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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1144 Session of  
2021

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TOPPER, WENTLING, WHEELAND AND ZIMMERMAN, APRIL 8, 2021

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
APRIL 8, 2021

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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.

7 TABLE OF CONTENTS

8 Chapter 1. Preliminary Provisions

9 Section 101. Short title.

10 Section 102. Declaration of purpose.

11 Section 103. Scope of act.

12 Section 104. Definitions.

13 Chapter 3. General Requirements

14 Section 301. Well permits.

15 Section 302. Permit objections.

16 Section 303. Orphan well adoption and identification.

1 Section 304. Inactive status.  
2 Section 305. Well location restrictions.  
3 Section 306. Well site restoration.  
4 Section 307. Protection of fresh groundwater and casing  
5 requirements.  
6 Section 308. Protection of water supplies.  
7 Section 309. Use of safety devices.  
8 Section 310. Plugging requirements.  
9 Section 311. Alternative methods.  
10 Section 312. Well reporting requirements.  
11 Section 313. Notification and effect of well transfer.  
12 Section 314. Coal operator responsibilities.  
13 Section 315. Bonding.  
14 Chapter 5. Underground Gas Storage  
15 Section 501. Underground gas storage.  
16 Chapter 7. Enforcement and Remedies  
17 Section 701. Conferences.  
18 Section 702. Public nuisances.  
19 Section 703. Enforcement orders.  
20 Section 704. Restraining violations.  
21 Section 705. Criminal penalties.  
22 Section 706. Civil penalties.  
23 Section 707. Existing rights and remedies preserved and  
24 cumulative remedies authorized.  
25 Section 708. Production of materials, witnesses, depositions  
26 and rights of entry.  
27 Section 709. Unlawful conduct.  
28 Section 710. Collection of fines and penalties.  
29 Section 711. Third party liability.  
30 Section 712. Inspection reports.

1 Chapter 9. Related Funds, Parties and Activities  
2 Section 901. Well plugging funds.  
3 Section 902. Local ordinances.  
4 Section 903. Effect on department authority.  
5 Section 904. Relationship to solid waste, surface mining,  
6 underground injection wells, wastewater treatment and  
7 recycling by centralized waste treatment facilities  
8 and storage tanks.

9 Chapter 11. Miscellaneous Provisions

10 Section 1101. Regulatory authority.  
11 Section 1102. Construction.  
12 Section 1103. Land recycling and remediation.  
13 Section 1104. Repeal.  
14 Section 1105. Continuation.  
15 Section 1106. Effective date.

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

18 CHAPTER 1

19 PRELIMINARY PROVISIONS

20 Section 101. Short title.

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

23 Section 102. Declaration of purpose.

24 The purposes of this act are to:

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

30 (2) Protect the safety of personnel and facilities

1 employed in the exploration, development, storage and  
2 production of natural gas or oil or the mining of coal.

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

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

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

11 Section 103. Scope of act.

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

13 Section 104. Definitions.

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

17 "Abandoned well." Any of the following:

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

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

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

27 "Alteration." An operation which changes the physical  
28 characteristics of the well bore, including removing, repairing  
29 or changing the casing. For the purpose of this act only, the  
30 term shall not include:

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

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

10           (2) Stimulation of a well.

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

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

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

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

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

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

30 "Coal operator." A person who proposes or has a permit to

1 operate or operates a coal mine either as owner or lessee.

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

5 "Conventional well." As follows:

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

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

12 (i) Wells drilled to produce oil.

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

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

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

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

29 "Council." The Pennsylvania Grade Crude Development Advisory  
30 Council.

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

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

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

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

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

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

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

22 "Linear foot." A unit or measurement in a straight line on a  
23 horizontal plane.

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

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

29 "Oil" or "petroleum." Hydrocarbons in liquid form at a  
30 standard temperature of 60 degrees Fahrenheit and pressure of

1 14.7 PSIA.

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

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

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

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

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

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

29 "Pillar." A solid block of coal surrounded by either active  
30 mine workings or a mined-out area.



1 "Plat." A map, drawing or print accurately drawn to scale  
2 showing the proposed or existing location of a well or wells.

3 "Prewetting." Mixing brine with antiskid material prior to  
4 roadway application.

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

8 "Secretary." The Secretary of Environmental Protection of  
9 the Commonwealth.

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

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

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

27 (i) (A) the bore hole is used to vent methane to  
28 the outside atmosphere from an operating coal mine;

29 (B) the bore hole is regulated as part of the  
30 mining permit under the act of June 22, 1937

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

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

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

11 "Well operator" or "operator." All of the following:

12 (1) A person designated as the well operator or operator  
13 on the permit application or well registration.

14 (2) Where a permit or registration was not issued, a  
15 person who locates, drills, operates, alters or plugs a well  
16 or reconditions a well with the purpose of production from  
17 the well.

18 (3) In cases where a well is used in connection with the  
19 underground storage of gas, 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

1 question under this act by underground methods.

2 (2) A coal seam which, in the judgment of the  
3 department, can reasonably be expected to be mined by  
4 underground methods.

5 CHAPTER 3

6 GENERAL REQUIREMENTS

7 Section 301. Well permits.

8 (a) Permit required.--Except as provided under subsection  
9 (j), a person shall not drill a well or alter an existing well  
10 without having first obtained a well permit under this section  
11 and shall not operate an abandoned or orphan well unless the  
12 person is in compliance with subsection (m). A copy of the  
13 permit shall be kept at the well site during drilling or  
14 alteration of the well. No person shall be required to obtain a  
15 permit to redrill a nonproducing well if:

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

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

25 (b) Plat.--

26 (1) The permit application shall be accompanied by a  
27 plat prepared by a certified professional in erosion and  
28 sediment control, a competent engineer or a competent  
29 surveyor on forms to be furnished by the department showing  
30 the following:

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

4           (ii) The name of the surface landowner of record and  
5 lessor.

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

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

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

12           (vi) The proposed location of the well determined by  
13 survey.

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

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

20           (ix) The number or other identification to be given  
21 to the well.

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

26           (xi) Other information needed by the department to  
27 administer this act.

28           (2) The applicant shall forward, by certified mail, a  
29 copy of the plat to the surface landowner, all surface  
30 landowners or water purveyors whose water supplies are within

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

27 (3) If the applicant submits to the department written  
28 approval of the proposed well location by the surface  
29 landowner and the coal operator, lessee or owner, if any, of  
30 the coal underlying the proposed well location and no

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

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

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

24 (e) Issuance of permit.--The department shall issue a permit  
25 within 45 days of the submission of a permit application unless  
26 the department denies the permit application for one or more of  
27 the reasons set forth under this subsection, provided that the  
28 department shall have the right to extend the period for 15 days  
29 for cause shown upon notification to the applicant of the  
30 reasons for that extension. The department may impose permit

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

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

14 (2) The permit application is incomplete.

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

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

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

25 (f) Drilling.--Upon issuance of a permit, the well operator  
26 may proceed with the drilling of the well at the location shown  
27 on the plat after providing the department 24 hours' notice of  
28 the date that drilling will commence. In noncoal areas where  
29 more than one well is to be drilled as part of the same  
30 development project, only the first well of the project need be

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

28 (g) Posting.--The well permit number and operator's name,  
29 address and telephone number shall be posted at the drilling  
30 site in a conspicuous manner prior to commencement of drilling.



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

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

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

26 (k) No transfer permitted.--No permit issued under this  
27 section may be transferred without prior approval of the  
28 department. Requests for approval of transfer shall be made on  
29 forms or in a manner prescribed by the department. The  
30 department shall approve or deny the transfer request within 45

1 days of receipt of a complete and accurate application. The  
2 department shall only have the authority to deny the request for  
3 the reasons set forth under subsection (e) (4) or (5). Approval  
4 of the transfer request shall permanently transfer  
5 responsibility to plug the well under section 310 to the  
6 recipient of the transferred permit or registration.

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

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

16 Section 302. Permit objections.

17 (a) General rule.--If a well location referred to in section  
18 301(b) is made so that the well, when drilled, will be located  
19 on a tract whose surface is owned by a person other than the  
20 well operator, the surface landowner affected shall be notified  
21 of the intent to drill and have right to file objections, in  
22 accordance with section 701, based solely on an assertion that  
23 the well location violates section 305 or that information in  
24 the application is untrue in any material respect, within 15  
25 days of the receipt by the surface owner of the plat provided  
26 for in section 301(b). Receipt of notice by the surface owner  
27 shall be presumed to have occurred 15 days from the date of the  
28 certified mailing when the well operator submits a copy of the  
29 certified mail receipt sent to the surface owner and an  
30 affidavit certifying that the address of the surface owner to

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

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

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

1 department shall proceed to issue or deny the permit.

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

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

25 Section 303. Orphan well adoption and identification.

26 (a) Orphan wells.--

27 (1) Well owners or operators who discover abandoned  
28 wells on property purchased or leased by the well operators  
29 and operators shall identify the well to the department  
30 within 60 days of discovery and advise the department that

1 they are seeking classification of the well as an orphan  
2 well. No fee shall be required for the identification.

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

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

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

17 (B) half the well field spacing if the spacing  
18 exceeds the distances under clause (A).

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

26 (4) A person who is not a well owner or operator and who  
27 discovers an abandoned well on property owned or leased by  
28 the person shall identify the well to the department within  
29 60 days of discovery and advise the department that the  
30 person is seeking classification of the well as an orphan

1 well. No fee shall be required for the identification.

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

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

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

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

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

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

27 (c) Guidelines.--The department may adopt and promulgate  
28 guidelines designed to ensure a fair implementation of this  
29 section which recognizes the practical difficulties of locating  
30 unpermitted wells and complying with the reporting requirements

1 of this act.

2 Section 304. Inactive status.

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

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

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

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

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

26 (b) Monitoring.--The owner or operator of a well granted  
27 inactive status shall be responsible for monitoring the  
28 mechanical integrity of the well to ensure that the requirements  
29 of subsection (a)(1) and (2) are met and shall report the same  
30 on an annual basis to the department in a manner and form as the

1 department shall prescribe by regulation. A well granted  
2 inactive status under subsection (a) shall be plugged when the  
3 well no longer meets the requirements of subsection (a).

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

10 (d) Revocation of inactive status.--

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

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

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

19 (iii) When the owner or operator becomes financially  
20 insolvent.

21 (iv) Upon receipt by the department of notice of  
22 bankruptcy proceedings by the permittee.

23 (2) If the department revokes inactive status, a well  
24 owner or operator aggrieved by the denial shall have the  
25 right to appeal the denial to the Environmental Hearing Board  
26 within 30 days of receipt of the revocation. Upon cause shown  
27 by a well owner or operator, the Environmental Hearing Board  
28 may grant a supersedeas under section 4 of the act of July  
29 13, 1988 (P.L.530, No.94), known as the Environmental Hearing  
30 Board Act, to allow the well to retain inactive status during



1 the period of appeal.

2 Section 305. Well location restrictions.

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

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

29 (c) Protection of threatened or endangered species.--Well  
30 permit applicants are obligated to determine impacts to

1 threatened or endangered species in accordance with applicable  
2 law. The department shall, on making a determination on a well  
3 permit, consider the impact of the proposed well on habitats of  
4 threatened or endangered species that are listed in a final  
5 rulemaking by a Federal or State agency with statutory authority  
6 to list species for protection.

7 Section 306. Well site restoration.

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

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

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

1 with the property rights of the owner of the oil and gas  
2 resources or if the express written consent of the surface  
3 landowner is obtained or is contained in historical documents.

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

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

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

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

23 Section 307. Protection of fresh groundwater and casing  
24 requirements.

25 (a) General rule.--To aid in the protection of fresh  
26 groundwater, the well operator shall control and dispose of  
27 brines produced from the drilling, alteration or operation of an  
28 oil or gas well in a manner consistent with the act of June 22,  
29 1937 (P.L.1987, No.394), known as The Clean Streams Law, or any  
30 rule or regulation promulgated under The Clean Streams Law.

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

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

26 (d) Procedure when coal removed.--When a well is drilled at  
27 a location where the coal has been removed from one or more coal  
28 seams, the well shall be drilled and cased to prevent the  
29 migration of gas or fluids into the seam from which the coal has  
30 been removed, in a manner prescribed by regulation of the

1 department. The department and the coal operator, owner or  
2 lessee shall be given at least 72 hours' notice prior to  
3 commencement of the work protecting the mine.

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

12 Section 308. Protection of water supplies.

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

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

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

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

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

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

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

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

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

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

28 (e) Independent survey.--An operator electing to preserve  
29 its defenses under subsection (d) (1) or (2) shall retain the  
30 services of an independent certified laboratory to conduct the

1 predrilling or prealteration survey of water supplies. A copy of  
2 the results of the survey shall be submitted to the department  
3 and the landowner or water purveyor in a manner prescribed by  
4 the department.

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

9 Section 309. Use of safety devices.

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

15 Section 310. Plugging requirements.

16 (a) General rule.--Upon abandoning a well, the owner or  
17 operator of the well shall plug the well in a manner prescribed  
18 by regulation of the department in order to stop a vertical flow  
19 of fluids, other than artesian flow, or gas within the well  
20 bore, unless the department has granted inactive status for the  
21 well under section 304 or the well has been approved by the  
22 department as an orphan well under section 303. If the  
23 department determines that a prior owner or operator received  
24 economic benefit, other than economic benefit derived only as a  
25 landowner or from a royalty interest subsequent to April 18,  
26 1979, from an orphan well or from a well which has not been  
27 registered, the owner or operator shall be responsible for the  
28 plugging of the well. In the case of gas wells penetrating  
29 workable coal seams which were drilled prior to January 30,  
30 1956, or which were permitted after that date but not plugged in

1 accordance with this act, which the owner or operator of the  
2 well or a coal operator or his agent proposes to plug for the  
3 purpose of allowing the mining through of the well, the gas well  
4 shall be cleaned out to a depth of at least 200 feet below the  
5 coal seam in which the mining through is proposed and, unless  
6 impracticable, to a point 200 feet below the deepest mineable  
7 coal seam. The gas well shall be plugged from that depth in  
8 accordance with the provisions of section 13 of the act of  
9 December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas  
10 Resource Coordination Act, and the regulations of the  
11 department.

12 (b) Areas underlain by coal.--Prior to the abandonment of a  
13 well in an area underlain by a workable coal seam, the well  
14 operator or owner shall notify the coal operator, lessee or  
15 owner and the department of the well operator's or owner's  
16 intention to plug and abandon the well and submit a plat, 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 receipt of the notice, in order that  
21 their representatives may be present at the plugging of the  
22 well. The notice may be waived by the department and the coal  
23 operator, lessee or owner, who may waive their right to be  
24 present, but the waiver by a coal operator, lessee or owner  
25 shall be in writing and a copy attached to the notice of  
26 abandonment filed with the department under this section.  
27 Whether or not the representatives appear, the well operator  
28 may, if the operator has fully complied with the requirements of  
29 this section, proceed at the time fixed to plug the well in the  
30 manner as prescribed by regulation of the department. When



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

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

1 representative appears, the well operator may, if the well  
2 operator has fully complied with the requirements of this  
3 section, proceed at the time fixed to plug the well in the  
4 manner as prescribed by regulation of the department. When  
5 plugging has been completed, a certificate shall be prepared and  
6 signed on a form to be furnished by the department by two  
7 experienced and qualified people who participated in the work,  
8 and shall set forth the time and manner in which the well was  
9 plugged. A copy of the certificate shall be mailed to the  
10 department.

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

27 (e) Orphan wells.--If a well is an orphan well or abandoned  
28 without plugging or if a well is in operation but is not adopted  
29 under section 303, the department shall have the right to enter  
30 upon the well site and plug the well and to sell the equipment,

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

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

1 approval and protections provided under this section. Notice to  
2 the department and the surface owner shall be provided on forms  
3 developed by the department. When plugging has been completed, a  
4 certificate shall be prepared and signed on a form to be  
5 furnished by the department by two experienced and qualified  
6 individuals who participated in the work and set forth the time  
7 and manner in which the well was plugged. A copy of the  
8 certificate shall be mailed to the department.

9 (g) Persons who voluntarily plug an orphan well.--Persons  
10 who voluntarily plug an orphan well may either:

11 (1) apply to the Commonwealth Finance Authority for a  
12 \$5,000 payment per well plugged payable from the Marcellus  
13 Legacy Fund established under 58 Pa.C.S. § 2315 (relating to  
14 Statewide initiatives); or

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

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

27 Section 311. Alternative methods.

28 If provision is made in this act for adoption of regulatory  
29 requirements for casing, plugging or equipping a well, a well  
30 operator may request the authority to use an alternative method

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

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

25 (b) Records.--

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

28 (2) A record of the well containing information as  
29 required by regulation shall be filed with the department  
30 within 30 days of cessation of drilling.

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

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

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

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

25 (d) Retention and filing.--All electrical, radioactive or  
26 other standard industry logs, drill stem test charts, formation  
27 water analyses, porosity, permeability or fluid saturation  
28 measurements, core analysis and lithologic logs or sample  
29 description or other similar data as compiled, required under  
30 subsection (b) or drill cuttings required under subsection (c),

1 shall be retained by the well operator and shall be filed with  
2 the department within three years after completion of the well.  
3 Upon request of the well operator, the department shall extend  
4 the date for the filing of the data, but the extension shall not  
5 exceed five years from the date of completion of the well,  
6 provided that the department shall have the right to utilize the  
7 information in enforcement proceedings, in making designations  
8 or determinations under section 1927-A of The Administrative  
9 Code of 1929, or in aggregate form for statistical purposes.  
10 Section 313. Notification and effect of well transfer.

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

23 Section 314. Coal operator responsibilities.

24 (a) General rule.--

25 (1) At any time prior to removing coal or other  
26 underground material or extending the workings in a coal mine  
27 within 500 feet of an oil or gas well of which the coal  
28 operator has knowledge or an approved well location of which  
29 the coal operator has knowledge, the coal operator shall  
30 forward, by certified mail, to or file with the well operator

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

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

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

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

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

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

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

29 well is approved in the manner as projected.

30 (b) Objections.--



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

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

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

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

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

30 (c) Pillars of reduced size.--Application may be made at any

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

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

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

26 (f) Mining through plugged wells.--A coal operator who  
27 intends to mine through a plugged oil or gas well must file a  
28 plan to completely remove a pillar from around the well in  
29 accordance with subsection (a). This plan shall be subject to  
30 the requirements of this section. No coal operator may mine

1 through a plugged oil or gas well of which the coal operator has  
2 knowledge until written approval has been granted by the  
3 department in accordance with this section.

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

8 Section 315. Bonding.

9 (a) General rule.--

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

30 (2) In lieu of individual bonds for each well, an owner

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

10 (3) Liability under the bond shall continue until the  
11 well has been properly plugged in accordance with this act  
12 and for a period of one year after filing of the certificate  
13 of plugging with the department. Each bond shall be executed  
14 by the operator and a corporate surety licensed to do  
15 business in this Commonwealth and approved by the secretary.  
16 The operator may elect to deposit cash, certificates of  
17 deposit or automatically renewable irrevocable letters of  
18 credit from financial institutions chartered or authorized to  
19 do business in Pennsylvania and regulated and examined by a  
20 Federal agency or the Commonwealth, which may be terminated  
21 at the end of a term only upon the financial institution  
22 giving 90 days' prior written notice to the permittee and the  
23 department or negotiable bonds of the United States  
24 Government or the Commonwealth, the Pennsylvania Turnpike  
25 Commission, the State Public School Building Authority or any  
26 municipality within the Commonwealth, or United States  
27 Treasury Bonds issued at a discount without a regular  
28 schedule of interest payments to maturity, otherwise known as  
29 zero coupon bonds, having a maturity date of not more than 10  
30 years after the date of purchase and at the maturity date

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

1 letter of credit within the 30-day notification period, the  
2 department shall draw upon and convert the letter of credit  
3 into cash and hold it as a collateral bond guarantee.

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

10 (c) Noncompliance.--

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

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

29 (3) A person aggrieved by reason of forfeiting the bond  
30 or converting collateral under this section shall have a

1 right to appeal to the Environmental Hearing Board in the  
2 manner provided by law.

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

10 (d) Individuals.--

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

30 (2) Individuals may continue to use phased collateral to

1 obtain permits so long as they have not missed payments for  
2 wells drilled under this subsection and so long as they  
3 remain in compliance with this act and regulations and  
4 permits issued under this act. If an individual has missed  
5 payments for wells under this subsection, the operator shall:

6 (i) immediately submit the appropriate bond amount  
7 in full; or

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

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

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

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

## 25 CHAPTER 5

### 26 UNDERGROUND GAS STORAGE

27 Section 501. Underground gas storage.

28 Underground gas storage shall be conducted in accordance with  
29 58 Pa.C.S. Ch. 32 Subch. C (relating to underground gas  
30 storage).



1 CHAPTER 7

2 ENFORCEMENT AND REMEDIES

3 Section 701. Conferences.

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

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

28 Section 702. Public nuisances.

29 A violation of section 306, 307, 308, 309 or 310 or of a  
30 rule, regulation, order, term or condition of a permit relating

1 to those sections constitutes a public nuisance.

2 Section 703. Enforcement orders.

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

10 (b) Suspension and revocation.--

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

14 (i) This act.

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

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

19 (iv) Any other statute administered by the  
20 department.

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

26 (3) A suspension order of the department shall  
27 automatically terminate if the violation upon which it is  
28 based is corrected by the operator in order to bring the well  
29 into compliance with this act.

30 (c) Written notice.--Prior to the suspension or revocation

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

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

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

23 Section 704. Restraining violations.

24 (a) General rule.--In addition to other remedies provided in  
25 this act, the department may institute a suit in equity in the  
26 name of the Commonwealth for an injunction to restrain a  
27 violation of this act or the rules, regulations, standards or  
28 orders adopted or issued under this act and to restrain the  
29 maintenance or threat of a public nuisance. Upon motion of the  
30 Commonwealth, the court shall issue a prohibitory or mandatory

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

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

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

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

23 Section 705. Criminal penalties.

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

30 (b) Willful violation.--A person who willfully violates a

1 provision of this act or an order of the department issued under  
2 this act commits a misdemeanor and, upon conviction, shall be  
3 sentenced to pay a fine of not more than \$5,000 or to  
4 imprisonment of not more than one year, or both. Each day during  
5 which the violation continues is a separate and distinct  
6 offense.

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

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

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

15 Section 707. Existing rights and remedies preserved and  
16 cumulative remedies authorized.

17 Nothing in this act shall prevent the Commonwealth or a  
18 district attorney from proceeding in a court of law or in equity  
19 to abate pollution forbidden under this act or abate a nuisance  
20 under existing law. It is declared to be the purpose of this act  
21 to provide additional and cumulative remedies to control  
22 activities related to drilling for or production of oil and gas  
23 within this Commonwealth, and nothing in this act abridges or  
24 alters rights of action or remedies existing in equity or under  
25 the common law or statutory law, criminal or civil. Neither this  
26 act, the granting of a permit under this act nor an act done by  
27 virtue of this act stops the Commonwealth in exercising rights  
28 under the common law or decisional law or in equity, from  
29 suppressing a nuisance, abating pollution or enforcing common  
30 law or statutory rights. No court of this Commonwealth with

1 jurisdiction to abate public or private nuisances shall be  
2 deprived of jurisdiction in an action to abate a private or  
3 public nuisance instituted by a person on grounds that the  
4 nuisance constitutes air or water pollution.

5 Section 708. Production of materials, witnesses, depositions  
6 and rights of entry.

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

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

27 (c) Department powers.--The department shall have the power  
28 in any part of this Commonwealth to subpoena witnesses,  
29 administer oaths, examine witnesses, take testimony or compel  
30 the production of books, records, maps, plats, papers, documents

1 and other writings as it may deem necessary or proper and  
2 pertinent to proceedings or investigation held by the  
3 department. In case of refusal to obey a subpoena served upon a  
4 person, the court shall, on application of the department, have  
5 power to enforce the subpoena in contempt proceedings. The fees  
6 for serving a subpoena shall be the same as those paid to  
7 sheriffs for similar services.

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

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

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

28 Section 709. Unlawful conduct.

29 It shall be unlawful for a person to:

30 (1) Drill, alter, operate or utilize an oil or gas well



1 without a permit or registration from the department as  
2 required by this act or in violation of the rules or  
3 regulations adopted under this act, orders of the department  
4 or in violation of a permit issued by the department.

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

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

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

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

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

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

26 Section 710. Collection of fines and penalties.

27 Fines and penalties shall be collectible in the manner  
28 provided by law for the collection of debts. If a person liable  
29 to pay a penalty neglects or refuses to pay after demand, the  
30 amount, together with interest and costs that may accrue, shall

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

11 Section 711. Third party liability.

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

17 Section 712. Inspection reports.

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

21 (1) The nature and description of violations.

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

24 (3) The status of the violation.

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

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

30 (c) Training required.--The department shall provide

1 adequate training to its inspectors.

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

12 CHAPTER 9

13 RELATED FUNDS, PARTIES AND ACTIVITIES

14 Section 901. Well plugging funds.

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

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

28 (c) Orphan Well Plugging Fund.--

29 (1) A \$100 surcharge for wells to be drilled for oil  
30 production and a \$200 surcharge for wells to be drilled for

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

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

11 Section 902. Local ordinances.

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

25 Section 903. Effect on department authority.

26 This act does not affect, limit or impair the right or  
27 authority of the department under the act of June 22, 1937  
28 (P.L.1987, No.394), known as The Clean Streams Law, the act of  
29 January 8, 1960 (1959 P.L.2119, No.787), known as the Air  
30 Pollution Control Act, the act of November 26, 1978 (P.L.1375,

1 No.325), known as the Dam Safety and Encroachments Act, and the  
2 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
3 Management Act.

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

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

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

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

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

29 (b) Noncoal surface mining.--Obligations under the act of  
30 December 19, 1984 (P.L.1093, No.219), known as the Noncoal

1 Surface Mining Conservation and Reclamation Act, or rule or  
2 regulation promulgated under the Noncoal Surface Mining  
3 Conservation and Reclamation Act, for a borrow area where  
4 minerals are extracted solely for the purpose of oil and gas  
5 well development, including access road construction, shall be  
6 satisfied if the owner or operator of the well meets the  
7 conditions imposed under subsection (a) (1) and (2) and the owner  
8 or operator maintains compliance with this act and applicable  
9 regulations of the Environmental Quality Board.

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

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

1 character or chemical composition of a commercial product for  
2 which the brine is an effective substitute. Persons engaged in  
3 the beneficial uses of brine shall maintain records and make  
4 reports as the department requires.

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

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

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

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

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

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

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

22 (i) Storage tanks.--Permanent aboveground or underground  
23 tanks that are used to store brines, crude oil, drilling or frac  
24 fluids and similar substances or materials and are directly  
25 related to the exploration, development or production of crude  
26 oil or natural gas regulated under this act, as well as liquid  
27 traps and associated gathering lines directly related to oil or  
28 gas production and gathering operations, are exempt from the  
29 obligations under the act of July 6, 1989 (P.L.169, No.32),  
30 known as the Storage Tank and Spill Prevention Act, and any rule



1 or regulation promulgated under the Storage Tank and Spill  
2 Prevention Act.

3 CHAPTER 11

4 MISCELLANEOUS PROVISIONS

5 Section 1101. Regulatory authority.

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

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

24 Section 1102. Construction.

25 (a) Unconventional wells.--Nothing in this act shall be  
26 construed to apply to unconventional wells.

27 (b) Coal and Gas Resource Coordination Act.--

28 (1) The requirements under section 5 of the act of  
29 December 18, 1984 (P.L.1069, No.214), known as the Coal and  
30 Gas Resource Coordination Act, for the issuance of a permit

1 under the former act of December 19, 1984 (P.L.1140, No.223),  
2 known as the Oil and Gas Act, shall apply to this act.

3 (2) Nothing in this act shall be construed to change,  
4 repeal or otherwise affect the provisions of the Coal and Gas  
5 Resource Coordination Act.

6 Section 1103. Land recycling and remediation.

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

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

19 (1) The following spills must be reported within two  
20 hours of discovery:

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

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

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

29 (c) Water pollution.--A spill from oil and natural gas  
30 operations polluting or threatening to pollute waters of this

1 Commonwealth must be reported immediately upon discovery.

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

11 (e) Conventional oil and gas operations.--Regardless of  
12 whether a person conducts remediation in accordance with the  
13 Land Recycling and Environmental Remediation Standards Act,  
14 remediation of a spill related to conventional oil and gas  
15 operations may be conducted according to established field  
16 practices, including bioremediation, to attain the chosen  
17 cleanup standards consistent with the protection of public  
18 health and the environment.

19 Section 1104. Repeal.

20 Repeals are as follows:

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

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

26 Section 1105. Continuation.

27 Except as otherwise provided in this act, all conventional  
28 oil and gas well activities initiated under 58 Pa.C.S. (relating  
29 to oil and gas) or under the former act of December 19, 1984  
30 (P.L.1140, No.223), known as the Oil and Gas Act, shall continue

1 and remain in full force and effect and may be completed under  
2 this act. Orders, rules and decisions which were made under 58  
3 Pa.C.S. or the former Oil and Gas Act as to conventional wells  
4 and which are in effect on the effective date of this section  
5 shall remain in full force and effect until revoked, vacated or  
6 modified under this act. Contracts, obligations and collective  
7 bargaining agreements entered into under 58 Pa.C.S. are not  
8 affected nor impaired by this act. Nothing in this act shall  
9 alter the common law establishing the subsurface as the dominant  
10 estate in Pennsylvania, or alter or abridge the terms of any  
11 contract, mortgage or other agreement entered into prior to the  
12 effective date of this section.

13 Section 1106. Effective date.

14 This act shall take effect immediately.