
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 790 Session of 2019

INTRODUCED BY SCARNATI, HUTCHINSON, YAW, K. WARD, STEFANO,
VOGEL, BROOKS, LANGERHOLC, J. WARD, FOLMER, MENSCH AND
MARTIN, JUNE 21, 2019

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED,
JANUARY 13, 2020

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; providing for preliminary
4 provisions, for general requirements, for enforcement and
5 remedies, for related funds and for miscellaneous provisions;
6 and making an appropriation.

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

19 CHAPTER 1

20 PRELIMINARY PROVISIONS

21 Section 101. Short title.

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

24 Section 102. Scope of chapter.

25 This act relates to conventional oil and gas development.

26 Section 103. Declaration of purpose of act.

27 The purposes of this act are to:

- 28 (1) Permit optimal development of oil and gas resources
29 in this Commonwealth consistent with the property rights of
30 owners of the oil and gas resources and the protection of the

1 health, safety, environmental and property rights of
2 Pennsylvania citizens.

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

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

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

11 Section 104. Definitions.

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

15 "Abandoned well." Any of the following:

16 (1) A well:

17 (i) that has not been used to produce, extract or
18 inject any gas, petroleum or other liquid within the
19 preceding 12 months;

20 (ii) for which equipment necessary for production,
21 extraction or injection has been removed; or

22 (iii) that is considered dry and not equipped for
23 production within 60 days after drilling, re-drilling or
24 deepening.

25 (2) The term does not include wells granted inactive
26 status.

27 "Additive." A hydraulic fracturing chemical.

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

1 this act only, the term does not include:

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

7 (i) to production casings in coal areas when the
8 production casings are also the coal protection casings;
9 or

10 (ii) when the method of repairing or replacing the
11 casing would affect the coal protection casing.

12 (2) Stimulation of a well.

13 "Bodies of water." A natural or artificial lake, pond,
14 reservoir, swamp, marsh or wetland.

15 "Bridge." An obstruction placed in a well at any depth.

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

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

20 "Cement" or "cement grout." Any of the following:

21 (1) Hydraulic cement properly mixed with water only.

22 (2) A mixture of materials adequate for bonding or
23 sealing of well bores as approved by regulations promulgated
24 under this act.

25 "Certified mail." Any verifiable means of paper document
26 delivery that confirms receipt of the document by the intended
27 recipient or the attempt to deliver the document to the proper
28 address for the intended recipient.

29 "Chemical." Any element, chemical compound or mixture of
30 elements or compounds that has its own specific name or

1 identity, such as a chemical abstract service number.

2 "Coal mine." An operation in a coal seam, which shall
3 include the following:

4 (1) Excavated and abandoned portions as well as the
5 places actually being worked.

6 (2) Underground workings and shafts, slopes, tunnels and
7 other ways and openings.

8 (3) Shafts, slopes, tunnels and other openings in the
9 course of being sunk or driven.

10 (4) Roads and facilities connected below the surface
11 with the items listed under paragraphs (1), (2) and (3).

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

14 "Communicate." A transfer of measurable pressure or fluid
15 flow from a well undergoing hydraulic fracturing to an offset
16 well. The transfer of pressure or fluid may be evidenced at the
17 well undergoing hydraulic fracturing.

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

21 "Conventional well." A bore hole drilled or being drilled
22 for the purpose of, or to be used for, construction of a well
23 regulated under this act that is not an unconventional well,
24 irrespective of technology or design. The term includes, but is
25 not limited to:

26 (1) Wells drilled to produce oil.

27 (2) Wells drilled to produce natural gas from
28 formations other than shale formations.

29 (3) Wells drilled to produce natural gas from shale
30 formations located above the base of the Elk Group or its

1 stratigraphic equivalent.

2 (4) Wells drilled to produce natural gas from shale
3 formations located below the base of the Elk Group where
4 natural gas can be produced at economic flow rates or in
5 economic volumes without the use of vertical or nonvertical
6 well bores stimulated by hydraulic fracture treatments or
7 multilateral well bores or other techniques to expose more of
8 the formation to the well bore.

9 (5) Irrespective of formation, wells drilled for
10 collateral purposes, such as monitoring, geologic logging,
11 secondary and tertiary recovery or disposal injection.

12 "Council." The Pennsylvania Grade Crude Development Advisory
13 Council.

14 "Department." The Department of Environmental Protection of
15 the Commonwealth.

16 "Drilling." The drilling or redrilling of a well or the
17 deepening of an existing well.

18 "Fresh groundwater." Water in that portion of the generally
19 recognized hydrologic cycle which occupies the pore spaces and
20 fractures of saturated subsurface materials.

21 "Gas." Any of the following:

22 (1) A fluid, combustible or noncombustible, which is
23 produced in a natural state from the earth and maintains a
24 gaseous or rarified state at standard temperature of 60
25 degrees Fahrenheit and pressure 14.7 PSIA.

26 (2) Any manufactured gas, by-product gas or mixture of
27 gases or natural gas liquids.

28 "Home or consumptive use well." A conventional well
29 producing natural gas solely for consumptive use by the owner of
30 the well.

1 "Hydraulic fracturing chemical." A chemical substance or
2 combination of substances, including any chemicals and
3 proppants, that is intentionally added to a base fluid for
4 purposes of preparing a stimulation fluid for use in hydraulic
5 fracturing.

6 "Inactivate." To shut off the vertical movement of gas in a
7 gas storage well by means of a temporary plug or other suitable
8 device or by injecting bentonitic mud or other equally nonporous
9 material into the well.

10 "Linear foot." A unit of measurement in a straight line on a
11 horizontal plane.

12 "Noncoal area." An area where there are no workable coal
13 seams.

14 "Notice." For the purpose of providing nonrequired notice to
15 the department, includes notice provided by telephone, e-mail or
16 other available electronic means, unless a specific form of, or
17 location for, notice is required by this act, regulation or
18 otherwise established by the department.

19 "Oil." Hydrocarbons in liquid form at standard temperature
20 of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred
21 to as petroleum.

22 "Operating coal mine." The portion of a workable coal seam
23 which is covered by an underground mining permit issued by the
24 department.

25 "Operating well." A well that is not plugged and abandoned.

26 "Operator." A well operator.

27 "Orphan well." A well abandoned prior to April 18, 1985,
28 that has not been affected or operated by the present owner or
29 operator and from which the present owner, operator or lessee
30 has received no economic benefit other than as a landowner or

1 recipient of a royalty interest from the well.

2 "Outside coal boundaries." When used in conjunction with the
3 term "operating coal mine," the boundaries of the coal acreage
4 assigned to the coal mine under an underground mine permit
5 issued by the department.

6 "Owner." A person who owns, manages, leases, controls or
7 possesses a well or coal property. The term does not apply to
8 orphan wells, except where the department determines a prior
9 owner or operator benefited from the well as provided in section
10 311(a).

11 "Person." An individual, association, partnership,
12 corporation, political subdivision or agency of the Federal
13 Government, State government or other legal entity.

14 "Petroleum." Hydrocarbons in liquid form at standard
15 temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA,
16 also referred to as oil.

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

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

21 "Retreat mining." Removal of coal pillars, ribs and stumps
22 remaining after development mining has been completed in that
23 section of a coal mine.

24 "Secretary." The Secretary of Environmental Protection of
25 the Commonwealth.

26 "Unpaved road." Road surfaces consisting of dirt, gravel or
27 natural materials other than concrete or asphalt.

28 "Watercourse." A channel or conveyance of surface water
29 having defined bed and banks, whether natural or artificial,
30 with perennial or intermittent flow.

1 "Water purveyor." Any of the following:

2 (1) The owner or operator of a public water system as
3 defined in section 3 of the act of May 1, 1984 (P.L.206,
4 No.43), known as the Pennsylvania Safe Drinking Water Act.

5 (2) Any person subject to the act of June 24, 1939
6 (P.L.842, No.365), referred to as the Water Rights Law.

7 "Waters of the Commonwealth." As defined under section 1 of
8 the act of June 22, 1937 (P.L.1987, No.394), known as The Clean
9 Streams Law.

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 another liquid related to oil or gas production or
13 storage, including brine disposal, but excluding a bore hole
14 drilled to produce potable water. The term does not include a
15 bore hole drilled or being drilled for the purpose of or to be
16 used for:

17 (1) Systems of monitoring, producing or extracting gas
18 from solid waste disposal facilities, if the bore hole is a
19 well subject to the act of July 7, 1980 (P.L.380, No.97),
20 known as the Solid Waste Management Act, which does not
21 penetrate a workable coal seam.

22 (2) Degasifying coal seams, if the bore hole is:

23 (i) (A) used to vent methane to the outside
24 atmosphere from an operating coal mine;

25 (B) regulated as part of the mining permit under
26 The Clean Streams Law, and the act of May 31, 1945
27 (P.L.1198, No.418), known as the Surface Mining
28 Conservation and Reclamation Act; and

29 (C) drilled by the operator of the operating
30 coal mine for the purpose of increased safety; or

1 (ii) used to vent methane to the outside atmosphere
2 under a federally funded or State-funded abandoned mine
3 reclamation project.

4 "Well control emergency." An incident during drilling,
5 operation, workover or completion that, as determined by the
6 department, poses a threat to public health, welfare or safety,
7 including a loss of circulation fluids, kick, casing failure,
8 blowout, fire and explosion.

9 "Well control specialist." Any person trained to respond to
10 a well control emergency with a current certification from a
11 well control course accredited by the International Association
12 of Drilling Contractors or other organization approved by the
13 department.

14 "Well operator." Any of the following:

15 (1) The person designated as operator or well operator
16 on the permit application or well registration.

17 (2) If a permit or well registration was not issued, a
18 person who locates, drills, operates, alters or plugs a well
19 or reconditions a well with the purpose of production from
20 the well.

21 (3) If a well is used in connection with underground
22 storage of gas, a storage operator.

23 "Well site." The areas occupied by equipment or facilities
24 necessary for or incidental to drilling, completion, production
25 or plugging a well. The term shall include auxiliary pads,
26 staging areas, access roads and tank batteries.

27 "Wetland." Areas inundated or saturated by surface water or
28 groundwater at a frequency and duration sufficient to support,
29 and which normally support, a prevalence of vegetation typically
30 adapted for life in saturated soil conditions, including swamps,

1 marshes, bogs and similar areas.

2 "Workable coal seams." The term includes:

3 (1) A coal seam in fact being mined in the area in
4 question under this act by underground methods.

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

8 CHAPTER 3

9 GENERAL REQUIREMENTS

10 Section 301. Well permits.

11 (a) Permit required.--No person shall construct a well site,
12 drill or alter a well, except for alterations which satisfy the
13 requirements of subsection (j), without having first obtained a
14 well permit under subsections (b), (c), (d) and (e), or operate
15 an abandoned or orphan well unless in compliance with subsection
16 (k). A copy of the permit shall be kept at the well site during
17 preparation and construction of the well site or access road
18 during drilling or alteration of the well. No person shall be
19 required to obtain a permit to redrill a nonproducing well if
20 the redrilling:

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

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

28 (b) Plat.--

29 (1) The permit application shall be accompanied by a
30 complete and accurate plat prepared by a person trained in

1 the preparation of plats on forms furnished by the
2 department, which shall contain the following:

3 (i) the political subdivision and county in which
4 the tract of land upon which the well to be drilled,
5 operated or altered is located;

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

8 (iii) the name of all surface landowners and water
9 purveyors whose water supplies are within 1,000 feet of
10 the proposed well location;

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

13 (v) the acreage in the tract to be drilled;

14 (vi) the proposed location of the well determined by
15 plat, along with the courses and distances of the
16 location from two or more permanent identifiable points
17 or landmarks on the tract boundary corners;

18 (vii) the proposed angle and direction of the well
19 if the well is to be deviated substantially from a
20 vertical course;

21 (viii) the number or other identification to be
22 given to the well;

23 (ix) the workable coal seams underlying the tract of
24 land upon which the well is to be drilled or altered and
25 which shall be cased off under section 307; and

26 (x) any other information needed by the department
27 to administer this chapter.

28 (2) The applicant shall forward by certified mail a copy
29 of the plat to the:

30 (i) surface landowner;

1 (ii) the municipality in which the tract of land
2 upon which the well to be drilled is located;

3 (iii) all surface landowners and water purveyors,
4 whose water supplies are within 1,000 feet of the
5 proposed well location;

6 (iv) the owner and lessee of any workable coal
7 seams; and

8 (v) each coal operator required to be identified on
9 the well permit application.

10 (b.1) Notification.--

11 (1) The applicant shall submit proof of notification
12 with the well permit application. Notification of surface
13 owners shall be performed by sending notice to those persons
14 to whom the tax notices for the surface property are sent, as
15 indicated in the assessment books in the county in which the
16 property is located. Notification of surface landowners or
17 water purveyors shall be on forms, and in a manner prescribed
18 by the department, sufficient to identify the rights afforded
19 those persons under section 308 and to advise them of the
20 advantages of taking their own predrilling or prealteration
21 survey.

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

1 satisfy the notification requirements under this section.

2 (b.2) Approval.--If the applicant submits to the department
3 written approval of the proposed well location by the surface
4 landowner and the coal operator, lessee or owner of any workable
5 coal underlying the proposed well location and no objections are
6 raised by the department within 15 days of filing, or if no
7 approval has been submitted and no objections are made to the
8 proposed well location within 15 days from receipt of notice by
9 the department, the surface landowner or any coal operator,
10 lessee or owner, the written approval shall be filed and become
11 a permanent record of the well location, subject to inspection
12 at any time by any interested person. The application form to
13 operate an abandoned or orphan well shall provide notification
14 to the applicant of its responsibilities to plug the well upon
15 abandonment.

16 (c) Applicants.--If the applicant for a well permit is a
17 corporation, partnership or person that is not a resident of
18 this Commonwealth, the applicant shall designate the name and
19 address of an agent for the operator who shall be the attorney-
20 in-fact for the operator and who shall be a resident of this
21 Commonwealth upon whom notices, orders or other communications
22 issued under this chapter may be served and upon whom process
23 may be served. Each well operator required to designate an agent
24 under this section shall, within five days after termination of
25 the designation, notify the department of the termination and
26 designate a new agent.

27 (d) (Reserved).

28 (e) Issuance of permit.--The department shall issue a permit
29 within 45 days of submission of a permit application unless the
30 department denies the permit application for one or more of the

1 reasons set forth in subsection (e.1), except that the
2 department shall have the right to extend the period for 15 days
3 for cause shown upon notification to the applicant of the
4 reasons for the extension. The department may impose permit
5 terms and conditions necessary to assure compliance with this
6 chapter or other laws administered by the department.

7 (e.1) Denial of permit.--The department may deny a permit
8 for any of the following reasons:

9 (1) The well site for which a permit is requested is in
10 violation of any of this chapter or issuance of the permit
11 would result in a violation of this chapter or other
12 applicable law.

13 (2) The permit application is incomplete.

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

16 (4) The requirements of section 316 have not been met.

17 (5) The department finds that the applicant, or any
18 parent or subsidiary corporation of the applicant, is in
19 continuing violation of this chapter, any other statute
20 administered by the department, any regulation promulgated
21 under this chapter or a statute administered by the
22 department or any plan approval, permit or order of the
23 department, unless the violation is being corrected to the
24 satisfaction of the department. The right of the department
25 to deny a permit under this paragraph shall not take effect
26 until the department has taken a final action on the
27 violations and:

28 (i) the applicant has not appealed the final action
29 in accordance with the act of July 13, 1988 (P.L.530,
30 No.94), known as the Environmental Hearing Board Act; or

1 (ii) if an appeal has been filed, no supersedeas has
2 been issued.

3 (f) Drilling.--

4 (1) Upon issuance of a permit, the well operator may
5 drill, operate or alter at the exact location shown on the
6 plat after providing the department, the surface landowner
7 and the local political subdivision in which the well is to
8 be located 24 hours' notice of the date that drilling will
9 commence. Notification to the department must be provided
10 electronically. If there is a break in drilling of 30 days or
11 more, the well operator shall notify the department at least
12 24 hours prior to the resumption of drilling.

13 (2) Prior to drilling each additional project well, the
14 well operator shall notify the department and provide
15 reasonable notice of the date on which drilling will
16 commence.

17 (3) Whenever, before or during the drilling of a well
18 not within the boundaries of an operating coal mine, the well
19 operator encounters conditions of a nature which renders
20 drilling of the bore hole or a portion thereof impossible, or
21 more hazardous than usual, the well operator, upon verbal
22 notice to the department, may immediately plug all or part of
23 the bore hole, if drilling has occurred, and commence a new
24 bore hole not more than 50 feet from the old bore hole if the
25 location of the new bore hole does not violate section 305
26 and, in the case of a well subject to act of July 25, 1961
27 (P.L.825, No.359), known as the Oil and Gas Conservation Law,
28 if the new location complies with existing laws, regulations
29 and spacing orders and the new bore hole is at least 330 feet
30 from the nearest lease boundary.

1 (4) If drilling occurred at the original well bore,
2 within 10 days of commencement of the new bore hole, the well
3 operator shall file with the department a written notice of
4 intention to plug, a well record, a completion report, a
5 plugging certificate for the original bore hole and an
6 amended plat for the new bore hole.

7 (5) The well operator shall forward a copy of the
8 amended plat to the surface landowner identified on the well
9 permit application within 10 days of commencement of the new
10 well bore.

11 (g) Labeling.--The well operator shall install the permit
12 number issued by the department in a legible, visible and
13 permanent manner on the well upon completion.

14 (h) Expiration.--Well permits issued for drilling wells
15 under this chapter shall expire three years after issuance
16 unless operations for drilling the well are commenced within the
17 period and pursued with due diligence or unless the permit is
18 renewed in accordance with regulations of the department. If
19 drilling is commenced during the permit term, the well permit
20 shall remain in force until the well is plugged in accordance
21 with section 311 or the permit is revoked. A drilling permit
22 issued prior to April 18, 1985, for a well which is an operating
23 well on April 18, 1985, shall remain in force as a well permit
24 until the well is plugged in accordance with section 311.

25 (i) Exceptions.--The Environmental Quality Board may
26 establish by regulation certain categories of alterations of
27 permitted or registered wells for which permitting requirements
28 of this section shall not apply. A well operator or owner who
29 proposes to conduct the alteration activity shall first obtain a
30 permit or registration modification from the department. The

1 Environmental Quality Board shall promulgate regulations as to
2 the requirements for modifications.

3 (j) No transfer permitted.--No permit issued under this
4 section or registration issued under section 303 may be
5 transferred without prior approval of the department. A request
6 for approval of a transfer shall be on the forms, and in the
7 manner, prescribed by the department. Transfer of a home or
8 consumptive use well requires a bond for the well and the well
9 site on forms prescribed by the department in an amount
10 sufficient to plug the well and restore the well site, as
11 determined by the department. A bond filed with a transfer
12 request for a home or consumptive use well shall be payable to
13 the Commonwealth and conditioned on the transferee's faithful
14 performance of all water supply replacement, restoration and
15 plugging requirements of this chapter. The department shall
16 approve or deny a transfer request within 45 days of receipt of
17 a complete and accurate application. The department may deny a
18 request only for reasons set forth in subsection (e.1)(1), (4)
19 and (5) or if the well is abandoned. Approval of a transfer
20 request shall permanently transfer responsibility to plug the
21 well under section 311 to the recipient of the transferred
22 permit or registration.

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

28 Section 302. Permit objections.

29 (a) General rule.--If a well referred to in section 301(b)
30 will be located on a tract whose surface is owned by a person

1 other than the well operator, the surface landowner affected
2 shall be notified of the intent to drill and may file
3 objections, in accordance with section 501, based on the
4 assertion that the well location violates section 305 or that
5 information in the application is untrue in any material
6 respect, within 15 days of the receipt by the surface owner of
7 the plat under section 301(b). Receipt of notice by the surface
8 owner shall be presumed to have occurred 15 days from the date
9 of the certified mailing when the well operator submits a copy
10 of the certified mail receipt sent to the surface owner and an
11 affidavit certifying that the address of the surface owner to
12 which notice was sent is the same as the address listed in the
13 assessment books in the county where the property is located. If
14 no objection is filed or none is raised by the department within
15 15 days after receipt of the plat by the surface landowner or if
16 written approval by the surface landowner is filed with the
17 department and no objection is raised by the department within
18 15 days of filing, the department shall proceed to issue or deny
19 the permit.

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

- 23 (1) an operating coal mine; or
- 24 (2) a coal mine already projected and platted, but not
25 yet being operated, for which a technically complete mine
26 permit application has been filed with the department or
27 within 1,000 linear feet beyond the boundaries and the well,
28 when drilled, or the pillar of coal around the well will, in
29 the reasonable opinion of the coal owner or operator,
30 endanger the mine, the coal owner or operator affected shall

1 have the right to file objections in accordance with section
2 501 to the proposed location within 15 days of the receipt by
3 the coal operator of the plat provided for in section 301(b).

4 (c) Alternative location.--If possible, an alternative
5 location at which the proposed well could be drilled to overcome
6 objections under this section shall be indicated.

7 (d) Failure to object.--If no objection to the proposed
8 location is filed under this section or if none is raised by the
9 department within 15 days after receipt of the plat by the coal
10 operator or owner or if written approval by the coal operator or
11 owner of the location is filed with the department and no
12 objection is raised by the department within 15 days of filing,
13 the department shall proceed to issue or deny the permit.

14 (e) Procedure upon objection.--If an objection is filed by a
15 coal operator or owner or made by the department, the department
16 shall fix a time and place for a conference under section 501
17 not more than 10 days from the date of service of the objection
18 to allow the parties to consider the objection and attempt to
19 agree on a location. If the parties fail to agree, the
20 department, by an appropriate order, shall determine a location
21 on the tract of land as near to the original location as
22 possible where, in the judgment of the department, the well can
23 be safely drilled without unduly interfering with or endangering
24 the mine as defined in subsection (b). The new location agreed
25 upon by the parties or determined by the department shall be
26 indicated on the plat on file with the department and become a
27 permanent record upon which the department shall proceed to
28 issue or deny the permit.

29 (f) Survey.--Within 120 days after commencement of drilling
30 operations, the coal operator shall accurately locate the well

1 by a closed survey on the same datum as the mine workings or
2 coal boundaries are mapped, file the results of the survey with
3 the department and forward a copy by certified mail to the well
4 operator.

5 Section 303. Well adoption and identification.

6 (a) General rule.--Each person who owns or operates a well
7 in existence prior to the effective date of this section, which
8 has not been registered with the department and for which no
9 drilling permit has been issued by the department, shall apply
10 to adopt the well using forms developed by the department. No
11 fee shall be charged for well adoption unless the well must also
12 be altered in accordance with section 301 prior to operation.

13 (b) Orphan and abandoned wells.--A well owner, well operator
14 or other person discovering an abandoned well on property
15 purchased or leased by the well owner, well operator or other
16 person shall identify it to the department within 60 days of
17 discovery and advise the department that the operator is seeking
18 classification of the well as an orphan well or abandoned well.
19 The classification request shall include any available
20 information relating to the well's operating and ownership
21 interests. No fee shall be required for identification.

22 (c) Area of review.--An operator shall undertake reasonable
23 diligence to avoid inadvertent communication with abandoned,
24 orphan, plugged, active and inactive wells during hydraulic
25 fracturing by conducting an area of review investigation
26 consisting of the following:

- 27 (1) Review of records and reports.
- 28 (2) Field investigation.
- 29 (3) Nontrespass monitoring of orphan and abandoned
30 wells.

1 The area of review shall consist of the area of the operator's
2 oil and gas operating interest within half the well field
3 spacing of a vertical well or half the well field distances of
4 the lateral portion of a horizontal conventional well.

5 (d) Notice.--An operator shall provide notice to the
6 department as soon as practicable if a well undergoing hydraulic
7 fracturing communicates with any abandoned, orphan, plugged,
8 active or inactive well in a manner that has the potential to
9 cause an adverse environmental, public health or safety impact.
10 In a coal area in which the affected well is within an active
11 mine or 2,000 linear feet or less from an active mine, the coal
12 operator shall also be notified as soon as practicable.

13 (e) Remedial actions.--An operator inadvertently
14 communicating with any abandoned, orphan, plugged, active or
15 inactive well shall implement remedial actions necessary to
16 prevent pollution and protect the environment, public health and
17 safety. Remedial actions may include, but are not limited to,
18 cessation of hydraulic fracturing and plugging.

19 (f) Permit required.--A person who proposes to operate an
20 orphan or abandoned well affected by hydraulic fracturing
21 operations shall first obtain a permit to adopt and operate the
22 well in accordance with subsection (a) if the well complies with
23 the spacing requirements in coal areas under the act of December
24 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource
25 Coordination Act, or for wells subject to the act of July 25,
26 1961 (P.L.825, No.359), known as the Oil and Gas Conservation
27 Law.

28 (g) Regulations.--The Environmental Quality Board shall have
29 the authority to adopt regulations regarding the area of review
30 provisions under subsections (c), (d) and (e).

1 Section 304. Inactive status.

2 (a) General rule.--Within 60 days of receipt of an
3 application for inactive status, the department may grant
4 inactive status for a period of five years for a permitted or
5 registered well, if the following requirements are met:

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

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

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

19 (4) the applicant satisfies the bonding requirements of
20 sections 303 and 316.

21 (b) Determination.--If the department has not made a final
22 determination on an application for inactive status within 60
23 days, the well will be considered inactive for purposes of
24 compliance with the reporting requirements under this chapter
25 until the department makes a final determination on the
26 application for inactive status.

27 (c) Monitoring.--The owner or operator of a well granted
28 inactive status shall:

29 (1) be responsible for monitoring the mechanical
30 integrity of the well to ensure that the requirements of

1 subsection (a) (1) and (2) are met;

2 (2) submit a report on an annual basis to the department
3 in a manner and form as provided by the department that
4 demonstrates that the well complies with subsection (a) (1),
5 (2) and (3); and

6 (3) if granted under subsection (a), immediately notify
7 the department when the well no longer meets the requirements
8 of subsection (a) and plug the well in accordance with
9 section 311 or repair the well in order to meet the
10 requirements of subsection (a) (1) and (2).

11 (d) Return to active status.--A well granted inactive status
12 under subsection (a) or (b) shall be plugged in accordance with
13 section 311 or returned to active status within five years of
14 the date inactive status commenced, unless the owner or operator
15 applies for an extension of inactive status which may be granted
16 once for up to five years if the department determines that the
17 owner or operator has demonstrated an ability to continue
18 meeting the requirements of this section and the owner or
19 operator certifies that the well will be of future use within a
20 reasonable period of time. An owner or operator who has been
21 granted inactive status for a well which is returned to active
22 status prior to expiration of the five-year period set forth in
23 subsection (a) shall notify the department that the well has
24 been returned to active status and shall not be permitted to
25 apply for another automatic five-year period of inactive status
26 for the well. The owner or operator may make an application to
27 return the well to inactive status, and the application may be
28 approved on a year-to-year basis if the department determines
29 that the owner or operator has demonstrated an ability to
30 continue meeting the requirements of this section and the owner

1 or operator certifies that the well will be of future use within
2 a reasonable period of time. The department shall approve or
3 deny an application to extend a period of inactive status or to
4 return a well to inactive status within 60 days of receipt of
5 the application, and the application shall not be unreasonably
6 denied. If the department has not completed its review of the
7 application within 60 days, the inactive status shall continue
8 until the department has made a determination on the request. An
9 owner or operator may under no circumstances extend the total
10 period of inactive status for a well beyond 10 years unless the
11 operator files a bond on forms prescribed by the department in
12 an amount sufficient to plug the well and restore the well site
13 as determined by the department. A bond filed for an inactive
14 status well shall be payable to the Commonwealth and conditioned
15 on the operator's faithful performance of all water supply
16 replacement, restoration and plugging requirements of this
17 chapter. If the department denies an application to extend the
18 period of inactive status or to return a well to inactive
19 status, a well owner or operator aggrieved by the denial shall
20 have the right to appeal the denial to the Environmental Hearing
21 Board within 30 days of receipt of the denial. Upon cause shown
22 by a well owner or operator, the board may grant a supersedeas
23 under section 4 of the act of July 13, 1988 (P.L.530, No.94),
24 known as the Environmental Hearing Board Act, so that the well
25 in question may retain inactive status during the period of the
26 appeal.

27 (e) Revocation of inactive status.--The department may
28 revoke inactive status and order immediate plugging of a well if
29 the well is in violation of this chapter or rules or regulations
30 promulgated under this chapter or if the owner or operator

1 demonstrates inability to perform obligations under this chapter
2 or becomes financially insolvent, or upon receipt by the
3 department of notice of bankruptcy proceedings by the permittee.
4 Section 305. Well location restrictions.

5 (a) General rule.--Wells may not be drilled within 200 feet
6 measured horizontally from the vertical well bore to a building
7 or water well, existing when the copy of the plat is mailed as
8 required by section 301(b) without written consent of the owner
9 of the building or water well. If consent is not obtained and
10 the distance restriction would deprive the owner of the oil and
11 gas rights of the right to produce or share in the oil or gas
12 underlying the surface tract, the well operator shall be granted
13 a variance from the distance restriction upon submission of a
14 plan identifying the additional measures, facilities or
15 practices as prescribed by the department to be employed during
16 well site construction, drilling and operations. The variance
17 shall include additional terms and conditions required by the
18 department to ensure safety and protection of affected persons
19 and property, including insurance, bonding, indemnification and
20 technical requirements. Notwithstanding section 301(e), if a
21 variance request has been submitted, the department may extend
22 its permit review period for up to 15 days upon notification to
23 the applicant of the reasons for the extension.

24 (b) Limitation.--

25 (1) No well site may be prepared or well drilled within
26 100 feet from the vertical well bore or 100 feet from the
27 edge of the well site, whichever is greater, measured
28 horizontally from any solid blue lined stream, spring or body
29 of water as identified on the most current 7.5-minute
30 topographic quadrangle map of the United States Geological

1 Survey or within 100 feet of any wetlands greater than one
2 acre in size.

3 (2) The department may waive the distance restrictions
4 upon submission of a plan identifying additional measures,
5 facilities or practices to be employed during well site
6 construction, drilling and operations necessary to protect
7 the waters of the Commonwealth. The waiver, if granted, shall
8 include additional terms and conditions required by the
9 department necessary to protect the waters of the
10 Commonwealth. Notwithstanding section 301(e), if a waiver
11 request has been submitted, the department may extend its
12 permit review period for up to 15 days upon notification to
13 the applicant of the reasons for the extension.

14 (c) Impact.--On making a determination on a well permit, the
15 department shall consider the impact of the proposed well on
16 public resources, including:

17 (1) Publicly owned parks, forests, game lands and
18 wildlife areas.

19 (2) National or State scenic rivers.

20 (3) National natural landmarks.

21 (4) Habitats of threatened and endangered flora and
22 fauna that are listed in a final rulemaking by a Federal or
23 State agency with the statutory authority to list species for
24 protection.

25 (5) Historical and archaeological sites listed on the
26 Federal or State list of historic places.

27 (6) Sources used for public drinking supplies in
28 accordance with subsection (b).

29 ~~(d) Limitation. The department's consideration of impacts~~ <--
30 ~~to public natural resources under subsection (c) (1) is limited~~

1 ~~to publicly owned property for which the Commonwealth has~~
2 ~~trustee obligations and does not alter or affect the dominance~~
3 ~~of the subsurface estate or the rights of oil and gas owners to~~
4 ~~optimize the development of their subsurface property.~~

5 ~~(e)~~ (D) Standard of proof.--Any permit conditions imposed <--
6 under this section must be based upon clear and convincing
7 evidence of long term adverse impact to a public resource and
8 shall be developed in accordance with section 301(e).

9 ~~(f)~~ (E) Regulation criteria.--The Environmental Quality <--
10 Board shall develop the following criteria by regulation:

11 (1) For the department to utilize for conditioning a
12 well permit based on its impact to the public resources
13 identified under subsection (c) and for ensuring optimal
14 development of oil and gas resources and respecting property
15 rights of oil and gas owners.

16 (2) For appeal to the Environmental Hearing Board of a
17 permit containing conditions imposed by the department. The
18 regulations shall also provide that the department has the
19 burden of proving that the conditions were necessary to
20 protect against a probable harmful impact of the public
21 resources.

22 ~~(g)~~ (F) Floodplains.-- <--

23 (1) At well sites located within floodplains, water,
24 chemicals, fuels, hazardous materials or solid waste may be
25 stored temporarily during drilling or completion in
26 accordance with best practices. After the effective date of
27 this section, no permanent tank location may be constructed
28 within a floodplain without a waiver.

29 (2) The department may waive a restriction under this
30 act upon a permanent tank location upon submission of a plan

1 that shall identify the additional measures, facilities or
2 practices to be employed. The waiver, if granted, shall
3 impose permit conditions necessary to protect the waters of
4 the Commonwealth.

5 ~~(h)~~ (G) Best practices required.-- <--

6 (1) Best practices as determined by the department to
7 ensure the protection of the waters of the Commonwealth must
8 be utilized for the storage and handling of all water,
9 chemicals, fuels, hazardous materials or solid waste on a
10 well site located in a floodplain. The department may request
11 that the well site operator submit a plan for the storage and
12 handling of the materials for approval by the department and
13 may impose conditions or amend permits to include permit
14 conditions as are necessary to protect the environment,
15 public health and safety.

16 (2) Unless otherwise specified by the department, the
17 boundary of the floodplain shall be as indicated on maps and
18 flood insurance studies provided by the Federal Emergency
19 Management Agency. In an area where no Federal Emergency
20 Management Agency maps or studies have defined the boundary
21 of the 100-year frequency floodplain, absent evidence to the
22 contrary, the floodplain shall extend from:

23 (i) any perennial stream up to 100 feet horizontally
24 from the top of the bank of the perennial stream; or

25 (ii) any intermittent stream up to 50 feet
26 horizontally from the top of the bank of the intermittent
27 stream.

28 ~~(i)~~ (H) Applicability.-- <--

29 (1) This section shall not apply to a well proposed to
30 be drilled on an existing well site for which at least one

1 well permit has been issued prior to the effective date of
2 this section.

3 (2) Nothing in this section shall alter or abridge the
4 terms of any contract, mortgage or other agreement entered
5 into prior to the effective date of this section.

6 Section 306. Well site restoration.

7 (a) General rule.--Each oil or gas well owner or operator
8 shall restore the land surface within the area disturbed in
9 siting, drilling, completing, producing and plugging the well.
10 Unless a landowner's consent is obtained, restoration shall
11 include, but is not limited to, reclamation of the land affected
12 to preconstruction contours so that it:

13 (1) closely resembles the general surface configuration
14 of the land prior to construction activities, if known;

15 (2) blends into and complements the drainage pattern of
16 the surrounding terrain; and

17 (3) supports the land uses that existed prior to the
18 applicable oil and gas operations and to the extent
19 practicable based on current land conditions.

20 (b) Plan.--During and after earthmoving or soil disturbing
21 activities, including, but not limited to, activities related to
22 siting, drilling, completing, producing and plugging the well,
23 erosion and sedimentation control and storm water management
24 measures shall be implemented in accordance with a plan prepared
25 in accordance with the act of June 22, 1937 (P.L.1987, No.394),
26 known as The Clean Streams Law. For purpose of determining the
27 five-acre permit threshold under The Clean Streams Law, the well
28 site project includes only the construction of the well site and
29 new portions of access roads; well sites and new portions of
30 access roads concurrently under construction along an existing

1 common access road are to be considered part of the same well
2 site project. Existing well sites restored prior to drilling and
3 completing the wells are not considered to be part of new well
4 site projects.

5 (c) Pits, drilling supplies and equipment.--Within nine
6 months after the completion of drilling of a well or expiration
7 of the well permit, the owner or operator shall restore the well
8 site and remove or fill all pits used to contain produced fluids
9 or industrial wastes and remove all drilling supplies and
10 equipment not needed for production. Drilling supplies or other
11 equipment required for future repairs, operations or drilling
12 upon the oil and gas premises of which the well site is a
13 portion may be stored on the well site consistent with the
14 property rights of the owner of the oil and gas resources or if
15 the express written consent of the surface landowner is
16 obtained.

17 (d) Items related to production or storage.--Within nine
18 months after plugging a well, the owner or operator shall remove
19 all production or storage facilities, supplies and equipment and
20 restore the well site.

21 (e) Clean Streams Law.--Restoration activities required
22 under this act or in regulations promulgated under this act
23 shall also comply with all applicable provisions of The Clean
24 Streams Law.

25 (f) Violation of chapter.--Failure to restore a well site as
26 required under this act or regulations promulgated under this
27 act constitutes a violation of this chapter.

28 (g) Extension.--

29 (1) The restoration period may be extended by the
30 department for an additional period of time not to exceed two

1 years upon demonstration by the well owner or operator that:

2 (i) the extension will result in less earth
3 disturbance, increased water reuse or more efficient
4 development of the resources; or

5 (ii) site restoration cannot be achieved due to
6 adverse weather conditions or a lack of essential fuel,
7 equipment or labor.

8 (2) The demonstration under paragraph (1) shall do all
9 of the following:

10 (i) Include a site restoration plan that shall
11 provide for:

12 (A) the timely removal or fill of all pits used
13 to contain produced fluids or industrial wastes;

14 (B) the removal of all drilling supplies and
15 equipment not needed for production;

16 (C) the stabilization of the well site that
17 shall include interim postconstruction storm water
18 management best management practices; or

19 (D) other measures to be employed to minimize
20 accelerated erosion and sedimentation in accordance
21 with The Clean Streams Law.

22 (ii) Provide for restoring the portions of the site
23 not occupied by production facilities or equipment
24 consistent with subsection (a).

25 (3) The department may condition an extension under this
26 subsection as is necessary in accordance with The Clean
27 Streams Law.

28 Section 307. Protection of fresh groundwater and casing
29 requirements.

30 (a) General rule.--To aid in protection of fresh

1 groundwater, well operators shall control and dispose of brines
2 produced from the drilling, alteration or operation of an oil or
3 gas well in a manner consistent with the act of June 22, 1937
4 (P.L.1987, No.394), known as The Clean Streams Law, or any
5 regulation promulgated under The Clean Streams Law.

6 (b) Casing.--To prevent migration of gas or fluids into
7 sources of fresh groundwater and pollution or diminution of
8 fresh groundwater, a string or strings of casing shall be run
9 and permanently cemented in each well drilled through the fresh
10 water-bearing strata to a depth and in a manner prescribed by
11 regulation by the department. The regulation shall be consistent
12 with practices that have proven to be protective in regional
13 areas and consider the use of alternative cement formulations
14 and casing materials to protect the casing from corrosion,
15 lithologic and physical conditions of the surrounding well bore.

16 (c) Noncoal areas.--In noncoal areas, the surface casing may
17 be employed as production casing for oil or gas production,
18 provided:

19 (1) The operator pumps a volume of cement equal to or
20 greater than 120% of the calculated annular space.

21 (2) The operator circulates cement using the
22 displacement method.

23 (3) The location of cement within the annular space, as
24 determined by logging, and the function of the casing string
25 satisfy the requirements of subsection (b) and other
26 regulations prescribed by the department. To achieve
27 sufficient cement coverage in the annular space, the operator
28 may install a cement basket immediately above the depth of an
29 anticipated lost circulation zone and fill the annular space
30 by pumping from the surface if a casing and cementing plan

1 detailing the procedure is approved by the department.

2 (d) Procedure when coal has been removed.--If a well is
3 drilled at a location where coal has been removed from one or
4 more coal seams, the well shall be drilled and cased to prevent
5 migration of gas or fluids into the seam from which coal has
6 been removed in a manner prescribed by regulation of the
7 department. The department and the coal operator, owner or
8 lessee shall be given at least 72 hours' notice prior to
9 commencement of work protecting the mine.

10 (e) Procedure when coal has not been removed.--If a well is
11 drilled at a location where the coal seam has not been removed,
12 the casing shall be installed and permanently cemented in a
13 manner prescribed by regulation to exclude gas or fluids from
14 the coal seam, except gas or fluids found naturally in the seam
15 itself, and to enable monitoring the integrity of the production
16 casing.

17 Section 308. Protection of water supplies.

18 (a) General rule.--In addition to the requirements of
19 subsection (c.1), a well operator who affects a public or
20 private water supply by pollution or diminution shall restore or
21 replace the affected supply with an alternate source of water
22 adequate in quantity or quality for the purposes served by the
23 supply. The quality of a restored or replaced water supply will
24 be deemed adequate if it meets the standards established under
25 the act of May 1, 1984 (P.L.206, No.43), known as the
26 Pennsylvania Safe Drinking Water Act, or is comparable to the
27 quality of the water supply before it was affected by the
28 operator if that water supply did not meet these standards. The
29 Environmental Quality Board shall promulgate regulations
30 necessary to meet the requirements of this subsection.

1 (b) Pollution or diminution of water supply.--A landowner or
2 water purveyor suffering pollution or diminution of a water
3 supply as a result of the drilling, alteration or operation of
4 an oil or gas well may so notify the department and request that
5 an investigation be conducted. Within 10 days of notification,
6 the department shall investigate the claim and make a
7 determination within 45 days following notification. If the
8 department finds that the pollution or diminution was caused by
9 drilling, alteration or operation activities or if it presumes
10 the well operator responsible for pollution under subsection
11 (c), the department shall issue orders to the well operator
12 necessary to assure compliance with subsection (a), including
13 orders requiring temporary replacement of a water supply where
14 it is determined that pollution or diminution may be of limited
15 duration.

16 (b.1) (Reserved).

17 (b.2) Telephone number.--The department shall establish a
18 single Statewide toll-free telephone number that persons may use
19 to report cases of water contamination which may be associated
20 with the development of oil and gas resources. The Statewide
21 toll-free telephone number shall be provided in a conspicuous
22 manner in the notification required under section 301(b) and on
23 the department's publicly accessible Internet website.

24 (b.3) Responses.--The department shall develop appropriate
25 administrative responses to calls received on the Statewide
26 toll-free telephone number for water contamination.

27 (b.4) Website.--The department shall publish, on its
28 publicly accessible Internet website, lists of confirmed cases
29 of subterranean water supply contamination that result from
30 hydraulic fracturing.

1 (b.5) Facility operation qualifications.--The department
2 shall ensure that a facility which seeks a National Pollutant
3 Discharge Elimination System permit for the purposes of treating
4 and discharging wastewater originating from oil and gas
5 activities into waters of the Commonwealth is operated by a
6 competent and qualified individual.

7 (c) Presumption.--Unless rebutted by a defense established
8 in subsection (d), it shall be presumed that a well operator is
9 responsible for pollution of a water supply if:

10 (1) the water supply is within 1,000 feet of an oil or
11 gas well; and

12 (2) the pollution occurred within six months after
13 completion of drilling or alteration of the oil or gas well.

14 (c.1) Requirement.--If the affected water supply is within
15 the rebuttable presumption area as provided in subsection (c)
16 and the rebuttable presumption applies, the operator shall
17 provide a temporary water supply if the water user is without a
18 readily available alternative source of water. The temporary
19 water supply provided under this subsection shall be adequate in
20 quantity and quality for the purposes served by the supply.

21 (d) Defenses.--To rebut the presumption established under
22 subsection (c), a well operator must affirmatively prove any of
23 the following:

24 (1) the pollution existed prior to the drilling or
25 alteration activity as determined by a predrilling or
26 prealteration survey;

27 (2) the landowner or water purveyor refused to allow the
28 operator access to conduct a predrilling or prealteration
29 survey;

30 (3) the water supply is not within 1,000 feet of the

1 well;

2 (4) the pollution occurred more than six months after
3 completion of drilling or alteration activities; and

4 (5) the pollution occurred as the result of a cause
5 other than the drilling or alteration activity.

6 (e) Independent certified laboratory.--An operator electing
7 to preserve a defense under subsection (d)(1) or (2) shall
8 retain an independent certified laboratory to conduct a
9 predrilling or prealteration survey of the water supply. A copy
10 of survey results shall be submitted to the department and the
11 landowner or water purveyor in the manner prescribed by the
12 department.

13 (f) Other remedies preserved.--Nothing in this section shall
14 prevent a landowner or water purveyor claiming pollution or
15 diminution of a water supply from seeking any other remedy at
16 law or in equity.

17 Section 309. Use of safety devices.

18 Any person engaged in drilling an oil or gas well shall equip
19 it with casings of sufficient strength, and other safety devices
20 as are necessary, in the manner prescribed by regulation of the
21 department, and shall use every effort and endeavor effectively
22 to prevent blowouts, explosions and fires.

23 Section 310. Well control emergency response.

24 (a) Contracts.--The department may enter into contracts with
25 well control specialists in order to provide adequate emergency
26 response services in the event of a well control emergency. The
27 department shall make available, upon request by a county,
28 information relating to contracts with well control specialists.

29 (b) Civil immunity.--Except as set forth in subsection (c),
30 a well control specialist with which the department has entered

1 into a contract under subsection (a) shall be immune from civil
2 liability for actions taken in good faith to carry out its
3 contractual obligations.

4 (c) Nonapplicability.--Subsection (b) shall not apply to
5 damage arising from any of the following:

6 (1) Breach of the contract under subsection (a).

7 (2) An intentional tort.

8 (3) Gross negligence.

9 Section 311. Plugging requirements.

10 (a) General rule.--Conventional wells shall be plugged in
11 accordance with this act. Prior to abandoning a well, the owner
12 or operator shall plug it in the manner prescribed by regulation
13 of the department to stop vertical flow of fluids or gas within
14 the well bore, unless the department has determined that the
15 flow is an acceptable artesian flow of freshwater, the well is
16 on inactive status or it has been approved by the department as
17 an orphan well. If the department determines that a prior owner
18 or operator received economic benefit, other than economic
19 benefit derived only as a landowner or from a royalty interest,
20 after April 18, 1979, from an orphan well or an unregistered
21 well, the owner or operator shall be responsible for plugging
22 the well. In the case of a gas well penetrating a workable coal
23 seam which was drilled prior to January 30, 1956, or which was
24 permitted after that date but not plugged in accordance with
25 this chapter, if the owner or operator or a coal operator or an
26 agent proposes to plug the well to allow mining through it, the
27 gas well shall be cleaned to a depth of at least 200 feet below
28 the coal seam through which mining is proposed and, unless
29 impracticable, to a point 200 feet below the deepest mineable
30 coal seam. The gas well shall be plugged from that depth in

1 accordance with section 13 of the act of December 18, 1984
2 (P.L.1069, No.214), known as the Coal and Gas Resource
3 Coordination Act, and the regulations of the department.

4 (b) Areas underlain by coal.--Prior to the plugging and
5 abandonment of a well in an area underlain by a workable coal
6 seam, the well operator or owner shall notify the department and
7 the coal operator, lessee or owner and submit a plat showing the
8 location of the well and fixing the date and time plugging will
9 commence, which shall be not less than three working days, nor
10 more than 30 days, after the notice is received, to permit
11 representatives of the persons notified to be present at the
12 plugging. Notice and the right to be present may be waived by
13 the department and the coal operator, lessee or owner, but
14 waiver by the coal operator, lessee or owner shall be in writing
15 and a copy shall be attached to the notice of abandonment filed
16 with the department under this section. Whether or not
17 representatives attend, if the well operator has fully complied
18 with this section, the well operator may proceed, at the time
19 fixed, to plug the well in the manner prescribed by regulation
20 of the department. When plugging has been completed, a
21 certificate shall be prepared and signed, on a form to be
22 furnished by the department, by two experienced and qualified
23 people who participated in the work setting forth the time and
24 manner in which the well was plugged. One copy of the
25 certificate shall be mailed to each coal operator, lessee or
26 owner to whom notice was given by certified mail and another
27 shall be mailed to the department.

28 (c) Abandoned wells.--Prior to abandonment of a well, except
29 an uncompleted bore hole plugged immediately upon suspension of
30 drilling in an area not underlain by a workable coal seam, the

1 well operator shall notify the department of the intention to
2 plug and abandon the well and submit a plat showing the location
3 of the well and fixing the date and time at which plugging will
4 commence, which shall be not less than three working days, nor
5 more than 30 days, after the notice is received, to permit a
6 department representative to be present at the plugging. The
7 notice or waiting period may be verbally waived by the
8 department. In noncoal areas where more than one well has been
9 drilled as part of the same development project and the wells
10 are now to be plugged, the department shall be given three
11 working days' notice prior to plugging the first well of the
12 project, subject to waiver of notice described in subsection
13 (b). In the plugging of subsequent wells, no additional notice
14 shall be required if plugging on the project is continuous. If
15 plugging of subsequent wells is delayed for any reason, notice
16 shall be given to the department of continuation of the project.
17 Whether or not a representative attends, if the well operator
18 has fully complied with this section, the well operator may
19 proceed, at the time fixed, to plug the well in the manner
20 prescribed by regulation of the department. When plugging has
21 been completed, a certificate shall be prepared, on a form to be
22 furnished by the department, by two experienced and qualified
23 people who participated in the work setting forth the time and
24 manner in which the well was plugged. A copy of the certificate
25 shall be mailed to the department.

26 (d) Wells abandoned upon completion of drilling.--If a well
27 is to be abandoned immediately after completion of drilling, the
28 well operator shall give at least 24 hours' notice, confirmed by
29 certified mail, to the department and to the coal operator,
30 lessee or owner, if any, fixing the date and time when plugging

1 will commence. Notice and the right to be present may be waived
2 by the department and the coal operator, lessee or owner, if
3 any. Whether or not representatives of the department or coal
4 operator, lessee or owner, if any, attend, if the well operator
5 has fully complied with the requirements of this section, the
6 well operator may proceed, at the time fixed, to plug the well
7 in the manner provided by regulation of the department. The well
8 operator shall prepare the certificate of plugging and mail
9 copies of the same as provided in subsection (b).

10 (e) Orphan and abandoned wells.--If a well is an orphan well
11 or abandoned without plugging or if a well is in operation but
12 not registered, the department may enter upon the well site and
13 plug the well and sell equipment, casing and pipe at the site
14 which may have been used in production of the well in order to
15 recover the costs of plugging. The department shall make an
16 effort to determine ownership of a well which is in operation
17 but has not been registered and provide written notice to the
18 owner of pending action under this subsection. If the department
19 cannot determine ownership within 30 days, it may proceed under
20 this subsection. Costs of plugging shall have priority over all
21 liens on equipment, casing and pipe, and the sale shall be free
22 and clear of those liens to the extent that the cost of plugging
23 exceeds the sale price. If the amount obtained for casing and
24 pipe salvaged at the site is inadequate to pay for plugging, the
25 owner or operator of the abandoned or unregistered well shall be
26 liable for the additional costs.

27 (f) Environmental good Samaritans.--A person is not subject
28 to liability for environmental remediation related to an orphan
29 well or abandoned well without a responsible owner or operator
30 and is not required to plug an orphan well solely because the

1 person obtains approval from the department to plug an orphan
2 well. A person undertaking the plugging of an orphan well or
3 abandoned well without a responsible owner or operator with
4 approval from the department under 27 Pa.C.S. Ch. 81 (relating
5 to good Samaritan), including by way of a grant or payment from
6 the Commonwealth Financing Authority, is not subject to the
7 notice requirements of 27 Pa.C.S. § 8105(b) (relating to
8 eligibility and project inventory), provided that the surface
9 landowner is notified and grants access to the well. Notice to
10 the department and the surface landowner shall be provided on
11 forms developed by the department. When plugging has been
12 completed, a certificate shall be prepared and signed on a form
13 to be furnished by the department by two experienced and
14 qualified individuals who participated in the work and set forth
15 the time and manner in which the well was plugged. A copy of the
16 certificate shall be provided to the department.

17 (g) Persons who voluntarily plug an orphan or abandoned well
18 in accordance with this section.--In addition to the categories
19 of grants available through the Commonwealth Financing Authority
20 from revenue deposited into the Marcellus Legacy Fund under 58
21 Pa.C.S. § 2315(a.1)(1) (relating to Statewide initiatives),
22 persons who voluntarily plug an orphan or abandoned well without
23 a responsible owner or operator may also apply to the
24 Commonwealth Financing Authority for a grant and the following
25 shall apply:

26 (1) The Commonwealth Financing Authority shall not
27 provide any grant under this section unless the department
28 certifies that the well was plugged in accordance with law on
29 forms developed by the department.

30 (2) The Commonwealth Financing Authority shall give

1 priority consideration to grant applications submitted under
2 this section and may annually award grants, subject to the
3 availability of funds, in the following amounts, which shall
4 be adjusted annually from the effective date of this section
5 to reflect increases in the Consumer Price Index:

6 (i) for each well 2,000 feet or less below ground
7 surface, \$10,000;

8 (ii) for each well between 2,001 and 3,000 feet
9 below ground surface, \$20,000; or

10 (iii) for each well greater than 3,000 feet below
11 ground surface, \$30,000.

12 (h) Liability protection.--A person who voluntarily plugs an
13 orphan well or abandoned well without a responsible owner or
14 operator and receives payment under this section shall not be
15 disqualified from liability protections under 27 Pa.C.S. Ch. 81.

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

26 (j) Definition.--For purposes of this section, the term
27 "owner" does not include the owner or possessor of surface real
28 property, on which an abandoned well is located, who did not
29 participate or incur costs in and had no right of control over
30 the drilling or extraction operation of the abandoned well.

1 Section 312. Alternative methods.

2 A well operator may request permission to use a method or
3 material other than those required by this chapter and
4 applicable regulations for casing, plugging or equipping a well
5 in an application to the department which describes the proposed
6 alternative in reasonable detail and indicates the manner in
7 which it will accomplish the goals of this chapter. Notice of
8 filing of the application shall be given by the well operator by
9 certified mail to any affected coal operators, who may, within
10 15 days after the notice, file objections to the proposed
11 alternative method or material. If no timely objections are
12 filed or raised by the department, the department shall
13 determine whether to allow use of the proposed alternative
14 method or material.

15 Section 313. Well reporting requirements.

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

26 (b) Collection of data.--

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

29 (2) A record containing the information required by the
30 department shall be filed within 30 days after drilling of a

1 well.

2 (3) Within 30 days after completion of the well, when
3 the well is capable of production, a completion report
4 containing any additional required information shall be filed
5 and shall be maintained by the department.

6 (4) The well operator shall, within 90 days of
7 completion or recompletion of drilling, submit a copy of any
8 electrical, radioactive or other standard industry logs which
9 have been run.

10 (5) Upon request 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 had it
16 compiled in the ordinary course of business, and
17 interpretation of data under this paragraph is not required
18 to be filed.

19 (b.1) Report contents.--

20 (1) The completion report shall contain the operator's
21 stimulation record. The stimulation record shall include all
22 of the following:

23 (i) A descriptive list of the chemical additives in
24 the stimulation fluids, including any acid, biocide,
25 breaker, brine, corrosion inhibitor, crosslinker,
26 demulsifier, friction reducer, gel, iron control, oxygen
27 scavenger, Ph adjusting agent, proppant, scale inhibitor
28 and surfactant.

29 (ii) The trade name, vendor and a brief descriptor
30 of the intended use or function of each chemical additive

1 in the stimulation fluid.

2 (iii) A list of the chemicals intentionally added to
3 the stimulation fluid, by name and chemical abstract
4 service number.

5 (iv) The maximum concentration, in percent by mass,
6 of each chemical intentionally added to the stimulation
7 fluid.

8 (v) The total volume of the base fluid.

9 (vi) The pump rates and pressure used in the well.

10 (vii) The total volume of recycled water used.

11 (2) The well record shall identify whether methane was
12 encountered in other than a target formation.

13 (b.2) Trade secret or confidential proprietary
14 information.--When an operator submits its stimulation record
15 under subsection (b.1), the operator may designate specific
16 portions of the stimulation record as containing a trade secret
17 or confidential proprietary information. The department shall
18 prevent disclosure of a designated trade secret or confidential
19 proprietary information to the extent permitted by the act of
20 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
21 or other applicable State law.

22 (c) Drill cuttings and core samples.--Upon notification by
23 the department prior to commencement of drilling, the well
24 operator shall collect any additional data specified by the
25 department, including representative drill cuttings and samples
26 from cores taken and any other geological information that the
27 operator reasonably can compile. Interpretation of the data is
28 not required to be filed.

29 (d) Retention and filing.--Data required under subsection
30 (b) (5) and drill cuttings required under subsection (c) shall be

1 retained by the well operator and filed with the department no
2 more than three years after completion of the well. Upon
3 request, the department shall extend the deadline up to five
4 years from the date of completion of the well. The department
5 shall be entitled to utilize information collected under this
6 subsection in enforcement proceedings, in making designations or
7 determinations under section 1927-A of The Administrative Code
8 of 1929 and in aggregate form for statistical purposes.

9 Section 314. Notification and effect of well transfer.

10 The owner or operator of a well shall notify the department
11 in writing within 30 days, in a form directed by regulation, of
12 sale, assignment, transfer, conveyance or exchange by or to the
13 owner of the well. A transfer shall not relieve the well owner
14 or operator of an obligation accrued under this chapter, nor
15 shall it relieve the owner or operator of an obligation to plug
16 the well until the requirements of section 316 have been met, at
17 which time the transferring owner or operator shall be relieved
18 from all obligations under this chapter, including the
19 obligation to plug the well.

20 Section 315. Coal operator responsibilities.

21 (a) General rule.--

22 (1) At any time prior to removing coal or other
23 underground material or extending the workings in a coal mine
24 within 500 feet of an oil or gas well of which the coal
25 operator has knowledge or an approved well location of which
26 the coal operator has knowledge, the coal operator shall
27 forward, by certified mail, to, or file with, the well
28 operator and the department a copy of the relevant part of
29 the coal operator's maps and plans which is presently
30 required by law to be prepared and filed with the department,

1 showing the pillar which the coal operator proposes to leave
2 in place around each oil or gas well in the projected
3 workings.

4 (2) Following the filing of maps and plans under
5 paragraph (1), the coal operator may proceed with mining
6 operations in the manner projected on the maps and plans. The
7 coal operator shall not remove any coal or cut any passageway
8 within 150 feet of a well or approved well location until
9 written approval has been granted as provided under this
10 section.

11 (3) If, in the opinion of the well operator or the
12 department, the plan indicates that the pillar proposed to be
13 left around a well or approved well location is inadequate to
14 protect either the integrity of the well or the public health
15 and safety, the well operator affected shall attempt to agree
16 with the coal operator upon a suitable pillar, subject to the
17 approval of the department. If the parties fail to agree, the
18 well operator may, within 10 days from receipt of the plan,
19 file objections to the proposed plan in accordance with
20 section 501, indicating the size of the pillar to be left
21 with respect to each well.

22 (4) If no objections are filed within the 10-day period
23 or if none are raised by the department, the department shall
24 grant approval to the coal operator, which shall document the
25 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 501 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. If the plan is agreed upon, the department shall
10 grant approval to the coal operator reciting the filing of
11 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 unless the department establishes 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 if the department establishes the existence of
25 unusual conditions.

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

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

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

17 (e) Construction.--Nothing in this act shall be construed to
18 require a well operator to pay for a coal pillar required by law
19 to be left around a well drilled prior to April 18, 1985. A
20 requirement for a coal operator to leave a pillar of coal of a
21 certain size around a well drilled after April 18, 1985, shall
22 not in any way affect:

23 (1) the rights which the coal operator would have had
24 prior to April 18, 1985, to obtain payment for the coal; or

25 (2) any duty or right which the well operator or land
26 owner may have had prior to April 18, 1985, to pay for or not
27 to pay for the coal.

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

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

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

10 Section 316. Bonding.

11 (a) General rule.--

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

1 well for at least two years following the effective date of
2 this act, after which time the bond amount may be adjusted by
3 the Environmental Quality Board every two years to reflect
4 the projected costs to the Commonwealth of performing well
5 plugging.

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

17 (3) Liability under the bond shall continue until the
18 well has been properly plugged in accordance with this
19 chapter and for a period of one year after filing of the
20 certificate of plugging with the department. Each bond shall
21 be executed by the operator and a corporate surety licensed
22 to do business in this Commonwealth and approved by the
23 secretary. In lieu of a corporate surety, the operator may
24 deposit with the department:

25 (i) cash;

26 (ii) certificates of deposit or automatically
27 renewable irrevocable letters of credit, from financial
28 institutions chartered or authorized to do business in
29 this Commonwealth and regulated and examined by the
30 Commonwealth or a Federal agency, which may be terminated

1 at the end of a term only upon 90 days' prior written
2 notice by the financial institution to the permittee and
3 the department;

4 (iii) negotiable bonds of the United States
5 Government or the Commonwealth, the Pennsylvania Turnpike
6 Commission, the General State Authority, the State Public
7 School Building Authority or any municipality within the
8 Commonwealth; or

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

19 (4) The secretary shall, upon receipt of a deposit of
20 cash, letters of credit or negotiable bonds, immediately
21 place the same with the State Treasurer, whose duty it shall
22 be to receive and hold the same in the name of the
23 Commonwealth, in trust, for the purpose for which the deposit
24 is made.

25 (5) The State Treasurer shall at all times be
26 responsible for custody and safekeeping of deposits. The
27 operator making the deposit shall be entitled from time to
28 time to demand and receive from the State Treasurer, on the
29 written order of the secretary, the whole or any portion of
30 collateral deposited, upon depositing with the State

1 Treasurer, in lieu of that collateral, other collateral of
2 classes specified in this section having a market value at
3 least equal to the sum of the bond, and also to demand,
4 receive and recover the interest and income from the
5 negotiable bonds as they become due and payable.

6 (6) If negotiable bonds on deposit under this subsection
7 mature or are called, the State Treasurer, at the request of
8 the owner of the bonds, shall convert them into other
9 negotiable bonds, of classes specified in this section,
10 designated by the owner.

11 (7) If notice of intent to terminate a letter of credit
12 is given, the department shall give the operator 30 days'
13 written notice to replace the letter of credit with other
14 acceptable bond guarantees as provided in this section. If
15 the owner or operator fails to timely replace the letter of
16 credit, the department shall draw upon and convert the letter
17 of credit into cash and hold it as a collateral bond
18 guarantee.

19 (b) Release.--No bond shall be fully released until the
20 requirements of subsection (a) and section 314 have been fully
21 met. Upon release of bonds and collateral under this section,
22 the State Treasurer shall immediately return to the owner the
23 specified amount of cash or securities.

24 (c) Noncompliance.--If a well owner or operator fails or
25 refuses to comply with subsection (a), regulations promulgated
26 under this chapter or conditions of a permit relating to this
27 chapter, the department may declare the bond forfeited and shall
28 certify the same to the Attorney General, who shall proceed to
29 enforce and collect the full amount of the bond and, if the well
30 owner or operator has deposited cash or securities as collateral

1 in lieu of a corporate surety, the department shall declare the
2 collateral forfeited and direct the State Treasurer to pay the
3 full amount of the funds into the Well Plugging Restricted
4 Revenue Account or to sell the security to the extent forfeited
5 and pay the proceeds into the Well Plugging Restricted Revenue
6 Account. If a corporate surety or financial institution fails to
7 pay a forfeited bond promptly and in full, the corporate surety
8 or financial institution shall be disqualified from writing
9 further bonds under this chapter or any other environmental law
10 administered by the department. A person aggrieved by reason of
11 forfeiting the bond or converting collateral, as provided in
12 this section, shall have a right to appeal to the Environmental
13 Hearing Board in the manner provided by law. Upon forfeiture of
14 a blanket bond for a violation occurring at one or more well
15 sites, the person whose bond is forfeited shall, within 10 days
16 of the forfeiture, submit a replacement bond to cover all other
17 wells of which the person is an owner or operator. Failure to
18 submit the replacement bond constitutes a violation of this
19 section as to each of the wells owned or operated by the person.

20 (d) Reservation of remedies.--All remedies for violations of
21 this chapter, regulations adopted under this chapter and
22 conditions of permits are expressly preserved. Nothing in this
23 section shall be construed as an exclusive penalty or remedy for
24 violations of law. No action taken under this section shall
25 waive or impair any other remedy or penalty provided in law.

26 (e) Change of law.--Owners or operators who have failed to
27 meet the requirements of this section prior to August 1, 1992,
28 shall not be required to make payments under this section on a
29 retroactive basis as a condition of obtaining a permit under
30 this chapter, nor shall the failure be deemed a violation of

1 this chapter.

2 CHAPTER 5

3 ENFORCEMENT AND REMEDY

4 Section 501. Conferences.

5 (a) General rule.--The department or any person having a
6 direct interest in a matter subject to this chapter may, at any
7 time, request that a conference be held to discuss and attempt
8 to resolve by mutual agreement a matter arising under this
9 chapter. Unless otherwise provided, conferences shall be held
10 within 90 days after a request is received by the department,
11 and notice 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 chapter and, if approved by the department, it shall be reduced
16 to writing and shall be effective, unless reviewed and rejected
17 by the department within 10 days after the conference. The
18 record of an agreement approved by the department shall be kept
19 on file by the department and copies shall be furnished to the
20 parties. The scheduling of a conference shall have no effect on
21 the department's authority to issue orders to compel compliance
22 with this chapter.

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

27 Section 502. Public nuisances.

28 A violation of section 307, 308, 309 or 311, or a regulation,
29 order, term or condition of a permit relating to any of those
30 sections constitutes a public nuisance.

1 Section 503. Enforcement orders.

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

9 (b) Suspension and revocation.--

10 (1) The department may suspend or revoke a well permit
11 or well registration for any well in continuing violation of
12 one of the following for which the likely result of the
13 violation is an unsafe operation or environmental damage:

14 (i) This chapter.

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) A suspension order of the department shall
22 automatically terminate if the violation upon which it is
23 based is corrected by the operator to the satisfaction of the
24 department in order to bring the well into compliance with
25 this chapter.

26 (c) Written notice.--Prior to suspension or revocation of a
27 well permit or registration, the department shall serve written
28 notice on the well operator or its agent, stating specifically
29 the statutory provision, regulation or other reason relied upon,
30 along with factual circumstances surrounding the alleged

1 violation. If the department suspends or revokes the permit or
2 registration, the department may order the operator to cap the
3 well if the likely result of the violation is an unsafe
4 operation or environmental damage.

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

8 (e) Grievances.--A person aggrieved by a department order
9 issued under this section shall have the right, within 30 days
10 of receipt of the notice, to appeal to the Environmental Hearing
11 Board.

12 Section 504. Restraining violations.

13 (a) General rule.--In addition to any other remedy provided
14 in this chapter, the department may institute a suit in equity
15 in the name of the Commonwealth for an injunction to restrain a
16 violation of this chapter or rules, regulations, standards or
17 orders adopted or issued under this chapter and to restrain the
18 maintenance or threat of a public nuisance. Upon motion of the
19 Commonwealth, the court shall issue a prohibitory or mandatory
20 preliminary injunction if it finds that the defendant is
21 engaging in unlawful conduct, as defined by this chapter, or
22 conduct causing immediate and irreparable harm to the public.
23 The Commonwealth shall not be required to furnish bond or other
24 security in connection with the proceeding. In addition to an
25 injunction, the court in equity may level civil penalties as
26 specified in section 507.

27 (b) District attorney.--In addition to other remedies in
28 this chapter, upon relation of the district attorney of a county
29 affected or upon relation of the solicitor of a municipality
30 affected, an action in equity may be brought in a court of

1 competent jurisdiction for an injunction to restrain a violation
2 of this chapter or rules and regulations promulgated under this
3 chapter or to restrain a public nuisance or detriment to health.

4 (c) Concurrent penalties.--Penalties and remedies under this
5 chapter shall be deemed concurrent. Existence or exercise of one
6 remedy shall not prevent the department from exercising another
7 remedy at law or in equity.

8 (d) Jurisdiction.--Actions under this section may be filed
9 in the appropriate court of common pleas or in Commonwealth
10 Court, and those courts are hereby granted jurisdiction to hear
11 actions under this section.

12 Section 505. Well control emergency response cost recovery.

13 A person liable for a well control emergency is responsible
14 for all response costs incurred by the department for well
15 control specialists to respond to the well control emergency. In
16 an action before a court of competent jurisdiction, the
17 department may recover all its response costs, including the
18 cost of regaining control of the well, controlling the perimeter
19 of the well site, preparing water sprays, establishing trenches
20 or dikes to capture runoff fluids and providing the resources
21 and equipment needs for the incident.

22 Section 506. Penalties.

23 (a) General violation.--A person violating a provision of
24 this chapter commits a summary offense and, upon conviction,
25 shall be sentenced to pay a fine of not more than \$500 or to
26 imprisonment of not more than 90 days, or both. Each day during
27 which the violation continues is a separate and distinct
28 offense.

29 (b) Willful violation.--A person willfully violating a
30 provision of this chapter or an order of the department issued

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

6 (c) Authority.--The department may institute a prosecution
7 against any person or municipality for a violation of this
8 chapter.

9 Section 507. Civil penalties.

10 In addition to other remedies available at law or in equity
11 for a violation of this chapter, a regulation of the department,
12 a departmental order or a permit condition, the department,
13 after a hearing, may assess a civil penalty regardless of
14 whether the violation was willful. The penalty shall not exceed
15 \$25,000 plus \$1,000 for each day during which the violation
16 continues. In determining whether to assess a penalty or the
17 amount of the penalty, the department shall consider willfulness
18 of the violation, damage or injury to natural resources of this
19 Commonwealth or their uses, endangerment of safety of others,
20 the cost of remedying the harm, savings resulting to the
21 violator as a result of the violation, whether the operator
22 voluntarily plugged an orphan or abandoned well and any other
23 relevant factor. When the department proposes to assess a civil
24 penalty, it shall notify the person of the proposed amount of
25 the penalty. The person charged with the penalty must, within 30
26 days of notification, pay the proposed penalty in full or file
27 an appeal of the assessment with the Environmental Hearing
28 Board. Failure to comply with the time period under this section
29 shall result in a waiver of all legal rights to contest the
30 violation or the amount of the penalty. The civil penalty shall

1 be payable to the Commonwealth and collectible in any manner
2 provided at law for collection of debts. If a violator neglects
3 or refuses to pay the penalty after demand, the amount, together
4 with interest and costs that may accrue, shall become a lien in
5 favor of the Commonwealth on the real and personal property of
6 the violator, but only after the lien has been entered and
7 docketed of record by the prothonotary of the county where the
8 property is situated. The department may transmit to the
9 prothonotaries of the various counties certified copies of all
10 liens. It shall be the duty of each prothonotary to enter and
11 docket the liens of record in the prothonotary's office and
12 index them as judgments are indexed, without requiring payment
13 of costs as a condition precedent to entry.

14 Section 508. Existing rights and remedies preserved and
15 cumulative remedies authorized.

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

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

5 Section 509. Inspection and production of materials, witnesses,
6 depositions 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 chapter to
10 determine compliance with this chapter. For this purpose, the
11 duly authorized agents and employees of the department may at
12 all reasonable times enter and examine any involved property,
13 facility, operation or activity.

14 (b) Access.--The owner, operator or other person in charge
15 of a property, facility, operation or activity under this
16 chapter, upon presentation of proper identification and purpose
17 either for inspection or to remediate or otherwise respond to a
18 well control emergency, by agents or employees of the
19 department, shall provide free and unrestricted entry and
20 access. Upon refusal, the agent or employee may obtain a search
21 warrant or other suitable order authorizing entry and
22 inspection, remediation or response. It shall be sufficient to
23 justify issuance of a search warrant authorizing examination and
24 inspection if:

25 (1) there is probable cause to believe that the object
26 of the investigation is subject to regulation under this
27 chapter; and

28 (2) access, examination or inspection is necessary to
29 enforce the provisions of this chapter.

30 (c) Witnesses.--In any part of this Commonwealth, the

1 department may subpoena witnesses, administer oaths, examine
2 witnesses, take testimony and compel production of books,
3 records, maps, plats, papers, documents and other writings
4 pertinent to proceedings or investigations conducted by the
5 department under this chapter. Upon refusal to obey a subpoena
6 by any person and on application of the department, a court may
7 enforce a subpoena in contempt proceedings. Fees for serving a
8 subpoena shall be the same as those paid to sheriffs for similar
9 services.

10 (d) Deposition.--The department or a party to a proceeding
11 before the department may cause the deposition of a witness who
12 resides in or outside of this Commonwealth to be taken in the
13 manner prescribed by law for taking depositions in civil
14 actions.

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

21 (f) Purchasers.--Upon request, a purchaser of oil or gas
22 shall provide the department information necessary to determine
23 ownership of facilities from which the purchaser obtained oil or
24 gas. The information shall be kept confidential for a period of
25 five years, and the department may utilize it in enforcement
26 proceedings. The department may request information under this
27 section only when a well does not comply with section 301.
28 Section 510. Unlawful conduct.

29 It shall be unlawful for any 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 chapter or in violation of rules or
3 regulations adopted under this chapter, orders of the
4 department or a term or condition of a permit issued by the
5 department.

6 (2) Conduct an activity related to drilling for or
7 production of oil and gas:

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

12 (ii) in any manner as to create a public nuisance or
13 adversely affect public health, safety, welfare or the
14 environment.

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

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

22 (5) Cause abandonment of a well by removal of casing or
23 equipment necessary for production without plugging the well
24 in the manner prescribed under section 311, except that the
25 owner or operator of a well may temporarily remove casing or
26 equipment necessary for production, but only if it is part of
27 the normal course of production activities.

28 Section 511. Collection of fines and penalties.

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

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

12 Section 512. Third party liability.

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

18 Section 513. Inspection reports.

19 The department shall post inspection reports on its publicly
20 accessible Internet website. The inspection reports shall
21 include:

22 (1) The nature and description of violations.

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

25 (3) The status of the violation.

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

28 CHAPTER 7

29 MISCELLANEOUS PROVISIONS

30 Section 701. Well plugging funds.

1 (a) Appropriation.--Fines and civil penalties collected
2 under this chapter shall be deposited into the Abandoned Well
3 Plugging Fund established under subsection (b). Permit fees
4 collected under this chapter are appropriated to the department
5 to carry out the purposes of this chapter.

6 (b) Surcharge.--To aid in indemnifying the Commonwealth for
7 the cost of plugging abandoned wells, a \$50 surcharge is added
8 to the permit fee established by the department under section
9 301 for new wells. Money collected as a result of the surcharge
10 shall be paid into a restricted revenue account in the State
11 Treasury to be known as the Abandoned Well Plugging Fund and
12 expended by the department to plug abandoned wells threatening
13 the health and safety of persons or property or pollution of
14 waters of the Commonwealth.

15 (c) Orphan Well Plugging Fund.--The following shall apply:

16 (1) A restricted revenue account to be known as the
17 Orphan Well Plugging Fund is created. A \$100 surcharge for
18 wells to be drilled for oil production and a \$200 surcharge
19 for wells to be drilled for gas production are added to the
20 permit fee established by the department under section 301
21 for new wells. The surcharges shall be placed in the Orphan
22 Well Plugging Fund and expended by the department to plug
23 orphan wells. If an operator rehabilitates a well abandoned
24 by another operator or an orphan well, the permit fee and the
25 surcharge for the well shall be waived.

26 (2) The department shall study its experience in
27 implementing this section and shall report its findings to
28 the Governor and the General Assembly by one year after
29 promulgation. The report shall contain information relating
30 to the balance of the fund, number of wells plugged, number

1 of identified wells eligible for plugging and recommendations
2 as to alternative funding mechanisms.

3 Section 702. (Reserved).

4 Section 703. Effect on department authority.

5 This chapter does not affect, limit or impair any right or
6 authority of the department under the act of June 22, 1937
7 (P.L.1987, No.394), known as The Clean Streams Law; the act of
8 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
9 Pollution Control Act; the act of November 26, 1978 (P.L.1375,
10 No.325), known as the Dam Safety and Encroachments Act; or the
11 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
12 Management Act.

13 Section 704. Relationship to solid waste, surface mining,
14 underground injection wells, storage tanks and spill
15 reporting.

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

27 (1) the well is permitted under the requirements of
28 section 301 or registered under 303;

29 (2) the owner or operator has satisfied the financial
30 security requirements of section 316 by obtaining a surety or

1 collateral bond for the well and well site; and

2 (3) the owner or operator maintains compliance with this
3 chapter and applicable regulations of the Environmental
4 Quality Board.

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

16 (c) Solid Waste Management Act.--This section does not
17 diminish or otherwise affect duties or obligations of an owner
18 or operator under the Solid Waste Management Act. This section
19 does not apply to waste classified as hazardous waste under the
20 Solid Waste Management Act or the Resource Conservation and
21 Recovery Act of 1976 (Public Law 94-580, 90 Stat. 2795, 42
22 U.S.C. § 6901 et seq.).

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

1 Underground Injection Control (UIC) program, the department's
2 review and approval, if any, of injection wells shall be limited
3 to a review of surface activities related to construction,
4 modification, operation or closure of the well and confirmation
5 that the well is constructed in accordance with this act.

6 (e) Storage tanks.--Aboveground storage tanks regulated
7 under this act and used to store brines, crude oil, drilling or
8 hydraulic fracturing fluids and similar substances or materials
9 and are directly related to the exploration, development or
10 production of crude oil or natural gas regulated under this act,
11 as well as liquid traps and associated gathering lines directly
12 related to oil or gas production and gathering operations, are
13 exempt from the obligations under the act of July 6, 1989
14 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
15 Act, and any rule or regulation promulgated under the Storage
16 Tank and Spill Prevention Act.

17 (f) Spill 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~~ TWO barrels of oil within a 24-hour <--
22 period; or

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

26 (2) Spills of less than ~~5~~ TWO barrels of oil or less <--
27 than ~~15~~ FIVE barrels of brine need not be reported unless it <--
28 would endanger downstream users of waters of this
29 Commonwealth, would otherwise result in pollution or create a
30 danger of pollution of waters or would damage property.

1 Section 705. Relationship to the Coal and Gas Resource

2 Coordination Act.

3 (a) Application.--The requirements under section 5 of the
4 act of December 18, 1984 (P.L.1069, No.214), known as the Coal
5 and Gas Resource Coordination Act, for the issuance of a permit
6 under the former act of December 19, 1984 (P.L.1140, No.223),
7 known as the Oil and Gas Act, shall apply to this act.

8 (b) Construction.--Nothing in this act shall be construed to
9 change, repeal or otherwise affect the provisions of the Coal
10 and Gas Resource Coordination Act.

11 Section 706. Local ordinances.

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

26 ~~Section 707. Beneficial use of produced water.~~

<--

27 ~~(a) Road application plans.--~~

28 ~~(1) A person may apply produced water to unpaved roads--~~
29 ~~as a dust suppressant and road stabilizer in accordance with--~~
30 ~~a road application plan approved by the department. This--~~

1 ~~section does not authorize the use of produced water for~~
2 ~~prewetting, anti-icing or de-icing of roads.~~

3 ~~(2) The department shall approve a road application plan~~
4 ~~that reasonably provides for the protection of the~~
5 ~~environment and the prevention of pollution. With respect to~~
6 ~~any aspect of water quality, applicants may rely on regional~~
7 ~~characterization of the produced water. The department may~~
8 ~~not impose conditions requiring produced water to exceed the~~
9 ~~physical character or chemical composition of a commercial~~
10 ~~product for which the produced water is an effective~~
11 ~~substitute. Persons engaged in the beneficial use of produced~~
12 ~~water shall maintain records and make reports as the~~
13 ~~department requires.~~

14 ~~(3) A proposed road application plan shall be prepared~~
15 ~~on forms provided by the department and shall include~~
16 ~~information required by the department to administer this~~
17 ~~section.~~

18 ~~(4) Produced water may not be applied:~~

19 ~~(i) within 150 feet of bodies of water or~~
20 ~~watercourses, except roadside ditches;~~

21 ~~(ii) within Zone I or Zone II of a wellhead~~
22 ~~protection area designated as part of a wellhead~~
23 ~~protection program approved under the act of May 1, 1984~~
24 ~~(P.L.206, No.43), known as the Pennsylvania Safe Drinking~~
25 ~~Water Act;~~

26 ~~(iii) to sections of an unpaved road having a grade~~
27 ~~exceeding 10%; or~~

28 ~~(iv) to concrete, asphalt or other impervious~~
29 ~~surfaces.~~

30 ~~(5) The department's approval of a road application plan~~

1 ~~does not authorize the discharge of produced water to the~~
2 ~~waters of the Commonwealth.~~

3 ~~(6) Produced water that is transported, managed, stored~~
4 ~~and applied on unpaved roads in compliance with a road~~
5 ~~application plan approved by the department under this~~
6 ~~section is not regulated as a solid waste under the act of~~
7 ~~July 7, 1980 (P.L.380, No.97), known as the Solid Waste~~
8 ~~Management Act.~~

9 ~~(b) Temporary regulations.~~

10 ~~(1) In order to facilitate the prompt implementation of~~
11 ~~this act, the department may address the beneficial use of~~
12 ~~produced water by establishing temporary regulations not~~
13 ~~subject to:~~

14 ~~(i) Sections 201, 202, 203, 204 and 205 of the act~~
15 ~~of July 31, 1968 (P.L.769, No.240), referred to as the~~
16 ~~Commonwealth Documents Law;~~

17 ~~(ii) The act of June 25, 1982 (P.L.633, No.181),~~
18 ~~known as the Regulatory Review Act;~~

19 ~~(iii) Section 204(b) and 301(10) of the act of~~
20 ~~October 15, 1980 (P.L.950, No.164), known as the~~
21 ~~Commonwealth Attorneys Act; and~~

22 ~~(iv) Sections 232 and 1920 A of the act of April 9,~~
23 ~~1929 (P.L.177, No.175), known as The Administrative Code~~
24 ~~of 1929;~~

25 ~~(2) The department's authority to establish temporary~~
26 ~~regulations under this section shall expire two years after~~
27 ~~the effective date of this section. Regulations adopted after~~
28 ~~this period shall be promulgated by the Environmental Quality~~
29 ~~Board as provided by law.~~

30 ~~(c) Powers and duties. The department shall have the power~~

1 ~~and duty to:~~

2 ~~(1) approve, disapprove and conditionally approve of~~
3 ~~road application plans;~~

4 ~~(2) charge fees associated with the review of road~~
5 ~~application plans; and~~

6 ~~(3) suspend or revoke approval of any road application~~
7 ~~plan, conduct inspections and abate public nuisances to~~
8 ~~implement the purposes and provisions of this act and the~~
9 ~~rules, regulations and standards adopted pursuant to this~~
10 ~~act.~~

11 ~~(d) Secondary products from produced water. Notwithstanding~~
12 ~~any provision of law to the contrary and to promote beneficial~~
13 ~~uses and legitimate recycling, material derived from produced~~
14 ~~water from conventional formations, including, but not limited~~
15 ~~to, salt, is not waste if:~~

16 ~~(1) the material is of a physical character and chemical~~
17 ~~composition that is consistently equivalent to an~~
18 ~~intentionally manufactured product or raw material; and~~

19 ~~(2) the use of the material presents no greater threat~~
20 ~~of harm to human health and the environment than the use of~~
21 ~~the product or raw material.~~

22 Section ~~708~~ 707. Permit fee.

<--

23 Each application for a well permit issued under this act or
24 58 Pa.C.S. (relating to oil and gas) shall be accompanied by a
25 permit fee, established by the Environmental Quality Board,
26 which bears a reasonable relationship to the cost of
27 administering this act and 58 Pa.C.S.

28 Section ~~709~~ 708. Appropriation.

<--

29 The sum of \$5,000,000 is hereby appropriated from the General
30 Fund to the Department of Environmental Protection to meet the

1 department's obligations with respect to the conventional oil
2 and natural gas industry.

3 Section ~~709.1~~ 709. Annual budget submission. <--

4 The Governor shall include in the budget submitted to the
5 General Assembly each year under section 613 of the act of April
6 9, 1929 (P.L.177, No.175), known as The Administrative Code of
7 1929, a request for a separate line item of not less than
8 \$5,000,000 to the Department of Environmental Protection for the
9 sole purpose of meeting the department's obligations with
10 respect to the conventional oil and gas industry.

11 Section 710. Regulations.

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

23 Section 711. Repeals.

24 The provisions of 58 Pa.C.S. (relating to oil and gas) are
25 repealed insofar as they relate to conventional wells with the
26 exception of underground gas storage requirements in 58 Pa.C.S.
27 Ch. 32 Subch. C (relating to underground gas storage).

28 Section 712. Continuation.

29 Except as otherwise provided in this act, all conventional
30 oil and gas well activities initiated under 58 Pa.C.S. (relating

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

15 Section 713. Effective date.

16 This act shall take effect immediately.