental Quality Review (SEQR)  
**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Project Number: Clerk Item 203-14

Date:    /   /2014

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Nassau County Legislature has assumed the role of Lead Agency for the action described below. It has been determined by the Legislature that the proposed action will not have a significant effect on the environment.

Name of Proposed Action:       Local Law prohibiting the application, sale, treatment and importation of natural gas waste and oil extraction waste

SEQR Status:           Type I             
                              Unlisted           

Conditioned Negative Declaration:    Yes  
    No

Description of Action: The Nassau County Legislature is considering a local law to prohibit the acceptance of wastewater produced by hydraulic fracturing by sewage treatment facilities located in, owned and/or operated in or by Nassau County, as well as prohibit the use of hydraulic fracturing waste, oil extraction waste and natural gas waste on County property and roadways and the sale of hydrofracking waste, oil extraction waste, and/or natural gas waste within the jurisdiction of Nassau County. Additionally, the law will require all bids and contracts pertaining to the construction or maintenance of a County road to include a provision stating that no materials containing natural gas or oil waste shall be provided or utilized in providing services to the County.

**Location:**

County-wide

Nassau County, New York

**Reasons supporting this determination:**

The proposed local restrictions on the disposal, sale and re-use of waste generated from natural gas and oil exploration or extraction activities will not result in adverse environmental impacts. Hydraulic fracturing for natural gas production does not occur nor is anticipated to occur within Nassau County due to the lack of appropriate underground resources. Similarly, neither flowback nor production fluid has ever been used by the County for deicing of roads or any other purpose. Environmentally safer alternatives exist and are being used for deicing and other infrastructure management purposes.

The law will serve to protect the health, safety and welfare of the general public as well as the environmental resources of Nassau County.

Determination of Significance

The environmental criteria set forth in §617.7 (c) are considered to be indicators of significant adverse environmental impacts. Using these thresholds the Nassau County Legislature finds the following factors as its basis for the NEGATIVE DECLARATION determination:

1. The Proposed Action will not result in a substantial adverse change in existing air quality, ground or surface water quantity or quality, and traffic or noise levels; and
2. The Proposed Action will not lead to a substantial increase in solid waste production and will not create a substantial increase in the potential of erosion, flooding, leaching or drainage problems; and
3. The Proposed Action will not cause substantial adverse impact on a threatened or endangered species of animal or plant. The Proposed Action will not impact on a significant habitat area. The Proposed Action will not result in any other significant adverse impact to natural resources; and
4. The Proposed Action will not impair the environmental characteristics of a designated Critical Environmental Area; and
5. The Proposed Action is in accordance with and will not conflict with the County's current plans or goals as officially approved or adopted; and
6. The Proposed Action will not impair the character or quality of important historical archeological or architectural resources of the County, or any existing community or neighborhood character; and
7. The Proposed Action will not result in major changes in the use of either the quantity or type of energy; and
8. The Proposed Action will not create a hazard to human health; and
9. The Proposed Action will not result in a substantial change in the use or intensity of use of land including agricultural, open space or recreational resources, or in the capacity to support existing uses; and
10. The Proposed Action will not result in the creation of a material demand for other actions that would result in any of the above consequences; and
11. The Proposed Action will not change two or more elements of the environment, which when considered together could result in a substantial adverse impact on the environment; and
12. When considered cumulatively with other related actions, the Proposed Action will not have a significant effect on the environment or meet one of the above criteria.

Accordingly, based on the aforementioned findings the Proposed Action provides a suitable balance of social, economic and environmental factors. The Nassau County Legislature therefore determines that the Proposed Action will not have an adverse impact on the environment and a Draft Environmental Impact Statement (DEIS) is not required with the issuance of this NEGATIVE DECLARATION.

SEQRA Negative Declaration

Christopher Ostuni, Esq. Maj. Counsel Nassau Co. Legislature

Name and Title of Responsible Officer in Lead Agency

Signature of Responsible Officer

Peter Clines, Esq, Min. Counsel Nassau Co. Legislature

Name and Title of Responsible Officer in Lead Agency

Signature of Responsible Officer

Sean B. Sallie, AICP, Planning Supervisor

Name and Title of Preparer

Signature of Preparer

For Further Information:

Contact Persons: Christopher Ostuni, Esq.  
Majority Counsel  
Nassau County Legislature

Peter Clines, Esq.  
Minority Counsel  
Nassau County Legislature

Address: Nassau County Legislature  
1550 Franklin Avenue  
Mineola, New York 11501

Telephone Number: (516) 571-4321

For Unlisted Actions a copy must be filed with the lead agency (Nassau County Legislature)

Applicant/Sponsor: Nassau County Legislature

Other Involved Agencies: None

**For Type I Actions and Conditioned Negative Declarations, a copy must be sent to:**

Environmental Notice Bulletin at: [enb@gw.dec.state.ny.us](mailto:enb@gw.dec.state.ny.us)

ENB, NYS Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-1750

County Executive, c/o County Clerk