

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2277 Session of
2015

INTRODUCED BY MURT, DEAN, MAHONEY, ROZZI, SAVAGE, STURLA AND
YOUNGBLOOD, AUGUST 5, 2016

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
AUGUST 5, 2016

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in general requirements relating to development,
3 providing for liability bonding.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 58 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 3225.1. Liability bonding.

9 (a) General rule.--

10 (1) Except as provided in subsection (d), upon filing an
11 application for a well permit and before continuing to
12 operate an unconventional well, the owner or operator of the
13 unconventional well shall file with the department a bond
14 covering any remediation liabilities at the unconventional
15 well and well site on a form to be prescribed and furnished
16 by the department. A bond filed with an application for a
17 well permit shall be payable to the Commonwealth and
18 conditioned upon the proper remediation of any release of any

1 regulated substance, restoration and plugging requirements of
2 this chapter. The amount of the bond required shall be
3 \$2,000,000 and may be adjusted by the Environmental Quality
4 Board every two years to reflect the projected costs to the
5 Commonwealth of remediation activities.

6 (2) In lieu of individual bonds for each well, an owner
7 or operator may file a blanket bond in an amount equal to 20%
8 of the sum total for all individual bonds that would
9 otherwise be required of the operator.

10 (3) Liability under the bond shall continue until any
11 release has been properly remediated and the well has been
12 properly plugged in accordance with this chapter and for a
13 period of two years after filing of the certificate of
14 plugging with the department. Each bond shall be executed by
15 the operator and a corporate surety licensed to do business
16 in this Commonwealth and approved by the secretary. In lieu
17 of a corporate surety, the operator may deposit with the
18 department:

19 (i) cash;

20 (ii) certificates of deposit or automatically
21 renewable irrevocable letters of credit, from financial
22 institutions chartered or authorized to do business in
23 this Commonwealth and regulated and examined by the
24 Commonwealth or a Federal agency, which may be terminated
25 at the end of a term only upon 90 days' prior written
26 notice by the financial institution to the permittee and
27 the department;

28 (iii) negotiable bonds of the United States
29 Government or the Commonwealth, the Pennsylvania Turnpike
30 Commission, the State Public School Building Authority or

1 any municipality within this Commonwealth; or

2 (iv) United States Treasury Bonds issued at a
3 discount without a regular schedule of interest payments
4 to maturity, otherwise known as Zero Coupon Bonds, having
5 a maturity date of not more than 10 years after the date
6 of purchase and at the maturity date having a value of
7 not less than the applicable amount under paragraph (1).
8 The cash deposit, certificate of deposit, amount of the
9 irrevocable letter of credit or market value of the
10 securities shall be equal at least to the sum of the
11 bond.

12 (4) The secretary shall, upon receipt of a deposit of
13 cash, letters of credit or negotiable bonds, immediately
14 place the same with the State Treasurer, who shall receive
15 and hold the same in the name of the Commonwealth, in trust,
16 for the purpose for which the deposit is made.

17 (5) The State Treasurer shall be custodian of and shall
18 safely keep the deposits. The operator making the deposit may
19 from time to time demand and receive from the State
20 Treasurer, on the written order of the secretary, the whole
21 or any portion of collateral deposited, by depositing with
22 the State Treasurer, in lieu of that collateral, other
23 collateral of classes specified in this section that have a
24 market value at least equal to the sum of the bond, and may
25 also demand, receive and recover the interest and income from
26 the negotiable bonds as they become due and payable.

27 (6) If negotiable bonds on deposit under this subsection
28 mature or are called, the State Treasurer, at the request of
29 the owner of the bonds, shall convert them into other
30 negotiable bonds, of classes specified in this section,

1 designated by the owner.

2 (7) If notice of intent to terminate a letter of credit
3 is given, the department shall give the operator 30 days'
4 written notice to replace the letter of credit with other
5 acceptable bond guarantees as provided in this section. If
6 the owner or operator fails to timely replace the letter of
7 credit, the department shall draw upon and convert the letter
8 of credit into cash and hold it as a collateral bond
9 guarantee.

10 (b) Discharge.--No bond shall be fully discharged until the
11 requirements of subsection (a) and section 3223 (relating to
12 notification and effect of well transfer) have been fully met.
13 Upon release of bonds and collateral under this section, the
14 State Treasurer shall immediately return to the owner the
15 specified amount of cash or securities.

16 (c) Noncompliance.--

17 (1) If an unconventional well owner or operator fails or
18 refuses to comply with subsection (a), regulations
19 promulgated under this chapter or conditions of a permit
20 relating to this chapter, the department may declare the bond
21 forfeited and shall certify the forfeiture to the Attorney
22 General. The Attorney General shall proceed to enforce and
23 collect the full amount of the bond, and, if the
24 unconventional well owner or operator has deposited cash or
25 securities as collateral in lieu of a corporate surety, the
26 department shall declare the collateral forfeited and direct
27 the State Treasurer to pay the full amount of the funds into
28 the Well Plugging Restricted Revenue Account or to sell the
29 security to the extent forfeited and pay the proceeds into
30 the Well Plugging Restricted Revenue Account.

1 (2) If a corporate surety or financial institution fails
2 to pay a forfeited bond promptly and in full, the corporate
3 surety or financial institution shall be disqualified from
4 writing further bonds under this chapter or any other
5 environmental law administered by the department.

6 (3) A person aggrieved by reason of forfeiting the bond
7 or converting collateral, as provided in this section, shall
8 have a right to appeal to the Environmental Hearing Board in
9 the manner provided by law.

10 (4) Upon forfeiture of a blanket bond for a violation
11 occurring at one or more unconventional well sites, the
12 person whose bond is forfeited shall, within 10 days of the
13 forfeiture, submit a replacement bond to cover all other
14 unconventional wells of which the person is an owner or
15 operator.

16 (5) Failure to submit the replacement bond constitutes a
17 violation of this section as to each of the wells owned or
18 operated by the person.

19 (d) Alternatives to certain bonds.--

20 (1) An operator of not more than 200 unconventional
21 wells who cannot obtain a bond for an unconventional well
22 spud prior to effective date of this section, as required
23 under subsection (a), due to inability to demonstrate
24 sufficient financial resources may, in lieu of the bond:

25 (i) Submit to the department a fee in the amount of
26 \$10,000 per unconventional well, a blanket fee of \$50,000
27 for 10 to 20 wells or a blanket fee of \$1,000,000 for
28 more than 20 wells, which shall be a nonrefundable fee to
29 be paid in any year that the operator has not filed a
30 bond with the department. All fees collected in lieu of a

1 bond under this subsection shall be used for the purposes
2 authorized by this chapter. The Environmental Quality
3 Board may by regulation increase the amount of the fees
4 established under this subparagraph.

5 (ii) Make phased deposits of collateral to fully
6 collateralize the bond, subject to the following:

7 (A) Payment shall be based on the number of
8 unconventional wells owned or operated. The operator
9 shall make an initial deposit and make annual
10 deposits in accordance with the schedule in clause
11 (B).

12 (B) Interest accumulated by the collateral shall
13 become a part of the bond until the collateral plus
14 accumulated interest equals the amount of the
15 required bond.

16 (C) The collateral shall be deposited, in trust,
17 with the State Treasurer as provided in this
18 subsection or with a bank selected by the department
19 which shall act as trustee for the benefit of the
20 Commonwealth to guarantee the operator's compliance
21 with the remediation of any release and the
22 restoration and plugging requirements of this
23 chapter.

24 (D) The operator shall pay all costs of the
25 trust.

26 (2) An operator of an unconventional well spud prior to
27 the effective date of this section who does not intend to
28 operate an additional unconventional well shall deposit
29 \$10,000 per well and shall, thereafter, annually deposit
30 \$5,000 per well until the obligations of this section are

1 fully met.

2 (3) An operator may continue to pay a fee in lieu of
3 bond or make phased deposits of collateral to fully
4 collateralize the bond provided the operator does not miss a
5 payment under this subsection and remains in compliance with
6 this chapter. If an operator misses a payment under this
7 subsection, the operator shall:

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

10 (ii) cease all operations and plug all wells.

11 (e) Reservation of remedies.--

12 (1) All remedies for violations of this chapter,
13 regulations adopted under this chapter and conditions of
14 permits are expressly preserved.

15 (2) Nothing in this section shall be construed as an
16 exclusive penalty or remedy for violations of law.

17 (3) No action taken under this section shall waive or
18 impair any other remedy or penalty provided in law.

19 (f) Definitions.--As used in this section, the following
20 words and phrases shall have the meanings given to them in this
21 subsection unless the context clearly indicates otherwise:

22 "Regulated substance." The term shall include hazardous
23 substances and contaminants regulated under the act of October
24 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
25 Act, and substances covered by the act of June 22, 1937
26 (P.L.1987, No.394), known as The Clean Streams Law, the act of
27 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
28 Pollution Control Act, the act of July 7, 1980 (P.L.380, No.97),
29 known as the Solid Waste Management Act, the act of July 13,
30 1988 (P.L.525, No.93), referred to as the Infectious and

1 Chemotherapeutic Waste Law, and the act of July 6, 1989
2 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
3 Act.

4 "Release." Spilling, leaking, pumping, pouring, emitting,
5 emptying, discharging, injecting, escaping, leaching, dumping or
6 disposing of a regulated substance into the environment in a
7 manner not authorized by the Department of Environmental
8 Protection. The term includes the abandonment or discarding of
9 barrels, containers, vessels and other receptacles containing a
10 regulated substance.

11 "Remediation." To clean up, mitigate, correct, abate,
12 minimize, eliminate, control or prevent a release of a regulated
13 substance into the environment in order to protect the present
14 or future public health, safety, welfare or the environment,
15 including preliminary action to study or assess the release.

16 "Well site." An area occupied by all equipment or facilities
17 necessary for or incidental to drilling, production or plugging
18 an unconventional well.

19 Section 2. This act shall take effect in 60 days.