

WASTING AWAY: Four states' failure to manage gas and oil field waste from the Marcellus and Utica Shale Full report at: <http://wastingaway.earthworksaction.org>

NEW YORK: Key findings

New York's regulations related to oil and gas waste date back to the 1970s-1990s. The New York Department of Environmental Conservation (NYDEC) proposed new regulations for high-volume shale gas drilling, which included aspects related to waste storage and disposal. But since the state decided in 2014 to prohibit the practice, no regulatory updates have been adopted.

New York continues to produce waste from conventional drilling and increasingly accepts shale gas waste from other states. Records from Pennsylvania indicate that operators have sent production brine to New York for road-spreading and drill cuttings and drilling muds to several New York landfills.

New York law specifically excludes all oil and gas field waste from the definition of industrial and hazardous waste. As a result, operators can dispose of waste at municipal waste landfills and sewage treatment plants.

NYDEC oversees waste treatment and disposal facilities, but lacks any mechanism through which to consistently record waste type, volume, origin, destination, and transport. **No data on oil and gas waste is available online or readily available to the public.** As a result, it is difficult to assess the volumes or types of waste being generated and disposed of, or where it ends up.

The actual tracking of waste is currently left up to drillers and the operators of disposal facilities. Oil and gas operators are not required to report the volume, type, chemical content, disposal process, or origin and destination for waste with any specificity.

Even though New York requires operators to have waste disposal plans, NYDEC doesn't specify what they should include or what would lead the agency to reject a proposed plan. **NYDEC leaves it up to regional offices to determine how disposal facilities define and test the content of oil and gas waste,** creating variability statewide.

New York considers the spreading of brine from conventional drilling on roads to be a "beneficial use" of waste, even though NYDEC has not demonstrated its safety. The state also continues to allow practices that can pollute groundwater, such as the storage of waste in open-air pits and burial of waste at well sites.

New York doesn't require operators to conduct chemical testing of drill cuttings left behind at well sites or verify that they are "uncontaminated" according to the law.

Although New York requires specialized disposal and discharge of radioactive material that is processed and concentrated, it specifically **excludes drill cuttings even if they've been mixed with other materials. This enables operators to dispose of cuttings in municipal landfills.** In addition, New York does not require solid waste facilities to install radiation detectors (although some do voluntarily).