

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2154 Session of
2018

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TALLMAN, TOPPER, WALSH, WARD, WARNER, WATSON, WENTLING,
WHEELAND, ZIMMERMAN AND HEFFLEY, MARCH 19, 2018

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 1, 2018

AN ACT

1 Relating to conventional wells and the development of oil, gas
2 and coal; imposing powers and duties on the Department of
3 Environmental Protection; and providing for preliminary
4 provisions, for general requirements, for underground gas
5 storage, for enforcement and remedies, for related funds,
6 parties and activities and for miscellaneous provisions.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 CHAPTER 1
20 PRELIMINARY PROVISIONS

21 Section 101. Short title.

22 This act shall be known and may be cited as the Conventional
23 Oil and Gas Wells Act.

24 Section 102. Declaration of purpose.

25 The purposes of this act are to:

26 (1) Permit the optimal development of the oil and gas
27 resources of Pennsylvania consistent with the property rights
28 of owners of the oil and gas resources and the protection of
29 the health, safety, environment and property of the residents
30 of this Commonwealth.

1 (2) Protect the safety of personnel and facilities
2 employed in the exploration, development, storage and
3 production of natural gas or oil or the mining of coal.

4 (3) Protect the safety and property rights of persons
5 residing in areas where exploration, development, storage or
6 production occurs.

7 (4) Protect the natural resources, environmental rights,
8 property rights and values secured by the Constitution of
9 Pennsylvania.

10 (5) Provide a flexible and cost-effective way to
11 implement and enforce the provisions of this act.

12 Section 103. Scope.

13 This act relates to conventional wells and well sites only.

14 Section 104. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Abandoned well." Any of the following:

19 (1) A well that has not been used to produce, extract or
20 inject gas, petroleum or other liquid within the preceding 12
21 months.

22 (2) A well for which equipment necessary for production,
23 extraction or injection has been permanently removed.

24 (3) A well, considered dry, not equipped for production
25 within 60 days after drilling, redrilling or deepening,
26 except that it shall not include a well granted inactive
27 status.

28 "Alteration." An operation which changes the physical
29 characteristics of the well bore, including removing, repairing
30 or changing the casing. For the purpose of this act only, the

1 term shall not include:

2 (1) Repairing or replacing of casing if the activity
3 does not affect the depth or diameter of the well bore, the
4 use or purpose of the well does not change and the activity
5 complies with regulations promulgated under this act.

6 However, this exclusion shall not apply to production casings
7 in coal areas when the production casings are also the coal
8 protection casings and shall not apply when the method of
9 repairing or replacing the casing would affect the coal
10 protection casing.

11 (2) Stimulation of a well.

12 "Anti-icing." Brine applied directly to a paved road prior
13 to a precipitation event.

14 "Bridge." An obstruction placed or occurring naturally in a
15 well at a specified depth.

16 "Building." An occupied structure with walls and roof within
17 which persons live or customarily work.

18 "Casing." A string or strings of pipe commonly placed in
19 wells drilled for natural gas or petroleum.

20 "Cement" or "cement grout." Hydraulic cement properly mixed
21 with water only or a mixture of materials adequate for bonding
22 or sealing of well bores as approved by regulations promulgated
23 in this act.

24 "Coal mine." Operations in a coal seam, which include the
25 excavated and abandoned portions as well as the places actually
26 being worked, all underground workings and shafts, slopes,
27 tunnels and other ways and openings and all shafts, slopes,
28 tunnels and other openings in the course of being sunk or
29 driven, together with all roads and facilities connected with
30 them below the surface.

1 "Coal operator." A person who proposes or has a permit to
2 operate or operates a coal mine either as owner or lessee.

3 "Completion of a well." The date after treatment, if any,
4 that the well is properly equipped for production of oil or gas,
5 or, if the well is dry, the date the well is abandoned.

6 "Conventional well." As follows:

7 (1) A bore hole drilled or being drilled for the purpose
8 of or to be used for construction of a well regulated under
9 this act that is not an unconventional well, irrespective of
10 technology or design.

11 (2) The term includes, but is not limited to, the
12 following:

13 (i) Wells drilled to produce oil.

14 (ii) Wells drilled to produce natural gas from
15 formations other than shale formations.

16 (iii) Wells drilled to produce natural gas from
17 shale formations located above the base of the Elk Group
18 or its stratigraphic equivalent.

19 (iv) Wells drilled to produce natural gas from shale
20 formations located below the base of the Elk Group where
21 natural gas can be produced at economic flow rates or in
22 economic volumes without the use of vertical or
23 nonvertical well bores stimulated by hydraulic fracture
24 treatments or multilateral well bores or other techniques
25 to expose more of the formation to the well bore.

26 (v) Irrespective of formation, wells drilled for
27 collateral purposes, such as monitoring, geologic
28 logging, secondary and tertiary recovery or disposal
29 injection.

30 "Council." The Pennsylvania Grade Crude Development Advisory

1 Council.

2 "De-icing." Brine applied directly to a paved road after a
3 precipitation event.

4 "Department." The Department of Environmental Protection of
5 the Commonwealth.

6 "Drilling." The drilling or redrilling of a well or the
7 deepening of an existing well.

8 "Dust control." The process of applying a material to the
9 surface of a dirt road for the purpose of mitigating air
10 pollution.

11 "Fresh groundwater." Water in that portion of the generally
12 recognized hydrologic cycle which occupies the pore spaces and
13 fractures of saturated subsurface materials.

14 "Gas." A fluid, either combustible or noncombustible, which
15 is produced in a natural state from the earth and which
16 maintains a gaseous or rarified state at standard temperature of
17 60 degrees Fahrenheit and pressure 14.7 PSIA, a manufactured
18 gas, byproduct gas or mixture of gases.

19 "Inactivate." To shut off the vertical movement of gas in a
20 gas storage well by means of a temporary plug or other suitable
21 device or by injecting bentonitic mud or other equally nonporous
22 material into the well.

23 "Linear foot." A unit of measurement in a straight line on a
24 horizontal plane.

25 "Noncoal area." An area where there are no workable coal
26 seams.

27 "Notice." For the purpose of providing required notice to
28 the department, includes notice provided by telephone, e-mail or
29 other available electronic means.

30 "Oil" or "petroleum." Hydrocarbons in liquid form at a

1 standard temperature of 60 degrees Fahrenheit and pressure of
2 14.7 PSIA.

3 "Operating coal mine." The portion of a workable coal seam
4 which is covered by an ~~active~~ underground mining permit issued <--
5 by the department.

6 "Operating well." A well not plugged and abandoned.

7 "Orphan well." A well abandoned prior to April 18, 1985,
8 that has not been affected or operated by the present owner or
9 operator and from which the present owner, operator or lessee
10 has received no economic benefit, except only as a landowner or
11 recipient of a royalty interest from the well.

12 "Outside coal boundaries." When used in conjunction with the
13 term "operating coal mine," the boundaries of the coal acreage
14 assigned to a coal mine under an underground mine permit issued
15 by the department.

16 "Owner." A person who owns, manages, leases, controls or
17 possesses a well or coal property; except that for purposes of
18 sections 303(b)(4) and (5) and 310, the term "owner" shall not
19 include those owners or possessors of surface real property on
20 which the abandoned well is located who did not participate or
21 incur costs in the drilling or extraction operation of the
22 abandoned well and had no right of control over the drilling or
23 extraction operation of the abandoned well. This term shall not
24 apply to orphan wells except where the department determines a
25 prior owner or operator benefited from the well as provided in
26 section 310(a).

27 "Person." An individual, association, partnership,
28 corporation, political subdivision, agency of the Federal or
29 State Government or other legal entity.

30 "Pillar." A solid block of coal surrounded by either active

1 mine workings or a mined-out area.

2 "Plat." A map, drawing or print accurately drawn to scale
3 showing the proposed or existing location of a well or wells as
4 defined in this section.

5 "Prewetting." Mixing brine with antiskid material prior to
6 roadway application.

7 "Retreat mining." The removal of coal pillars, ribs and
8 stumps that remain after the development mining has been
9 completed in a section of a coal mine.

10 "Secretary." The Secretary of Environmental Protection.

11 "Well." A bore hole drilled or being drilled for the purpose
12 of or to be used for producing, extracting or injecting gas,
13 petroleum or other liquid related to oil or gas production or
14 storage, including brine disposal, but excluding bore holes
15 drilled to produce potable water. The term does not include:

16 (1) A mine bore as referenced in 25 Pa. Code Ch. 73
17 (relating to standards for onlot sewage treatment
18 facilities).

19 (2) A bore hole drilled or being drilled for the purpose
20 of or to be used for systems of monitoring, producing or
21 extracting gas from solid waste disposal facilities, as long
22 as the wells are subject to the act of July 7, 1980 (P.L.380,
23 No.97), known as the Solid Waste Management Act, and do not
24 penetrate a workable coal seam. The term also does not
25 include a bore hole drilled or being drilled for the purpose
26 of or to be used for degasifying coal seams if the following
27 conditions are satisfied:

28 (i) (A) the bore hole is used to vent methane to
29 the outside atmosphere from an operating coal mine;
30 (B) the bore hole is regulated as part of the

1 mining permit under the act of June 22, 1937
2 (P.L.1987, No.394), known as The Clean Streams Law,
3 and the act of May 31, 1945 (P.L.1198, No.418), known
4 as the Surface Mining Conservation and Reclamation
5 Act; and

6 (C) the bore hole is drilled by the operator of
7 the operating coal mine for the purpose of increased
8 safety; or

9 (ii) the bore hole is used to vent methane to the
10 outside atmosphere under a Federally funded or State-
11 funded abandoned mine reclamation project.

12 "Well operator" or "operator." A person designated as the
13 well operator or operator on the permit application or well
14 registration. Where a permit or registration was not issued, the
15 term shall mean a person who locates, drills, operates, alters
16 or plugs a well or reconditions a well with the purpose of
17 production from the well. In cases where a well is used in
18 connection with the underground storage of gas, the term also
19 means a storage operator.

20 "Well site." The areas occupied by equipment or facilities
21 necessary for or incidental to drilling, completion, production
22 of or plugging a well.

23 "Wetland." An area that is inundated or saturated by surface
24 or groundwater at a frequency and duration sufficient to
25 support, and that under normal circumstances supports, a
26 prevalence of vegetation typically adapted for life in saturated
27 soil conditions, including swamps, marshes, bogs and similar
28 areas.

29 "Workable coal seams." The term includes:

30 (1) A coal seam in fact being mined in the area in

question under this act by underground methods.

(2) A coal seam which, in the judgment of the department, can reasonably be expected to be ~~commercially~~ <--
mined by underground methods, ~~and which is greater than 28~~ <--
~~inches in thickness, greater than 100 feet from the surface~~
~~and laterally extensive.~~

CHAPTER 3

GENERAL REQUIREMENTS

Section 301. Well permits.

(a) Permit required.--Except as provided under subsection (j), no person shall drill a well or alter an existing well without having first obtained a well permit under this section or operate an abandoned or orphan well unless the person is in compliance with subsection (m). A copy of the permit shall be kept at the well site during drilling or alteration of the well. No person shall be required to obtain a permit to redrill a nonproducing well, if:

(1) the redrilling has been evaluated and approved as part of an order from the department authorizing the cleaning out and plugging or replugging of a nonproducing well, under section 13(c) of the act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act; and

(2) the redrilling is incidental to the plugging or replugging operation and the well subsequently is plugged within 15 days of redrilling.

(b) Plat.--

(1) The permit application shall be accompanied by a plat prepared by a certified professional in erosion and sediment control, a competent engineer or a competent

1 surveyor on forms to be furnished by the department showing
2 the following:

3 (i) The political subdivision and county in which
4 the tract of land upon which the well to be drilled is
5 located.

6 (ii) The name of the surface landowner of record and
7 lessor.

8 (iii) The names of all surface landowners or water
9 purveyors whose water supplies are within 1,000 feet of
10 the proposed well location.

11 (iv) The name of the owner of record or operator of
12 all known underlying workable coal seams, if any.

13 (v) The acreage in the tract to be drilled.

14 (vi) The proposed location of the well determined by
15 survey.

16 (vii) The courses and distances of the location from
17 two or more permanent identifiable points or landmarks on
18 the tract boundary corners.

19 (viii) The proposed angle and direction of the well,
20 if the well is to be deviated substantially from a
21 vertical course.

22 (ix) The number or other identification to be given
23 to the well.

24 (x) The workable coal seams, if any, underlying the
25 tract of land upon which the well is to be drilled or
26 altered, which are to be cased off in accordance with
27 section 307.

28 (xi) Other information needed by the department to
29 administer this act.

30 (2) The applicant shall forward, by certified mail, a

1 copy of the plat to the surface landowner, all surface
2 landowners or water purveyors whose water supplies are within
3 1,000 feet of the proposed well location, the owner and
4 lessee, if any, of the workable coal seams and every coal
5 operator required to be identified on the well permit
6 application and shall submit proof of the notification with
7 the well permit application. With respect to surface
8 landowners, notification shall be accomplished under this
9 section by sending notice to the persons to whom the tax
10 notices for the surface property are sent, as indicated in
11 the assessment books in the county in which the property is
12 located. With respect to surface landowners or water
13 purveyors whose water supplies are within 1,000 feet of the
14 proposed well location, notification shall be made on forms
15 and in a manner prescribed by the department sufficient to
16 identify, for those persons, the rights afforded them under
17 section 308 and the advisability of taking their own
18 predrilling or prealteration survey. With respect to the coal
19 operator, lessee or owner, if any, notification shall be
20 accomplished under this section by sending notice to the
21 persons to whom tax notices for the workable coal seams are
22 sent, as indicated in the assessment books, if available, or
23 as indicated in the records of the recorder of deeds office
24 in the county in which such seams are located. If certified
25 mail or notification is returned undeliverable, the applicant
26 shall include a completed affidavit attesting to the
27 attempted delivery, which shall satisfy the notification
28 requirements under this section.

29 (3) If the applicant submits to the department written
30 approval of the proposed well location by the surface

landowner and the coal operator, lessee or owner, if any, of the coal underlying the proposed well location and no objections are raised by the department within 15 days of filing or if no approval has been submitted and no objections are made to the proposed well location within 15 days from receipt of the notice by the surface landowner and the coal operator, lessee or owner, if any, or by the department, the approval shall be filed and become a permanent record of the location, subject to inspection at any time by an interested person.

(c) Applicants.--If the applicant for a well permit is a corporation, partnership or a person that does not reside in this Commonwealth, the applicant shall designate an agent for the operator who shall be the attorney in fact for the operator and who shall be a resident of this Commonwealth upon whom notices, orders or other communications issued under this act or the regulations adopted under this act may be served and upon whom process may be served. Every well operator required to designate an agent under this section shall, within five days after the termination of the designation, notify the department of the termination and designate a new agent.

(d) Permit fee.--An application for a well permit shall be accompanied by a permit fee, established by regulation of the department, which bears a reasonable relationship to the cost of administering this act.

(e) Issuance of permit.--The department shall issue a permit within 45 days of the submission of a permit application unless the department denies the permit application for one or more of the reasons set forth under this subsection, provided that the department shall have the right to extend the period for 15 days

1 for cause shown upon notification to the applicant of the
2 reasons for that extension. The department may impose permit
3 terms and conditions as are necessary to assure compliance with
4 this act and other laws administered by the department. The
5 department has the burden of proving that the conditions were
6 necessary to protect against probable harmful impact to health,
7 safety, environment or property and shall allow the optimal
8 development of oil and gas resources consistent with the
9 property rights of the owners of the oil and gas resources. The
10 department shall have the authority to deny a permit to a person
11 for the following reasons:

12 (1) The well site for which a permit is requested is in
13 violation of the provisions of this act or if issuance of a
14 permit would result in a violation of this act or any other
15 applicable environmental statute, rule or regulation.

16 (2) The permit application is incomplete.

17 (3) Unresolved objections to the well location by a coal
18 mine owner or operator remain.

19 (4) The requirements of section 315 have not been met.

20 (5) The applicant, with respect to other well or wells
21 which the applicant operates, is in continuing violation of
22 this act or other applicable statute administered by the
23 department. The right of the department to deny a permit
24 under this paragraph shall not be effective until a final
25 administrative determination has been made of the violations
26 and no appeal is pending in which a stay has been granted.

27 (f) Drilling.--Upon issuance of a permit, the well operator
28 may proceed with the drilling of the well at the location shown
29 on the plat after providing the department 24 hours' notice of
30 the date that drilling will commence. In noncoal areas where

1 more than one well is to be drilled as part of the same
2 development project, only the first well of the project need be
3 located by survey. The remaining wells of the project shall be
4 shown on the plat in a manner prescribed by regulation. Prior to
5 drilling each of the additional project wells, the well operator
6 shall notify the department of the operator's intention and
7 provide reasonable notice of the date drilling will commence.
8 If, before or during the drilling of a well which is not within
9 the outside boundaries of an operating coal mine, a well
10 operator encounters conditions of a nature as to render drilling
11 of the bore hole or portions of the bore hole more hazardous
12 than usual or otherwise difficult, the well operator shall have
13 the right upon oral notice to the department to immediately plug
14 all or portions of the bore hole, if drilling has occurred, and
15 to commence a new bore hole not more than 50 feet from the
16 location shown on the plat if the location of the new bore hole
17 does not violate section 305 and if, for wells subject to the
18 act of July 25, 1961 (P.L.825, No.359), known as the Oil and Gas
19 Conservation Law, the new location complies with existing law,
20 regulation or spacing order and if the new bore hole is a
21 minimum of 330 feet distant from the nearest lease boundary. If
22 drilling occurred at a original bore hole, within 10 days of
23 commencement of the new bore hole, the well operator shall file
24 with the department a written notice of intention to plug, a
25 well record, a completion report, a plugging certificate for the
26 original bore hole and an amended plat for the new bore hole.
27 The well operator shall forward a copy of the amended plat to
28 the surface landowner identified on the well permit application
29 within 10 days of commencement of the new well bore.

30 (g) Posting.--The well permit number and operator's name,

1 address and telephone number shall be posted at the drilling
2 site in a conspicuous manner prior to commencement of drilling.

3 (h) Labeling.--The well operator shall install the permit
4 number issued by the department in a legible, visible and
5 permanent manner at the well upon completion.

6 (i) Expiration.--Well permits issued for drilling of wells
7 covered by this act shall expire three years after issuance
8 unless operations for drilling the well are commenced within the
9 period and pursued with due diligence or unless the permit is
10 renewed in accordance with regulations of the department. If
11 drilling is commenced during the three-year period, the well
12 permit shall remain in force until the well is plugged in
13 accordance with section 310 or the permit is revoked. A drilling
14 permit issued prior to April 18, 1985, for a well which is an
15 operating well on April 18, 1985, shall remain in force as a
16 well permit until the well is plugged in accordance with section
17 310. Nothing in this subsection shall be construed to rescind
18 the provisions pertaining to drilling permits contained in the
19 Oil and Gas Conservation Law.

20 (j) Exceptions.--The Environmental Quality Board may
21 establish by regulation certain categories of alterations of
22 permitted or registered wells for which the permitting
23 requirements of this section shall not apply. The well operator
24 or owner who proposes to conduct the alteration activity shall
25 first obtain a permit from the department. Requirements for
26 modifications shall be as the Environmental Quality Board shall
27 require by regulation.

28 (k) No transfer permitted.--No permit issued under this
29 section may be transferred without prior approval of the
30 department. Requests for approval of transfer shall be made on

forms or in a manner prescribed by the department. The department shall approve or deny the transfer request within 45 days of receipt of a complete and accurate application. The department shall only have the authority to deny the request for the reasons set forth under subsection (e)(4) or (5). Approval of the transfer request shall permanently transfer responsibility to plug the well under section 310 to the recipient of the transferred permit or registration.

(1) Accelerated approval.--The department may establish a procedure for accelerated approval of well permit applications in hardship cases, as defined by regulation of the Environmental Quality Board, consistent with the requirements of this act.

(m) Regulations.--The Environmental Quality Board may establish by regulation requirements for permitting and operation of abandoned or orphan wells. A person who proposes to conduct abandoned or orphan well operations shall first obtain a permit to adopt and operate an abandoned or orphan well.

Section 302. Permit objections.

(a) General rule.--If a well location referred to in section 301(b) is made so that the well, when drilled, will be located on a tract whose surface is owned by a person other than the well operator, the surface landowner affected shall be notified of the intent to drill and have right to file objections, in accordance with section 701, based solely on an assertion that the well location violates section 305 or that information in the application is untrue in any material respect, within 15 days of the receipt by the surface owner of the plat provided for in section 301(b). Receipt of notice by the surface owner shall be presumed to have occurred 15 days from the date of the certified mailing when the well operator submits a copy of the

1 certified mail receipt sent to the surface owner and an
2 affidavit certifying that the address of the surface owner to
3 which notice was sent is the same address that is listed in the
4 assessment books in the county in which the property is located.
5 If no objections are filed or none are raised by the department
6 within 15 days after receipt of the plat by the surface
7 landowner, or if written approval by the surface landowner is
8 filed with the department and no objections are raised by the
9 department within 15 days of filing, the department shall
10 proceed to issue or deny the permit.

11 (b) Special circumstances.--If a well location referred to
12 in section 301(b) is made so that the well, when drilled, will
13 penetrate anywhere within the outside coal boundaries of:

14 (1) an operating coal mine; or

15 (2) a coal mine already projected and platted but not
16 yet being operated for which a technically complete mine
17 permit application has been filed with the department or
18 within 1,000 linear feet beyond the boundaries and the well,
19 when drilled, or the pillar of coal around the well will, in
20 the reasonable opinion of the coal owner or operator,
21 endanger the mine, the coal owner or operator affected shall
22 have the right to file objections in accordance with section
23 701 to the proposed location within 15 days of the receipt by
24 the coal operator of the plat provided for in section 301(b).
25 An alternative location at which the proposed well could be
26 drilled to overcome the objections shall be indicated if
27 possible. If no objections to the proposed location are filed
28 or if none are raised by the department within 15 days after
29 receipt of the plat by the coal operator or owner, or if
30 written approval by the coal operator or owner of the

location is filed with the department and no objections are raised by the department within 15 days of filing, the department shall proceed to issue or deny the permit.

(c) Procedure upon objection.--If an objection is filed by a coal operator or owner or is made by the department, the department shall fix a time and place for a conference in accordance with section 701 not more than 10 days from the date of the service of the objections on the well operator, at which conference the well operator and coal operators or owners present or represented shall consider the objections and attempt to agree upon a location. If the parties fail to agree upon a location, the department shall, by an appropriate order, determine a location on a tract of land as near to the original location as possible where, in the judgment of the department, the well can be safely drilled without unduly interfering with or endangering the mine as described in subsection (b). The new location, as agreed upon by the parties or as determined by the department, shall be indicated on the plat on file with the department and shall become a permanent record, whereupon the department shall proceed to issue or deny the permit.

(d) Survey.--Within 120 days after the commencement of drilling operations, the coal operator shall accurately locate the well by a closed survey on the same datum as the mine workings or coal boundaries are mapped and file the results of the survey with the department and forward by certified mail a copy to the well operator.

Section 303. Orphan well adoption and identification.

(a) Orphan wells.--

(1) Well owners or operators who discover abandoned wells on property purchased or leased by them shall identify

1 the well to the department within 60 days of discovery and
2 advise the department that they are seeking classification of
3 the well as an orphan well. No fee shall be required for the
4 identification.

5 (2) Operators shall undertake reasonable diligence to
6 identify abandoned, orphan, active or inactive wells through
7 review of the department's public well databases and field
8 examination prior to hydraulic fracturing. The department may
9 not require operators to undertake landowner surveys for such
10 wells.

11 (3) (i) During hydraulic fracturing, the operator shall
12 periodically monitor orphan, abandoned, active or
13 inactive wells that are located within the area of the
14 operator's oil and gas operating interest and are within:

15 (A) two hundred feet of the top hole location of
16 an oil well being hydraulically fractured and within
17 400 feet of a gas well being hydraulically fractured;
18 or

19 (B) half the well field spacing if the spacing
20 exceeds the distances under clause (A).

21 (ii) The area of monitoring for horizontal
22 conventional wells shall include wells within half the
23 well field distances of the lateral portion of the wells.
24 An operator shall provide notice to the department if the
25 well being hydraulically fractured communicates with the
26 monitored well in a manner that has the potential to
27 cause an adverse environmental impact.

28 (4) A person who is not a well owner or operator and who
29 discovers an abandoned well on property owned or leased by
30 the person shall identify the well to the department within

1 60 days of discovery and advise the department that the
2 person is seeking classification of the well as an orphan
3 well. No fee shall be required for the identification.

4 (5) A person who proposes to conduct orphan well
5 operations shall first obtain a permit to adopt and operate
6 an orphan well in accordance with section 301.

7 (b) Information.--Information regarding wells to be
8 identified shall be provided on forms or in a manner prescribed
9 by the department and shall include:

10 (1) The name and address of the well operator and, if
11 the well operator is a person that does not reside in this
12 Commonwealth, the name and address of an agent for the
13 operator upon whom notices, orders, process or other
14 communications issued under this act may be served.

15 (2) The well name and the location of the well indicated
16 by a point on a 7.5-minute United States Geological Survey
17 topographic map or any other location description sufficient
18 to enable the department to locate the well on the ground.

19 (3) The approximate date of the drilling and completion
20 of the well and the approximate depth of the well, producing
21 horizons, well construction information and driller's logs,
22 if available.

23 (4) An indemnity bond, an alternative fee in lieu of
24 bonding or other evidence of financial security submitted by
25 the well operator and deemed appropriate by the department as
26 satisfying the requirements of section 315. No bond,
27 alternative fee or other evidence of financial security shall
28 be required for identification of an orphan well.

29 (c) Guidelines.--The department may adopt and promulgate
30 guidelines designed to ensure a fair implementation of this

1 section which recognizes the practical difficulties of locating
2 unpermitted wells and complying with the reporting requirements
3 of this act.

4 Section 304. Inactive status.

5 (a) General rule.--Upon application, the department shall
6 grant, within 60 days of receipt of the application, inactive
7 status for a permitted or registered well if the following
8 requirements are met:

9 (1) The condition of the well is sufficient to prevent
10 damage to the producing zone or contamination of fresh water
11 or other natural resources or surface leakage of any
12 substance.

13 (2) The condition of the well is sufficient to stop the
14 vertical flow of fluids or gas within the well bore and is
15 adequate to protect freshwater aquifers, unless the well
16 poses a threat to the health and safety of persons or
17 property or to the environment.

18 (3) The operator anticipates future use of the well for
19 primary or enhanced recovery or future gas storage, or the
20 operator anticipates the construction of a pipeline for
21 approved disposal or other appropriate uses related to oil
22 and gas well production.

23 (4) The applicant satisfies the bonding requirements of
24 sections 303 and 315, except that the department may require
25 additional financial security for a well on which an
26 alternative fee is being paid in lieu of bonding under
27 section 315(d).

28 (b) Monitoring.--The owner or operator of a well granted
29 inactive status shall be responsible for monitoring the
30 mechanical integrity of the well to ensure that the requirements

1 of subsection (a) (1) and (2) are met and shall report the same
2 on an annual basis to the department in a manner and form as the
3 department shall prescribe by regulation. A well granted
4 inactive status under subsection (a) shall be plugged when the
5 well no longer meets the requirements of subsection (a).

6 (c) Return to active status.--An owner or operator who has
7 been granted inactive status for a well which is returned to
8 active status shall notify the department that the well has been
9 returned to active status. The owner or operator may make
10 application to return the well to inactive status in accordance
11 with subsection (a).

12 (d) Revocation of inactive status.--

13 (1) The department shall have the right to revoke
14 inactive status and order the immediate plugging of a well
15 under any of the following circumstances:

16 (i) When the well is in violation of this act or
17 rules or regulations promulgated under this act.

18 (ii) When the owner or operator demonstrates
19 inability to perform the owner's or operator's
20 obligations under this act.

21 (iii) When the owner or operator becomes financially
22 insolvent.

23 (iv) Upon receipt by the department of notice of
24 bankruptcy proceedings by the permittee.

25 (2) If the department revokes inactive status, a well
26 owner or operator aggrieved by the denial shall have the
27 right to appeal the denial to the Environmental Hearing Board
28 within 30 days of receipt of the revocation. Upon cause shown
29 by a well owner or operator, the Environmental Hearing Board
30 may grant a supersedeas under section 4 of the act of July

1 13, 1988 (P.L.530, No.94), known as the Environmental Hearing
2 Board Act, to allow the well to retain inactive status during
3 the period of appeal.

4 Section 305. Well location restrictions.

5 (a) General rule.--Wells may not be drilled within 200 feet
6 measured horizontally from an existing building or existing
7 water well without the written consent of the owner of the
8 existing building or existing water well. Where the distance
9 restriction would deprive the owner of the oil and gas rights or
10 the right to produce or share in the oil or gas underlying the
11 surface tract, the well operator may be granted a variance from
12 the distance restriction upon submission of a plan which
13 identifies the additional measures, facilities or practices to
14 be employed during well site construction, drilling and
15 operations. The variance, if granted, shall include additional
16 terms and conditions as the department requires as necessary to
17 ensure the safety and protection of affected persons and
18 property. The provisions may include insurance, bonding and
19 indemnification, as well as technical requirements.

20 (b) Limitation.--No well site may be prepared or well
21 drilled within 100 feet measured horizontally from a stream,
22 spring or body of water as identified on the most current 7.5-
23 minute topographic quadrangle map of the United States
24 Geological Survey or within 100 feet of wetlands greater than
25 one acre in size. The department may waive the distance
26 restrictions upon submission of a plan which identifies the
27 additional measures, facilities or practices to be employed
28 during well site construction, drilling and operations. The
29 waiver, if granted, shall impose permit conditions as are
30 necessary to protect the waters of this Commonwealth.

1 (c) Protection of threatened or endangered species.--Well
2 permit applicants are obligated to determine impacts to
3 threatened or endangered species in accordance with applicable
4 law. The department shall, on making a determination on a well
5 permit, consider the impact of the proposed well on habitats of
6 threatened or endangered species that are listed in a final
7 rulemaking by a Federal or State agency with statutory authority
8 to list species for protection.

9 Section 306. Well site restoration.

10 (a) General rule.--Each oil or gas well owner or operator
11 shall restore the land surface within the area disturbed in
12 siting, drilling, completing and producing the well.

13 (b) Plan.--During and after all earthmoving or soil
14 disturbing activities, including, but not limited to, activities
15 related to siting, drilling, completing, producing and plugging
16 the well, erosion and sedimentation control measures shall be
17 implemented in accordance with an erosion and sedimentation
18 control plan prepared in accordance with the act of June 22,
19 1937 (P.L.1987, No.394), known as The Clean Streams Law. For
20 purpose of determining the five-acre permit threshold under the
21 Clean Streams Law, the earth disturbance footprint of the well
22 site may be combined with a portion of the access road only if
23 it is directly connected to the well site and will be
24 constructed at the same time as the well site. Well sites may be
25 restored prior to drilling and completing the well.

26 (c) Pits, drilling supplies and equipment.--Within nine
27 months after completion of drilling of a well, the owner or
28 operator shall restore the well site, remove or fill all pits
29 used to contain produced fluids or industrial wastes and remove
30 all drilling supplies and equipment not needed for production or

repairs. Drilling supplies and equipment not needed for production or repairs may be stored on the well site consistent with the property rights of the owner of the oil and gas resources or if the express written consent of the surface landowner is obtained or is contained in historical documents.

(d) Production and storage equipment.--Within nine months after plugging a well, the owner or operator shall remove all production or storage facilities, supplies and equipment and restore the well site.

(e) Clean Streams Law.--Restoration activities required by this act or in regulations promulgated under this act shall not be more stringent than applicable provisions of The Clean Streams Law. There shall be no mandatory requirement to return well sites to approximate original contours or conditions.

(f) Violation.--Failure to restore the well site as required in this act or in regulations promulgated under this act is a violation of this act.

(g) Extension of restoration.--The restoration period may be extended by the department for an additional 12 months upon application of the well owner or operator providing evidence of inability to comply due to adverse weather conditions or lack of essential fuel, equipment or labor, or upon a demonstration that the extension will result in less earth disturbance, increased water reuse or more efficient development of the resource.

Section 307. Protection of fresh groundwater and casing requirements.

(a) General rule.--To aid in the protection of fresh groundwater, the well operator shall control and dispose of brines produced from the drilling, alteration or operation of an oil or gas well in a manner consistent with the act of June 22,

1 1937 (P.L.1987, No.394), known as The Clean Streams Law, or any
2 rule or regulation promulgated under The Clean Streams Law.

3 (b) Casing.--To prevent the migration of gas or fluids into
4 sources of fresh groundwater and to prevent pollution or
5 diminution of fresh groundwaters, there shall be run and
6 permanently cemented a string or strings of casing in each well
7 drilled through the fresh water-bearing strata to a depth and in
8 a manner prescribed by regulation by the department. The
9 regulations shall be consistent with practices that have proven
10 to be satisfactory in regional areas and are in accordance with
11 geologic variability or anomalies in the regional areas. If it
12 is anticipated that cement used to permanently cement the
13 surface casing cannot be circulated to the surface, a cement
14 basket may be installed immediately above the depth of the last
15 circulation zone. The casing shall be permanently cemented by
16 the displacement method. Additional cement may be added above
17 the cement basket, if necessary, by pumping from the surface to
18 fill the annular space.

19 (c) Noncoal areas.--In noncoal areas, the surface casing may
20 be employed as the production casing, provided the operator
21 pumps a volume of cement equal to or greater than 120% of the
22 calculated annular space and, at well completion or earlier, the
23 top of the cement is determined to be at or above the depth of
24 50% of the casing. If the casing coverage is insufficient, the
25 operator shall produce oil only leaving the annulus open, run
26 alternative production casing or pump additional cement through
27 a pour string from the surface to fill the annular space.

28 (d) Procedure when coal removed.--When a well is drilled at
29 a location where the coal has been removed from one or more coal
30 seams, the well shall be drilled and cased to prevent the

1 migration of gas or fluids into the seam from which the coal has
2 been removed, in a manner prescribed by regulation of the
3 department. The department and the coal operator, owner or
4 lessee shall be given at least 72 hours' notice prior to
5 commencement of the work protecting the mine.

6 (e) Procedure when coal not removed.--When a well is drilled
7 at a location where the coal seam has not been removed, the well
8 shall be drilled to a depth and size as will permit the placing
9 of casing, packers in, and vents on, the hole at the points and
10 in a manner prescribed by the department by regulation as will
11 exclude all gas or fluids from the coal seam, except as may be
12 found naturally in the coal seam itself, and will enable the
13 monitoring of the integrity of the production casing.

14 Section 308. Protection of water supplies.

15 (a) General rule.--A well operator who affects a public or
16 private water supply by pollution or diminution shall restore or
17 replace the affected supply with an alternate source of water
18 adequate in quantity or quality for the purposes served by the
19 supply. The quality of a restored or replaced water supply will
20 be deemed adequate if it meets the standards established under
21 the act of May 1, 1984 (P.L.206, No.43), known as the
22 Pennsylvania Safe Drinking Water Act, or is comparable to the
23 quality of the water supply before it was affected by the
24 operator if that water supply did not meet these standards.

25 (b) Pollution or diminution of water supply.--A landowner or
26 water purveyor suffering pollution or diminution of a water
27 supply as a result of the drilling, alteration or operation of
28 an oil or gas well may notify the department and request that an
29 investigation be conducted. Within 10 days of the notification,
30 the department shall investigate the claim. If the department

1 finds that the pollution or diminution was caused by the
2 drilling, alteration or operation activities or if it presumes
3 the well operator responsible for pollution under subsection
4 (c), the department shall issue orders to the well operator as
5 are necessary to assure compliance with subsection (a). The
6 orders may include orders requiring the temporary replacement of
7 a water supply where it is determined that the pollution or
8 diminution may be of limited duration.

9 (c) Presumed responsibility.--Unless rebutted by one of the
10 five defenses established in subsection (d), it shall be
11 presumed that a well operator is responsible for the pollution
12 of a water supply that is within 1,000 feet of the oil or gas
13 well where the pollution occurred within six months after the
14 completion of drilling or alteration of the well.

15 (d) Defenses.--In order to rebut the presumption of
16 liability established in subsection (c), the well operator must
17 affirmatively prove one of the following five defenses:

18 (1) The pollution existed prior to the drilling or
19 alteration activity as determined by a predrilling or
20 prealteration survey.

21 (2) The landowner or water purveyor refused to allow the
22 operator access to conduct a predrilling or prealteration
23 survey.

24 (3) The water supply is not within 1,000 feet of the
25 well.

26 (4) The pollution occurred more than six months after
27 completion of drilling or alteration activities.

28 (5) The pollution occurred as the result of some cause
29 other than the drilling or alteration activity.

30 (e) Independent survey.--An operator electing to preserve

1 its defenses under subsection (d) (1) or (2) shall retain the
2 services of an independent certified laboratory to conduct the
3 predrilling or prealteration survey of water supplies. A copy of
4 the results of the survey shall be submitted to the department
5 and the landowner or water purveyor in a manner prescribed by
6 the department.

7 (f) Other remedies preserved.--Nothing in this section shall
8 prevent a landowner or water purveyor who claims pollution or
9 diminution of a water supply from seeking any other remedy at
10 law or in equity.

11 Section 309. Use of safety devices.

12 A person engaged in drilling an oil or gas well shall equip
13 the well with casings of sufficient strength and with other
14 safety devices as may be necessary in a manner prescribed by
15 regulation of the department and shall use every effort and
16 endeavor effectively to prevent blowouts, explosions and fires.

17 Section 310. Plugging requirements.

18 (a) General rule.--Upon abandoning a well, the owner or
19 operator of the well shall plug the well in a manner prescribed
20 by regulation of the department in order to stop a vertical flow
21 of fluids, other than artesian flow, or gas within the well
22 bore, unless the department has granted inactive status for the
23 well under section 304 or the well has been approved by the
24 department as an orphan well under section 303. Where the
25 department determines that a prior owner or operator received
26 economic benefit, other than economic benefit derived only as a
27 landowner or from a royalty interest subsequent to April 18,
28 1979, from an orphan well or from a well which has not been
29 registered, the owner or operator shall be responsible for the
30 plugging of the well. In the case of gas wells penetrating

1 workable coal seams which were drilled prior to January 30,
2 1956, or which were permitted after that date but not plugged in
3 accordance with this act, which the owner or operator of the
4 well or a coal operator or his agent proposes to plug for the
5 purpose of allowing the mining through of the well, the gas well
6 shall be cleaned out to a depth of at least 200 feet below the
7 coal seam in which the mining through is proposed and, unless
8 impracticable, to a point 200 feet below the deepest mineable
9 coal seam. The gas well shall be plugged from that depth in
10 accordance with the provisions of section 13 of the act of
11 December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas
12 Resource Coordination Act, and the regulations of the
13 department.

14 (b) Areas underlain by coal.--Prior to the abandonment of a
15 well in an area underlain by a workable coal seam, the well
16 operator or owner shall notify the coal operator, lessee or
17 owner and the department of the well operator's or owner's
18 intention to plug and abandon the well and submit a plat, on a
19 form to be furnished by the department, showing the location of
20 the well and fixing the date and time at which the work of
21 plugging will be commenced, not less than three working days nor
22 more than 30 days after receipt of the notice, in order that
23 their representatives may be present at the plugging of the
24 well. The notice may be waived by the department and the coal
25 operator, lessee or owner, who may waive their right to be
26 present, but the waiver by a coal operator, lessee or owner
27 shall be in writing and a copy attached to the notice of
28 abandonment filed with the department under this section.
29 Whether or not the representatives appear, the well operator
30 may, if the operator has fully complied with the requirements of

1 this section, proceed at the time fixed to plug the well in the
2 manner as prescribed by regulation of the department. When
3 plugging has been completed, a certificate shall be prepared and
4 signed on a form to be furnished by the department by two
5 experienced and qualified people who participated in the work
6 and shall set forth the time and manner in which the well has
7 been plugged. One copy of the certificate shall be mailed to
8 each coal operator, lessee or owner to whom notice was given by
9 certified mail, and another copy shall be mailed to the
10 department.

11 (c) Abandoned wells.--Prior to the abandonment of a well,
12 except an uncompleted bore hole plugged immediately upon
13 suspension of drilling in an area not underlain by a workable
14 coal seam, the well operator shall notify the department of the
15 well operator's intention to plug and abandon the well and
16 submit a plat or the longitude or latitude of the well, on a
17 form to be furnished by the department, showing the location of
18 the well and fixing the date and time at which the work of
19 plugging will be commenced, not less than three working days nor
20 more than 30 days after the time when the notice is received, in
21 order that the department representative may be present at the
22 plugging of the well. The notice or waiting period may be
23 verbally waived by the department. In noncoal areas where more
24 than one well has been drilled as part of the same development
25 project and the wells are now to be plugged, three working days'
26 notice shall be provided to the department prior to plugging the
27 first well of the project, subject to waiver of notice described
28 in this section. In the plugging of subsequent wells, no
29 additional notice shall be required if the plugging on the
30 project is continuous. If the plugging of subsequent wells is

1 delayed for any reason, notice shall be given to the department
2 of the continuation of the project. Whether or not a department
3 representative appears, the well operator may, if the well
4 operator has fully complied with the requirements of this
5 section, proceed at the time fixed to plug the well in the
6 manner as prescribed by regulation of the department. When
7 plugging has been completed, a certificate shall be prepared and
8 signed on a form to be furnished by the department by two
9 experienced and qualified people who participated in the work,
10 and shall set forth the time and manner in which the well was
11 plugged. A copy of the certificate shall be mailed to the
12 department.

13 (d) Wells abandoned upon completion of drilling.--When a
14 well is to be abandoned immediately after completion of
15 drilling, the well operator shall give at least 24 hours' notice
16 by telephone, confirmed by certified mail, to the department and
17 to the coal operator, lessee or owner, if any, fixing the date
18 and time at which the work of plugging will be commenced. The
19 notice may be waived by the department and the coal operator,
20 lessee or owner, who may waive their right to be present.
21 Whether or not a representative of the department or of the coal
22 operator, lessee or owner, if any, appear, the well operator
23 may, if the well operator has fully complied with the
24 requirements of this section, proceed at the time fixed to plug
25 the well in the manner provided by regulation prescribed by the
26 department. The well operator shall prepare the certificate of
27 plugging and mail copies of the certificate of plugging as
28 provided in subsections (b) and (c).

29 (e) Orphan wells.--If a well is an orphan well or abandoned
30 without plugging or if a well is in operation but is not adopted

1 under section 303, the department shall have the right to enter
2 upon the well site and plug the well and to sell the equipment,
3 casing and pipe at the abandoned well or unregistered well site
4 as may have been used in the production of the well in order to
5 recover the costs of plugging. In the case of a well which is in
6 operation but has not been adopted, the department shall make an
7 effort to determine ownership of the well and provide written
8 notice to the owner of pending action which may be taken under
9 this subsection. If the department cannot determine ownership of
10 the well within 30 days, it may proceed under this subsection.
11 Costs of plugging shall have priority over all liens on
12 equipment, casing and pipe, and the sale shall be free and clear
13 of any liens to the extent the costs of plugging exceed the sale
14 price. If the equipment price obtained for casing and pipe
15 salvaged at the abandoned well or unregistered well site is
16 inadequate to pay for the cost of plugging the abandoned or
17 unregistered well, the owner or operator of the abandoned or
18 unregistered well shall be legally liable for the additional
19 costs of plugging the well. Notwithstanding provisions to the
20 contrary, and provided that a reasonable attempt failed to place
21 plugging materials at the producing formations, an orphan well
22 in a noncoal area may be plugged from the casing seat as the
23 attainable bottom of the well.

24 (f) Limitation of liability.--A person is not subject to
25 liability for environmental remediation related to an orphan
26 well and is not required to plug an orphan well solely because
27 the person obtains approval from the department to plug an
28 orphan well. A person undertaking the plugging of an orphan well
29 with approval from the department is eligible for all
30 protections and immunities provided under 27 Pa.C.S. § 8107

1 (relating to project liability limitation and exceptions). The
2 notice provisions under 27 Pa.C.S. § 8107 shall not apply to the
3 approval and protections provided under this section. Notice to
4 the department and the surface owner shall be provided on forms
5 developed by the department. When plugging has been completed, a
6 certificate shall be prepared and signed on a form to be
7 furnished by the department by two experienced and qualified
8 individuals who participated in the work and set forth the time
9 and manner in which the well was plugged. A copy of the
10 certificate shall be mailed to the department.

11 (g) Persons who voluntarily plug an orphan well.--Persons
12 who voluntarily plug an orphan well may either:

13 (1) apply to the Commonwealth Finance Authority for a
14 \$5,000 payment per well plugged payable from the Marcellus
15 Legacy Fund established under 58 Pa.C.S. § 2315 (relating to
16 Statewide initiatives); or

17 (2) be credited for each plugged well in the form of a
18 permit-fee waiver for any succeeding well permit application.

19 (h) Notification.--With respect to the coal operator, lessee
20 or owner, if any, notification shall be accomplished under this
21 section by sending notice to the persons to whom tax notices for
22 the workable coal seams are sent, as indicated in the assessment
23 books, if available, or as indicated in the records of the
24 recorder of deeds office in the county in which such seams are
25 located. If certified mail or notification is returned
26 undeliverable, the applicant shall include a completed affidavit
27 attesting to the attempted delivery, which shall satisfy the
28 notification requirements under this section.

29 Section 311. Alternative methods.

30 If provision is made in this act for adoption of regulatory

1 requirements for casing, plugging or equipping a well, a well
2 operator may request the authority to use an alternative method
3 or material by filing an application with the department
4 describing the proposed alternative method or material, in
5 reasonable detail, indicating the manner in which it will
6 accomplish the goals of this act and regulations adopted under
7 this act. Notice of filing of an application shall be given by
8 the well operator by certified mail to all coal operator or
9 operators affected. A coal operator may, within 15 days
10 following the notice, file objections to the proposed
11 alternative method or material. If no objections are filed
12 within the 15-day period and if none are raised by the
13 department, the department shall make a determination whether to
14 allow the use of the proposed alternative method or material.
15 Section 312. Well reporting requirements.

16 (a) General rule.--A well operator shall file, either
17 electronically or a hard copy, with the department, on a form
18 provided by the department, an annual report specifying the
19 amount of production on the most well-specific basis available.
20 Annual reports shall also specify the status of each well,
21 except that in subsequent years only changes in the status must
22 be reported. The Commonwealth shall have the right to utilize
23 the information in enforcement proceedings, in making
24 designations or determinations under section 1927-A of the act
25 of April 9, 1929 (P.L.177, No.175), known as The Administrative
26 Code of 1929, or in aggregate form for statistical purposes.

27 (b) Records.--

28 (1) Well operators shall maintain a record of each well
29 drilled or altered.

30 (2) A record of the well containing information as

1 required by regulation shall be filed with the department
2 within 30 days of cessation of drilling.

3 (3) A completion report containing additional
4 information as required by regulation shall be filed with the
5 department within 30 days after the completion of the well
6 and it shall be kept on file by the department.

7 (4) Within 90 days after the completion of drilling or
8 recompletion of a well, if requested by the department, the
9 well operator shall submit a copy of the electrical,
10 radioactive or other standard industry logs if they have been
11 run.

12 (5) If requested by the department within one year, the
13 well operator shall file a copy of drill stem test charts,
14 formation water analysis, porosity, permeability or fluid
15 saturation measurements, core analysis and lithologic log or
16 sample description or other similar data as compiled. No
17 information shall be required unless the well operator has
18 had the information compiled in the ordinary course of
19 business. No interpretation of the data is to be filed.

20 (c) Collection of data.--Upon notification by the department
21 prior to commencement of drilling, the well operator shall
22 collect for the department additional data as the department
23 shall specify, such as representative drill cuttings and samples
24 from cores taken and any other geological information that the
25 operator reasonably can compile. No interpretation of the data
26 is to be filed.

27 (d) Retention and filing.--All electrical, radioactive or
28 other standard industry logs, drill stem test charts, formation
29 water analyses, porosity, permeability or fluid saturation
30 measurements, core analysis and lithologic logs or sample

description or other similar data as compiled, required under subsection (b) or drill cuttings required under subsection (c), shall be retained by the well operator and shall be filed with the department within three years after completion of the well. Upon request of the well operator, the department shall extend the date for the filing of the data, but the extension shall not exceed five years from the date of completion of the well, provided that the department shall have the right to utilize the information in enforcement proceedings, in making designations or determinations under section 1927-A of The Administrative Code of 1929, or in aggregate form for statistical purposes.

Section 313. Notification and effect of well transfer.

The owner or operator of a well shall notify the department, in writing, in a form as the department may direct by regulation, of the sale, assignment, transfer, conveyance or exchange by the owner or to the owner of the well within 30 days after the sale, assignment, conveyance or exchange. No transfer shall relieve the well owner or operator of an obligation accrued under this act, nor shall it relieve the well owner or operator of the obligation to plug the well until the requirements of section 315 have been met, after which time the transferring owner or operator shall be relieved from any obligation under this act, including the obligation to plug the well.

Section 314. Coal operator responsibilities.

(a) General rule.--

(1) At any time prior to removing coal or other underground material or extending the workings in a coal mine within 500 feet of an oil or gas well of which the coal operator has knowledge or an approved well location of which

1 the coal operator has knowledge, the coal operator shall
2 forward, by certified mail, to or file with the well operator
3 and the department a copy of the relevant part of the coal
4 operator's maps and plans which it is presently required by
5 law to prepare and file with the department, showing the
6 pillar which the coal operator proposes to leave in place
7 around each oil or gas well in the projected workings.

8 (2) Following the filing of maps and plans, the coal
9 operator may proceed with mining operations in the manner
10 projected on the maps and plans, but the coal operator shall
11 not remove any coal or cut any passageway within 150 feet of
12 a well or approved well location until written approval has
13 been granted as provided in this section.

14 (3) If, in the opinion of the well operator or the
15 department, the plan indicates that the pillar proposed to be
16 left around a well or approved well location is inadequate to
17 protect either the integrity of the well or the public health
18 and safety, the well operator affected shall attempt to agree
19 with the coal operator upon a suitable pillar, subject to the
20 approval of the department, but, failing to agree, the well
21 operator may, within 10 days from receipt of the plan, file
22 objections in accordance with section 701 to the proposed
23 plan indicating the size of the pillar to be left with
24 respect to each well.

25 (4) If no objections are filed within the 10-day period
26 or if none are raised by the department, the department shall
27 grant approval to the coal operator reciting the following:

28 (i) The filing of the maps or plans.

29 (ii) That no objections have been made to the plan.

30 (iii) That the pillar proposed to be left for each

1 well is approved in the manner as projected.

2 (b) Objections.--

3 (1) If objections are filed by a well operator or are
4 raised by the department, the department shall direct that a
5 conference be held in accordance with section 701 within 10
6 days of the filing of the objections.

7 (2) At the conference the coal operator and the person
8 who has filed the objections shall attempt to agree upon a
9 proposed plan showing the pillar to be left around each well,
10 which will satisfy the objections and be approved by the
11 department, and if the plan is agreed upon, the department
12 shall grant approval to the coal operator reciting the filing
13 of the plan and that the pillar to be left for each well is
14 approved as agreed upon.

15 (3) If no plan showing the pillar to be left with
16 respect to each well can be agreed upon at the conference,
17 the department shall, by an appropriate order, determine the
18 pillar to be left with respect to the well.

19 (4) In a proceeding under this section, the department
20 shall follow as nearly as possible the original plan filed by
21 the coal operator. The department shall not require the coal
22 operator to leave a pillar in excess of 100 feet in radius,
23 except that, if it is established that unusual conditions
24 exist requiring the leaving of a larger pillar, the
25 department may require a pillar up to but not exceeding 150
26 feet in radius.

27 (5) The pillar to be left with respect to each well as
28 determined by the department shall be shown on the maps or
29 plans on file with the department as provided in subsection

30 (a) and the department shall approve the pillar to be left

1 for each well.

2 (c) Pillars of reduced size.--Application may be made at any
3 time to the department by a coal operator to leave a pillar of
4 less size than that shown on the plan filed by the operator or
5 approved or determined by the department under the provisions of
6 this section. If an application is filed, the department may,
7 following the procedure prescribed in this section, by an
8 appropriate order, determine a different plan showing a pillar
9 of less size with respect to all wells covered by the
10 application and shall grant approval for the pillar to be left
11 with respect to each well.

12 (d) Violation.--No coal operator shall, without the written
13 approval of the department after notice and opportunity for
14 hearing as prescribed in this section, remove any coal or cut
15 any passageway so as to leave a pillar of less size with respect
16 to an oil or gas well than that approved by the department under
17 this act.

18 (e) Construction.--Nothing in this act shall be construed to
19 require a well operator to pay for a coal pillar required by law
20 to be left around a well drilled prior to April 18, 1985. A
21 requirement for a coal operator to leave a pillar of coal of a
22 certain size around a well drilled after April 18, 1985, shall
23 not in any way affect the rights which the coal operator would
24 have had prior to April 18, 1985, to obtain payment for the
25 coal, nor any duty or right which the well operator, storage
26 operator or land owner may have had prior to April 18, 1985, to
27 pay for or not to pay for the coal.

28 (f) Mining through plugged wells.--A coal operator who
29 intends to mine through a plugged oil or gas well must file a
30 plan to completely remove a pillar from around the well in

1 accordance with subsection (a). This plan shall be subject to
2 the requirements of this section. No coal operator may mine
3 through a plugged oil or gas well of which the coal operator has
4 knowledge until written approval has been granted by the
5 department in accordance with this section.

6 (g) Establishment of conditions.--The Bureau of Deep Mine
7 Safety in the department shall have the authority to establish
8 the conditions under which the department may approve a coal
9 operator's plan to mine through a plugged oil or gas well.

10 Section 315. Bonding.

11 (a) General rule.--

12 (1) Upon filing an application for a well permit and
13 before continuing to operate an oil or gas well, the owner or
14 operator of an oil or gas well shall file with the department
15 a bond for the well and the well site on a form to be
16 prescribed and furnished by the department. A bond filed with
17 an application for a well permit shall be payable to the
18 Commonwealth and conditioned that the operator shall
19 faithfully perform all of the drilling, water supply
20 replacement, restoration and plugging requirements of this
21 act. No bond or bond substitute shall be required for any
22 well drilled prior to April 18, 1985, where such well would
23 have otherwise been subject to the bonding requirements of
24 section 215 or 603.1 of the former act of December 19, 1984
25 (P.L.1140, No.223), known as the Oil and Gas Act. The amount
26 of the bond required shall be in the amount of \$2,500 per
27 well for at least two years following the effective date of
28 this act, after which time the bond amount may be adjusted by
29 the Environmental Quality Board every five years to reflect
30 the projected costs to the Commonwealth of performing well

1 plugging.

2 (2) In lieu of individual bonds for each well, an owner
3 or operator may file a blanket bond, on a form prepared by
4 the department, covering all of its wells in this
5 Commonwealth as enumerated on the bond form. A blanket bond
6 shall be in the amount of \$25,000 for at least five years
7 following the effective date of this act, after which time
8 the bond amount may be adjusted by the Environmental Quality
9 Board every two years to reflect the projected costs to the
10 Commonwealth of performing well plugging. An adjustment may
11 not exceed the prior amount by more than \$10,000.

12 (3) Liability under the bond shall continue until the
13 well has been properly plugged in accordance with this act
14 and for a period of one year after filing of the certificate
15 of plugging with the department. Each bond shall be executed
16 by the operator and a corporate surety licensed to do
17 business in this Commonwealth and approved by the secretary.
18 The operator may elect to deposit cash, certificates of
19 deposit or automatically renewable irrevocable letters of
20 credit from financial institutions chartered or authorized to
21 do business in Pennsylvania and regulated and examined by a
22 Federal agency or the Commonwealth, which may be terminated
23 at the end of a term only upon the financial institution
24 giving 90 days' prior written notice to the permittee and the
25 department or negotiable bonds of the United States
26 Government or the Commonwealth, the Pennsylvania Turnpike
27 Commission, the State Public School Building Authority or any
28 municipality within the Commonwealth, or United States
29 Treasury Bonds issued at a discount without a regular
30 schedule of interest payments to maturity, otherwise known as

1 zero coupon bonds, having a maturity date of not more than 10
2 years after the date of purchase and at the maturity date
3 having a value of not less than \$25,000, with the department
4 in lieu of a corporate surety. The cash deposit, certificate
5 of deposit, amount of the irrevocable letter of credit or
6 market value of the securities shall be equal at least to the
7 sum of the bond. The secretary shall, upon receipt of
8 deposits of cash, letters of credit or negotiable bonds,
9 immediately place the cash, letters of credit or negotiable
10 bonds with the State Treasurer, whose duty it shall be to
11 receive and hold the cash, letters of credit or negotiable
12 bonds in the name of the Commonwealth, in trust, for the
13 purpose for which the deposit is made. The State Treasurer
14 shall at all times be responsible for the custody and
15 safekeeping of deposits. The operator making deposit shall be
16 entitled from time to time to demand and receive from the
17 State Treasurer, on the written order of the secretary, the
18 whole or any portion of collateral deposited upon depositing
19 with the State Treasurer, in lieu of the collateral
20 deposited, other collateral of the classes specified in this
21 act having a market value at least equal to the sum of the
22 bond and also to demand, receive and recover the interest and
23 income from the negotiable bonds as the bonds become due and
24 payable. Where negotiable bonds mature or are called, the
25 State Treasurer, at the request of the owner of the bonds,
26 shall convert the negotiable bonds into other negotiable
27 bonds of the classes specified in this act as may be
28 designated by the owner. Where notice of intent to terminate
29 a letter of credit is given, the department shall give the
30 operator 30 days' written notice to replace the letter of

1 credit with other acceptable bond guarantees as provided in
2 this act, and if the owner or operator fails to replace the
3 letter of credit within the 30-day notification period, the
4 department shall draw upon and convert the letter of credit
5 into cash and hold it as a collateral bond guarantee.

6 (b) Release.--No bond shall be fully released until all
7 requirements of this act identified in subsection (a) or section
8 313 are fully met. Upon release of all of the bonds and
9 collateral as provided in this section, the State Treasurer
10 shall immediately return to the owner the amount of cash or
11 securities specified in the bond.

12 (c) Noncompliance.--

13 (1) If a well owner or operator fails or refuses to
14 comply with the applicable requirements of subsection (a),
15 the regulations promulgated under this act or the conditions
16 of the permit relating to this act, the department may
17 declare the bond forfeited and shall certify the same to the
18 Attorney General, who shall proceed to enforce and collect
19 the full amount of the bond and, where the owner or operator
20 has deposited cash or securities as collateral in lieu of a
21 corporate surety, the department shall declare the collateral
22 forfeited and shall direct the State Treasurer to pay the
23 full amount of the funds into the Well Plugging Restricted
24 Revenue Account or to proceed to sell the security to the
25 extent forfeited and pay the proceeds of the sale into the
26 Well Plugging Restricted Revenue Account.

27 (2) A corporate surety or financial institution that
28 fails to promptly pay in full a forfeited bond shall be
29 disqualified from writing further bonds under this act or
30 other environmental act administered by the department.

1 (3) A person aggrieved by reason of forfeiting the bond
2 or converting collateral under this section shall have a
3 right to appeal to the Environmental Hearing Board in the
4 manner provided by law.

5 (4) Upon forfeiture of a blanket bond for a violation
6 occurring at one or more well sites, the person whose bond is
7 forfeited shall submit a replacement bond to cover all other
8 wells the person owns or operates within 10 days of the
9 forfeiture. Failure to submit the replacement bond
10 constitutes a violation of this section as to each of the
11 wells owned or operated by the person.

12 (d) Individuals.--

13 (1) An individual who cannot obtain a bond to drill new
14 wells due to an inability to demonstrate financial resources
15 may meet the collateral bond requirements of subsection (a)
16 by making phased deposits of collateral to fully
17 collateralize the bond. Individuals shall be limited to
18 drilling 10 new wells per calendar year. The individual
19 shall, for each well to be drilled, deposit \$500 and shall,
20 thereafter, annually deposit 10% of the remaining bond amount
21 for a period of 10 years. Interest accumulated by the
22 collateral shall become a part of the bond until the time
23 when the collateral, plus accumulated interest, equals the
24 amount of the required bond. The collateral shall be
25 deposited, in trust, with the State Treasurer as provided in
26 subsection (a) or with a bank selected by the department
27 which shall act as trustee for the benefit of the
28 Commonwealth, to guarantee the individual's compliance with
29 the drilling, water supply replacement, restoration and
30 plugging requirements of this act. The individual shall be

1 required to pay all costs of the trust.

2 (2) Individuals may continue to use phased collateral to
3 obtain permits so long as they have not missed payments for
4 wells drilled under this subsection and so long as they
5 remain in compliance with this act and regulations and
6 permits issued under this act. If an individual has missed
7 payments for wells under this subsection, the operator shall:

8 (i) immediately submit the appropriate bond amount
9 in full; or

10 (ii) cease all operations and plug the wells in
11 accordance with section 310.

12 (3) For the purposes of this subsection, the term
13 "individual" means an applicant who is a natural person doing
14 business under his own name.

15 (e) Preservation of remedies.--All remedies for violation of
16 this act, regulations adopted under this act and conditions of
17 permits are expressly preserved. Nothing in this section shall
18 be construed as an exclusive penalty or remedy for violations of
19 law. No action taken under this section shall waive or impair
20 any other remedy or penalty provided in law.

21 (f) Change of law.--Owners or operators who have failed to
22 meet the requirements of this section prior to August 1, 1992,
23 shall not be required to make payments under this section on a
24 retroactive basis as a condition of obtaining a permit under
25 this act nor shall the failure be deemed a violation of this
26 act.

27 CHAPTER 5

28 UNDERGROUND GAS STORAGE

29 Section 501. Underground gas storage.

30 Underground gas storage shall be conducted in accordance with

1 58 Pa.C.S. Ch. 32 Subch. C (relating to underground gas
2 storage).

3 CHAPTER 7

4 ENFORCEMENT AND REMEDIES

5 Section 701. Conferences.

6 (a) General rule.--The department or a person having a
7 direct interest in a matter subject to this act may, at any
8 time, request that a conference be held for the purpose of
9 discussing and endeavoring to resolve by mutual agreement a
10 matter arising under this act. Unless otherwise provided,
11 conferences shall be held within 90 days after a request for a
12 conference is received by the department, and notice of the
13 conference shall be given by the department to all interested
14 parties. A representative of the department shall attend the
15 conference and the department may make recommendations. An
16 agreement reached at a conference shall be consistent with this
17 act and, if approved by the department, it shall be reduced to
18 writing and shall be effective, unless reviewed and rejected by
19 the department, within 10 days after the close of the
20 conference. The record of an agreement approved by the
21 department shall be kept on file by the department with copies
22 furnished to the parties. Scheduling of a conference shall not
23 affect the authority of the department to issue an appropriate
24 order to compel compliance with this act.

25 (b) Notification.--If a coal operator is to be given notice
26 by the department of a proceeding to be held under this section,
27 the department shall also send simultaneously a copy of the
28 notice to the collective bargaining representative of the
29 employees of the coal operator.

30 Section 702. Public nuisances.

1 A violation of section 306, 307, 308, 309 or 310 or of a
2 rule, regulation, order, term or condition of a permit relating
3 to those sections constitutes a public nuisance.

4 Section 703. Enforcement orders.

5 (a) General rule.--Except as modified by subsections (b),
6 (c) and (d), the department may issue orders necessary to aid in
7 enforcement of this act. An order issued under this act shall
8 take effect upon notice, unless the order specifies otherwise.
9 The power of the department to issue an order under this act is
10 in addition to any other remedy which may be afforded to the
11 department under this act or other law.

12 (b) Suspension and revocation.--

13 (1) The department may suspend or revoke a well permit
14 or well registration for a well in continuing violation of
15 the following:

16 (i) This act.

17 (ii) The act of June 22, 1937 (P.L.1987, No.394),
18 known as The Clean Streams Law.

19 (iii) The act of July 7, 1980 (P.L.380, No.97),
20 known as the Solid Waste Management Act.

21 (iv) Any other statute administered by the
22 department.

23 (2) The right of the department to revoke a permit or
24 registration under this subsection shall not be effective
25 until a final administrative determination has been made of
26 the violation and no appeal is pending in which a stay has
27 been granted.

28 (3) A suspension order of the department shall
29 automatically terminate if the violation upon which it is
30 based is corrected by the operator in order to bring the well

1 into compliance with this act.

2 (c) Written notice.--Prior to the suspension or revocation
3 of a well permit or registration, the department shall serve
4 written notice upon the well operator or its agent of the
5 intention of the department to suspend or revoke and shall state
6 with specificity the statutory provisions, appropriate rule or
7 regulation or other reason and the factual circumstances which
8 surround the violation upon which the suspension or revocation
9 is based. The well operator shall have 15 days to request a
10 conference with the department to give cause why the action
11 should not be taken. Upon receipt of the written notice, the
12 department shall hold a conference and shall, within 15 days
13 after the conference, make a decision on whether to suspend or
14 revoke the well permit or registration. The department shall
15 provide written notice of its decision to the well operator or
16 its agent, which shall become effective upon receipt of the
17 notice.

18 (d) Immediate orders.--An order of the department requiring
19 the immediate cessation of drilling operations shall only be
20 effective if authorized by the secretary or a designee.

21 (e) Grievances.--A person aggrieved by an order of the
22 department issued under this section shall have the right,
23 within 30 days of receipt of the notice, to appeal the action to
24 the Environmental Hearing Board.

25 Section 704. Restraining violations.

26 (a) General rule.--In addition to other remedies provided in
27 this act, the department may institute a suit in equity in the
28 name of the Commonwealth for an injunction to restrain a
29 violation of this act or the rules, regulations, standards or
30 orders adopted or issued under this act and to restrain the

1 maintenance or threat of a public nuisance. Upon motion of the
2 Commonwealth, the court shall issue a prohibitory or mandatory
3 preliminary injunction if it finds that the defendant is
4 engaging in unlawful conduct, as defined by this act, or in
5 conduct causing immediate and irreparable harm to the public.
6 The Commonwealth shall not be required to furnish bond or other
7 security in connection with the proceedings. In addition to an
8 injunction, the court, in equity, may level civil penalties as
9 specified in section 706.

10 (b) District attorney.--In addition to other remedies in
11 this act, upon relation of the district attorney of a county
12 affected or upon relation of the solicitor of a municipality
13 affected, an action in equity may be brought in a court of
14 competent jurisdiction for an injunction to restrain a violation
15 of this act or the rules and regulations promulgated under this
16 act or to restrain a public nuisance or detriment to health.

17 (c) Concurrent penalties.--Penalties and remedies under this
18 act shall be deemed concurrent. Existence or exercise of a
19 remedy shall not prevent the department from exercising another
20 remedy at law or in equity.

21 (d) Jurisdiction.--Actions instituted under this section may
22 be filed in the appropriate court of common pleas or in
23 Commonwealth Court, and those courts are hereby granted
24 jurisdiction to hear the actions.

25 Section 705. Criminal penalties.

26 (a) General violation.--A person who violates a provision of
27 this act commits a summary offense and, upon conviction, shall
28 be sentenced to pay a fine of not more than \$300 or to
29 imprisonment of not more than 90 days, or both. Each day during
30 which the violation continues is a separate and distinct

1 offense.

2 (b) Willful violation.--A person who willfully violates a
3 provision of this act or an order of the department issued under
4 this act commits a misdemeanor and, upon conviction, shall be
5 sentenced to pay a fine of not more than \$5,000 or to
6 imprisonment of not more than one year, or both. Each day during
7 which the violation continues is a separate and distinct
8 offense.

9 (c) Authority.--The department may institute a prosecution
10 against a person or municipality for a violation of this act.
11 Section 706. Civil penalties.

12 In addition to other remedies available at law or in equity
13 for a violation of this act, a rule or regulation of the
14 department or an order of the department, the Environmental
15 Hearing Board, after a hearing, may assess a civil penalty
16 regardless of whether or not the violation was willful, but
17 penalties need not be assessed for accidental violations or
18 those that resulted in no damage or risk of adverse effect on
19 natural resources or the property of others. The civil penalty
20 shall not exceed \$25,000, plus \$1,000 for each day during which
21 the violation continues. In determining the amount, the
22 Environmental Hearing Board shall consider the willfulness of
23 the violation, damage or injury to the natural resources of this
24 Commonwealth or their uses, endangerment of the safety of
25 others, costs of remedying the harm, savings resulting to the
26 violator as a result of the violation and other relevant
27 factors. The Environmental Hearing Board shall mitigate the
28 penalty amount for any person who voluntarily plugged an orphan
29 well in accordance with this act. The penalty shall be payable
30 to the Orphan Well Plugging Fund and shall be collectible in the

1 manner provided at law for the collection of debts. If a person
2 liable to pay a penalty neglects or refuses to pay the same
3 after demand, the amount, together with interest and costs that
4 may accrue, shall become a lien in favor of the Commonwealth on
5 the real and personal property of the violator, but only after
6 the lien has been entered and docketed of record by the
7 prothonotary of the county where the property is situated. The
8 Environmental Hearing Board may transmit to the prothonotaries
9 of the respective counties certified copies of the liens, and it
10 shall be the duty of each prothonotary to enter and docket the
11 liens of record in the prothonotary's office and index them as
12 judgments are indexed, without requiring payment of costs as a
13 condition precedent to entry. Notwithstanding any other
14 provision of law to the contrary, actions for civil penalties
15 under this act may be commenced at any time within a period of
16 five years from the date the offense is discovered.

17 Section 707. Existing rights and remedies preserved and
18 cumulative remedies authorized.

19 Nothing in this act shall prevent the Commonwealth or a
20 district attorney from proceeding in a court of law or in equity
21 to abate pollution forbidden under this act or abate a nuisance
22 under existing law. It is declared to be the purpose of this act
23 to provide additional and cumulative remedies to control
24 activities related to drilling for or production of oil and gas
25 within this Commonwealth, and nothing in this act abridges or
26 alters rights of action or remedies existing in equity or under
27 the common law or statutory law, criminal or civil. Neither this
28 act, the granting of a permit under this act nor an act done by
29 virtue of this act stops the Commonwealth in exercising rights
30 under the common law or decisional law or in equity, from

1 suppressing a nuisance, abating pollution or enforcing common
2 law or statutory rights. No court of this Commonwealth with
3 jurisdiction to abate public or private nuisances shall be
4 deprived of jurisdiction in an action to abate a private or
5 public nuisance instituted by a person on grounds that the
6 nuisance constitutes air or water pollution.

7 Section 708. Production of materials, witnesses, depositions
8 and rights of entry.

9 (a) General rule.--The department may make inspections,
10 conduct tests or sampling or examine books, papers and records
11 pertinent to a matter under investigation under this act it
12 deems necessary to determine compliance with this act, and duly
13 authorized agents and employees of the department are authorized
14 at all reasonable times to enter and examine a property,
15 facility, operation or activity.

16 (b) Entry and access.--An owner, operator or other person in
17 charge of a property, facility, operation or activity, upon
18 presentation of proper identification and purpose for inspection
19 by the agents or employees of the department, shall give the
20 agents and employees free and unrestricted entry and access and,
21 upon refusal to grant entry or access, the agent or employee may
22 obtain a search warrant or other order authorizing entry and
23 inspection. It is sufficient probable cause to issue a search
24 warrant authorizing an examination and inspection if there is
25 probable cause to believe that the object of the investigation
26 is subject to regulation under this act and that access,
27 examination or inspection is necessary to enforce the provisions
28 of this act.

29 (c) Department powers.--The department shall have the power
30 in any part of this Commonwealth to subpoena witnesses,

1 administer oaths, examine witnesses, take testimony or compel
2 the production of books, records, maps, plats, papers, documents
3 and other writings as it may deem necessary or proper and
4 pertinent to proceedings or investigation held by the
5 department. In case of refusal to obey a subpoena served upon a
6 person, the court shall, on application of the department, have
7 power to enforce the subpoena in contempt proceedings. The fees
8 for serving a subpoena shall be the same as those paid to
9 sheriffs for similar services.

10 (d) Witnesses.--The department or a party to proceedings
11 before the department may depose witnesses residing within or
12 outside this Commonwealth in the manner prescribed by law for
13 taking depositions in civil actions.

14 (e) Witness fees.--Witnesses summoned before the department
15 shall be paid the same fees as those paid to witnesses in the
16 courts of record of general jurisdiction. Witnesses whose
17 depositions are taken under this act and the officers taking the
18 depositions shall be entitled to the same fees as those paid for
19 similar services in the courts.

20 (f) Ownership information.--A purchaser of oil or gas shall,
21 upon request, provide to the department information necessary
22 for the department to determine ownership of facilities from
23 which the oil or gas was obtained. The purchaser shall provide
24 notice to the owner of the facilities identified to the
25 department. The information shall be kept confidential for a
26 period of five years. The department shall have the right to
27 utilize the information in enforcement proceedings. The
28 department may only request information under this section when
29 a well does not meet the requirements of section 301(h).

30 Section 709. Unlawful conduct.

1 It shall be unlawful for a person to:

2 (1) Drill, alter, operate or utilize an oil or gas well
3 without a permit or registration from the department as
4 required by this act or in violation of the rules or
5 regulations adopted under this act, orders of the department
6 or in violation of a permit issued by the department.

7 (2) Conduct activities related to drilling for or
8 production of oil and gas:

9 (i) contrary to this act, rules or regulations
10 adopted under this act, an order of the department or a
11 term or condition of a permit; or

12 (ii) in a manner that creates a public nuisance or
13 adversely affects public health, safety, welfare or the
14 environment.

15 (3) Refuse, obstruct, delay or threaten an agent or
16 employee of the department in the course of lawful
17 performance of any duty under this act, including, but not
18 limited to, entry and inspection.

19 (4) Attempt to obtain a permit or identify a well as an
20 orphan well by misrepresentation or failure to disclose all
21 relevant facts.

22 (5) Cause the abandonment of a well by removing casing
23 or equipment necessary for production without plugging the
24 well in a manner prescribed under section 310. The owner or
25 operator of a well may temporarily remove casing or equipment
26 necessary for production if it is part of the normal course
27 of production activities.

28 Section 710. Collection of fines and penalties.

29 Fines and penalties shall be collectible in the manner
30 provided by law for the collection of debts. If a person liable

1 to pay a penalty neglects or refuses to pay after demand, the
2 amount, together with interest and costs that may accrue, shall
3 be a judgment in favor of the Commonwealth upon the person's
4 property, but only after the judgment has been entered and
5 docketed of record by the prothonotary of the county where the
6 property is situated. The department may, at any time, transmit
7 to the prothonotaries of the respective counties certified
8 copies of all judgments, and it shall be the duty of each
9 prothonotary to enter and docket them in the prothonotary's
10 office and index them as judgments are indexed, without
11 requiring the payment of costs as a condition precedent to
12 entry.

13 Section 711. Third party liability.

14 If a person other than the well operator renders a service or
15 product to a well or well site, that person is liable with the
16 well owner or operator for violations of this act arising out of
17 and caused by the person's actions at the well or well site, in
18 accordance with State law.

19 Section 712. Inspection reports.

20 (a) Posting required.--The department shall post inspection
21 reports on its publicly accessible Internet website. The
22 inspection reports shall include:

23 (1) The nature and description of violations.

24 (2) The operator's written response to the violation, if
25 available.

26 (3) The status of the violation.

27 (4) The remedial steps taken by the operator or the
28 department to address the violation.

29 (b) Removal.--The department shall remove a notice of
30 violation issued in error from the public record as soon as

1 practical after the department learns of the error.

2 (c) Training required.--The department shall provide
3 adequate training to its inspectors.

4 (d) Minor violations.--The department will adopt a practice
5 and procedure to alleviate the unwarranted use of notices of
6 violation for minor violations that pose no material harm to the
7 public health or environment, including the development of
8 separate forms for inspections where warnings rather than
9 notices of violation will be issued and where compliance can be
10 accomplished within 48 hours. Warnings under this subsection,
11 and the alleged violations upon which they are based, may not be
12 the basis for a civil penalty when compliance is achieved within
13 48 hours.

14 CHAPTER 9

15 RELATED FUNDS, PARTIES AND ACTIVITIES

16 Section 901. Well plugging funds.

17 (a) Appropriation.--Fines and civil penalties collected
18 under this act shall be deposited in the Orphan Well Plugging
19 Fund. Other than permit fee surcharges under this section,
20 permit fees collected under this act are hereby appropriated to
21 the department to carry out the provisions of this act.

22 (b) Abandoned Well Plugging Fund.--To aid in indemnifying
23 the Commonwealth for the cost of plugging abandoned wells, a \$50
24 surcharge is added to the permit fee established by the
25 department under section 301 for new wells. Money collected as a
26 result of a surcharge shall be paid into the Abandoned Well
27 Plugging Fund and shall be expended by the department to plug
28 abandoned wells which threaten the health and safety of persons
29 or property or pollute the waters of this Commonwealth.

30 (c) Orphan Well Plugging Fund.--

1 (1) A \$100 surcharge for wells to be drilled for oil
2 production and a \$200 surcharge for wells to be drilled for
3 gas production are added to the permit fee established by the
4 department under section 301 for new wells. Surcharges shall
5 be deposited into the Orphan Well Plugging Fund and shall be
6 expended by the department to plug orphan wells. If an
7 operator rehabilitates a well abandoned by another operator
8 or an orphan well, the permit fee and the surcharge for the
9 well shall be waived.

10 (2) Expenditures by the department for plugging orphan
11 wells shall be limited to fees collected under this act and
12 58 Pa.C.S. Ch. 32 (relating to development).

13 Section 902. Local ordinances.

14 Except with respect to ordinances adopted under the act of
15 July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
16 Municipalities Planning Code, and the act of October 4, 1978
17 (P.L.851, No.166), known as the Flood Plain Management Act, all
18 local ordinances and enactments purporting to regulate oil and
19 gas well operations regulated by this act are superseded. No
20 ordinances or enactments adopted under the Pennsylvania
21 Municipalities Planning Code or the Flood Plain Management Act
22 shall impose conditions, requirements or limitations on the same
23 features of oil and gas well operations regulated by this act or
24 that accomplish the same purposes as set forth in this act. The
25 Commonwealth, by this enactment, preempts and supersedes the
26 regulation of oil and gas wells.

27 Section 903. Effect on department authority.

28 This act does not affect, limit or impair the right or
29 authority of the department under the act of June 22, 1937
30 (P.L.1987, No.394), known as The Clean Streams Law, the act of

1 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
2 Pollution Control Act, the act of November 26, 1978 (P.L.1375,
3 No.325), known as the Dam Safety and Encroachments Act, and the
4 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
5 Management Act.

6 Section 904. Relationship to solid waste, surface mining,
7 underground injection wells, wastewater treatment and
8 recycling by centralized waste treatment facilities
9 and storage tanks.

10 (a) General rule.--The obligation to obtain a permit and
11 post a bond under Articles III and V of the act of July 7, 1980
12 (P.L.380, No.97), known as the Solid Waste Management Act, and
13 to provide public notice under section 1905-A(b)(1)(v) of the
14 act of April 9, 1929 (P.L.177, No.175), known as The
15 Administrative Code of 1929, for a pit, impoundment, method or
16 facility employed for the disposal, processing or storage of
17 residual wastes generated by the drilling of an oil or gas well
18 or from the production of a well which is located on the well
19 site shall be satisfied if the owner or operator of the well
20 meets the following conditions:

21 (1) the well is permitted under the requirements of
22 section 301 or was registered under the former act of
23 December 19, 1984 (P.L.1140, No.223), known as the Oil and
24 Gas Act;

25 (2) the owner or operator satisfies the financial
26 security requirements of section 315 by obtaining a surety or
27 collateral bond for the well and well site; and

28 (3) the owner or operator maintains compliance with this
29 act and applicable regulations of the Environmental Quality
30 Board.

1 (b) Noncoal surface mining.--Obligations under the act of
2 December 19, 1984 (P.L.1093, No.219), known as the Noncoal
3 Surface Mining Conservation and Reclamation Act, or rule or
4 regulation promulgated under the Noncoal Surface Mining
5 Conservation and Reclamation Act, for a borrow area where
6 minerals are extracted solely for the purpose of oil and gas
7 well development, including access road construction, shall be
8 satisfied if the owner or operator of the well meets the
9 conditions imposed under subsection (a)(1) and (2) and the owner
10 or operator maintains compliance with this act and applicable
11 regulations of the Environmental Quality Board.

12 (c) Solid Waste Management Act.--Except as otherwise
13 provided in this section, nothing in this section shall diminish
14 duties or obligations that an owner or operator may have under
15 the Solid Waste Management Act. This section shall not apply to
16 waste classified as hazardous waste under the Solid Waste
17 Management Act or the Resource Conservation and Recovery Act of
18 1976 (Public Law 94-580, 42 U.S.C. § 6901 et seq.).

19 (d) Road spreading of brine for dust control, road
20 stabilization, anti-icing and de-icing.--Consistent with the
21 provisions of the Solid Waste Management Act which require the
22 department to encourage the beneficial use or reuse of residual
23 waste derived from commercial and industrial purposes where the
24 use does not harm or threaten public health, safety, welfare or
25 the environment, the department shall approve the use of brine
26 for dust control, road stabilization, anti-icing and de-icing
27 upon application using forms developed by the department and in
28 accordance with conditions reasonably necessary for the
29 protection of the environment and prevention of pollution. With
30 respect to any aspect of water quality, applicants may rely on

1 regional characterization of the brine. The department may not
2 impose conditions requiring brine to exceed the physical
3 character or chemical composition of a commercial product for
4 which the brine is an effective substitute. Persons engaged in
5 the beneficial uses of brine shall maintain records and make
6 reports as the department requires.

7 (e) Secondary products from produced water.--Notwithstanding
8 any provision of law to the contrary and to promote beneficial
9 uses and legitimate recycling, material derived from produced
10 water from conventional formations, including, but not limited
11 to, salt, is not waste if:

12 (1) the material is of a physical character and chemical
13 composition that is consistently equivalent to an
14 intentionally manufactured product or raw material; and

15 (2) the use of the material presents no greater threat
16 of harm to human health and the environment than the use of
17 the product or raw material.

18 (f) Regional characterization of produced water.--Generators
19 of produced water from conventional formations may satisfy an
20 obligation to provide a chemical analysis of the waste through
21 certification that the physical properties and chemical
22 composition of the produced water are fairly represented by a
23 regional analysis of produced water submitted to the department
24 and the solid waste management or treatment facility that
25 receives the waste.

26 (g) Class II injection wells.--Notwithstanding any provision
27 of law to the contrary, Class II well permits issued by the
28 Environmental Protection Agency pursuant to the Safe Drinking
29 Water Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§
30 201 and 300f et seq.) shall be deemed to satisfy the

1 department's obligation to consider potential pollution
2 resulting from underground injection or disposal to the wells.
3 Unless or until the Commonwealth takes primacy of the Class II
4 Underground Injection Control (UIC) program, the department's
5 review and approval, if any, of injection wells shall be limited
6 to a review of surface activities related to construction,
7 modification, operation or closure of the well.

8 (h) Wastewater treatment and recycling requirements.--A
9 centralized waste treatment facility that was authorized by the
10 department prior to August 20, 2010, to treat, for disposal,
11 recycling or recovery of material, wastewater generated from
12 exploration, production or gathering activities associated with
13 conventional oil and gas well operations or any new centralized
14 waste treatment facility that treats, for disposal, recycling or
15 recovery of material, wastewater generated from exploration,
16 production or gathering activities associated with conventional
17 oil and gas well operations shall not be subject to the
18 requirements of 25 Pa. Code § 95.10 (relating to treatment
19 requirements for new and expanding mass loadings of Total
20 Dissolved Solids (TDS)). As used in this subsection, the term
21 "centralized waste treatment facility" shall have the meaning
22 given to the term "centralized waste treatment (CWT) facility"
23 in 40 CFR 437.2(c) (relating to general definitions).

24 (i) Storage tanks.--Permanent aboveground or underground
25 tanks that are used to store brines, crude oil, drilling or frac
26 fluids and similar substances or materials and are directly
27 related to the exploration, development or production of crude
28 oil or natural gas regulated under this act, as well as liquid
29 traps and associated gathering lines directly related to oil or
30 gas production and gathering operations, are exempt from the

1 obligations under the act of July 6, 1989 (P.L.169, No.32),
2 known as the Storage Tank and Spill Prevention Act, and any rule
3 or regulation promulgated under the Storage Tank and Spill
4 Prevention Act.

5 CHAPTER 11

6 MISCELLANEOUS PROVISIONS

7 Section 1101. Regulatory authority.

8 (a) General rule.--The Environmental Quality Board shall
9 promulgate regulations to implement the provisions of this act.
10 The board shall consult with the council in the formulation and
11 development of all regulations and policies effecting
12 conventional oil and gas operations to ensure consistency with
13 the duties of the council and purposes of the act of June 23,
14 2016 (P.L.375, No.52), known as the Pennsylvania Grade Crude
15 Development Act. Policies adopted by the department after April
16 16, 2012, shall expire within three years of the effective date
17 of this act with respect to conventional operations unless
18 revised and reissued in accordance with this section.

19 (b) Limited applicability.--Immediately upon the effective
20 date of this subsection, the provisions of 58 Pa.C.S. § 3226
21 (relating to Oil and Gas Technical Advisory Board) are limited
22 in applicability to unconventional oil and gas operations. The
23 department may consult with the Oil and Gas Technical Advisory
24 Board in the formulation, drafting or presentation stages of
25 regulations applicable to conventional oil and gas operations.

26 Section 1102. Construction.

27 (A) UNCONVENTIONAL WELLS.--Nothing in this act shall be
28 construed to apply to unconventional wells.

29 (B) COAL AND GAS RESOURCE COORDINATION ACT.--

30 (1) THE REQUIREMENTS UNDER SECTION 5 OF THE ACT OF

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1 DECEMBER 18, 1984 (P.L.1069, NO.214), KNOWN AS THE COAL AND
2 GAS RESOURCE COORDINATION ACT, FOR THE ISSUANCE OF A PERMIT
3 UNDER THE FORMER ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223),
4 KNOWN AS THE OIL AND GAS ACT, SHALL APPLY TO THIS ACT.

5 (2) NOTHING IN THIS ACT SHALL BE CONSTRUED TO CHANGE,
6 REPEAL OR OTHERWISE AFFECT THE PROVISIONS OF THE COAL AND GAS
7 RESOURCE COORDINATION ACT.

8 Section 1103. Land recycling and remediation.

9 (a) General rule.--The cleanup and remediation of spills and
10 releases from oil and natural gas operations shall not be
11 required to comply with the notice and review provisions of the
12 act of May 19, 1995 (P.L.4, No.2), known as the Land Recycling
13 and Environmental Remediation Standards Act. The provisions of
14 this section shall not be construed to affect, limit or impair
15 other obligations or rights of operators or other responsible
16 parties established under the Land Recycling and Environmental
17 Remediation Standards Act whenever site remediation is
18 voluntarily conducted or required.

19 (b) Reporting.--The following apply to spills onto the
20 ground at a well site:

21 (1) The following spills must be reported within two
22 hours of discovery:

23 (i) more than 5 barrels of oil within a 24-hour
24 period; or

25 (ii) more than 15 barrels of brine within a 24-hour
26 period if the total dissolved solids concentration of the
27 brine is equal to or greater than 10,000 mg/kg.

28 (2) Spills of less than 5 barrels of oil or less than 15
29 barrels of brine need not be reported unless there is an
30 immediate threat to public health, safety or the environment.

1 (c) Water pollution.--A spill from oil and natural gas
2 operations polluting or threatening to pollute waters of this
3 Commonwealth must be reported immediately upon discovery.

4 (d) Standard for crude oil in soil.--Notwithstanding the
5 provisions of 25 Pa. Code Ch. 250 (relating to administration of
6 Land Recycling Program), the attainment standard for crude oil
7 in soil shall be 10,000 mg/kg of total petroleum hydrocarbons.
8 For sites remediated under the attainment standard under this
9 subsection, the person conducting the remediation shall submit a
10 report to the department documenting attainment of the standard.
11 The remediation standard is not applicable to spills or releases
12 involving materials other than crude oil.

13 (e) Conventional oil and gas operations.--Regardless of
14 whether a person conducts remediation in accordance with the act
15 of May 19, 1995 (P.L.4, No.2), known as the Land Recycling and
16 Environmental Remediation Standards Act, remediation of a spill
17 related to conventional oil and gas operations may be conducted
18 according to established field practices, including
19 bioremediation, to attain the chosen cleanup standards
20 consistent with the protection of public health and the
21 environment.

22 Section 1104. Repeal.

23 Repeals are as follows:

24 (1) The provisions of 58 Pa.C.S. (relating to oil and
25 gas) are repealed insofar as they relate to conventional
26 wells.

27 (2) All acts and parts of acts are repealed insofar as
28 they are inconsistent with this act.

29 Section 1105. Continuation.

30 Except as otherwise provided in this act, all conventional

1 oil and gas well activities initiated under 58 Pa.C.S. (relating
2 to oil and gas) or under the former act of December 19, 1984
3 (P.L.1140, No.223), known as the Oil and Gas Act, shall continue
4 and remain in full force and effect and may be completed under
5 this act. Orders, rules and decisions which were made under 58
6 Pa.C.S. or the former Oil and Gas Act as to conventional wells
7 and which are in effect on the effective date of this section
8 shall remain in full force and effect until revoked, vacated or
9 modified under this act. Contracts, obligations and collective
10 bargaining agreements entered into under 58 Pa.C.S. are not
11 affected nor impaired by this act. Nothing in this act shall
12 alter the common law establishing the subsurface as the dominant
13 estate in Pennsylvania, or alter or abridge the terms of any
14 contract, mortgage or other agreement entered into prior to the
15 effective date of this act.
16 Section 1106. Effective date.
17 This act shall take effect immediately.