

From: [Toma, Michael](#)
To: [Rosenson, Valerie](#); [Hughes, Sheila](#); [Staley, Angelina](#)
Cc: [Martin, David](#); [Emmett, Kathryn](#); [Burwick, Laura](#); [Isidro, Judith](#)
Subject: RE: FW: Response to Question from Rep. McMullen re: fracking ordinance
Date: Wednesday, May 29, 2019 3:38:20 PM
Attachments: [image001.png](#)

Sheila and Angie,

In Valerie's absence, please disseminate this email to the members of the Public Health and Safety Committee. Thank you.

Rep. McMullen is correct that under both the current and proposed certification language of the fracking ordinance, if a vendor violates the ordinance, the City could seek to apply any of the penalties or relief set forth in the ordinance, whether or not the vendor knowingly committed a violation. The extent to which the various penalties or relief would be imposed on the vendor would be for a court to determine. Generally, when municipalities seek to collect unpaid monetary penalties for ordinance violations, or seek injunctions to have an offending activity cease, or seek an order to remediate damage caused by a violator, they must file suit in court. It is within the authority of the court to impose such penalties and relief.

Michael Toma

From: Rosenson, Valerie <VRosenson@StamfordCT.gov>
Sent: Friday, May 24, 2019 4:08 PM
To: Toma, Michael <MToma@StamfordCT.gov>; Emmett, Kathryn <KEmmett@StamfordCT.gov>
Subject: FW: FW: Response to Question from Rep. McMullen re: fracking ordinance

FYI

Valerie T. Rosenson
Legislative Officer
Board of Representatives
888 Washington Boulevard, 4th Floor
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VRosenson@StamfordCT.gov

From: J.R. McMullen [<mailto:jrmcmullen.stamford18@gmail.com>]
Sent: Friday, May 24, 2019 4:06 PM
To: Rosenson, Valerie
Cc: Nabel, Susan; Stella, Jeffrey; Quinones, Matt
Subject: Re: FW: Response to Question from Rep. McMullen re: fracking ordinance

Valerie,

So the proposed change doesn't remove the act of certifying but changes what is being certified, their product vs their knowledge? So if they truly have no knowledge and they can

demonstrate they have performed their due diligence then they avoid the perjury finding? Given the high bar set for a finding of perjury why isn't that true with either set of language.

My only real concern with the new language might be that it appears there may be an effort here to let the vendor off for the behavior of a sub-contractor, agent, or vendor agent but agency by itself would seem to prevent that.

Regardless of which version of language is used going forward, we need assurance from Corporation Counsel that the penalties recourse found in section D would apply whether or not the vendor knowingly violated the restrictions outlined in the ordinance. I believe they would.

Is my understanding correct?

- C. The following statement, which shall be a sworn statement under penalty of perjury, shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the City and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the City: "We _____ hereby submit a bid for materials, equipment and/or labor for the City of Stamford. The bid is for bid documents titled _____ . We hereby certify under penalty of perjury that we, after diligent inquiry of our material suppliers, have no knowledge of the presence of "natural gas waste" or "oil waste," as those terms are defined in the City Code of Ordinances, in any products we are selling to the City of Stamford or using in connection with the work which is the subject of the bid no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the City of Stamford as a result of the submittal of this bid if selected."

By the way, this is not an ordinance I support. I just don't want to have to revisit it again in 6 months because the language needs to be tweaked again..

Thanks. J.R.

On Fri, May 24, 2019 at 3:02 PM Rosenson, Valerie <VRosenson@stamfordct.gov> wrote:

Please see the email below in response to your question about the proposed language change.

*Valerie T. Rosenson
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Board of Representatives
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From: Toma, Michael
Sent: Friday, May 24, 2019 1:50 PM
To: Rosenson, Valerie
Cc: Emmett, Kathryn
Subject: Response to Question from Rep. McMullen re: fracking ordinance

Valerie,

In response to Rep. McMullen's question from this morning, I offer the following. The difference in the language is that if a company believes that there is no banned material in

its product but is nevertheless unable to test it to verify that fact or know that for sure, it is not required under the proposed language to certify (guarantee) under penalty of perjury that no banned material is in the product. By contrast, the current language does require the company to so certify – *i.e.*, guarantee – the absence of banned product. O&G has indicated that it will not certify something that it cannot know.

Mike Toma

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Trying to help other people at all times,

J.R. McMullen
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165 Slice Drive
Stamford, CT 06907

