

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 895 Session of 2011

INTRODUCED BY PICKETT, CALTAGIRONE, CARROLL, D. COSTA,
DENLINGER, EVERETT, GEORGE, GINGRICH, GOODMAN, GROVE, HANNA,
HARHART, HEFFLEY, JOHNSON, KULA, LONGIETTI, MAJOR, MARSHALL,
METZGAR, MILLARD, MILLER, MOUL, MURPHY, PEIFER, REICHLEY,
SCHRODER, SONNEY, SWANGER, VULAKOVICH, WAGNER, WATSON AND
WHITE, MARCH 2, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 2, 2011

AN ACT

1 Amending the act of December 19, 1984 (P.L.1140, No.223),
2 entitled "An act relating to the development of oil and gas
3 and coal; imposing duties and powers on the Department of
4 Environmental Resources; imposing notification requirements
5 to protect landowners; and providing for definitions, for
6 various requirements to regulate the drilling and operation
7 of oil and gas wells, for gas storage reservoirs, for various
8 reporting requirements, including certain requirements
9 concerning the operation of coal mines, for well permits, for
10 well registration, for distance requirements, for well casing
11 requirements, for safety device requirements, for storage
12 reservoir obligations, for well bonding requirements, for a
13 Well Plugging Restricted Revenue Account to enforce oil and
14 gas well plugging requirements, for the creation of an Oil
15 and Gas Technical Advisory Board, for oil and gas well
16 inspections, for enforcement and for penalties," in
17 preliminary provisions, further providing for definitions;
18 and, in general requirements, further providing for
19 protection of water supplies.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. Section 103 of the act of December 19, 1984
23 (P.L.1140, No.223), known as the Oil and Gas Act, is amended by
24 adding a definition to read:

1 Section 103. Definitions.

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

5 * * *

6 "Unconventional well." A bore hole drilled or being drilled
7 for the purpose of or to be used for producing oil or gas from a
8 geologic formation existing below the base of the Elk Sandstone
9 or its geologic equivalent stratigraphic interval where oil or
10 gas generally cannot be produced at economic flow rates or in
11 economic volumes except by wells stimulated by hydraulic
12 fracture treatments, a horizontal well bore or by using
13 multilateral well bores or other techniques to expose more of
14 the formation of the well bore.

15 * * *

16 Section 2. Section 208(d) of the act is amended and the
17 section is amended by adding subsections to read:

18 Section 208. Protection of water supplies.

19 * * *

20 (c.1) In the instance where the well is an unconventional
21 well, unless rebutted by one of the five defenses established in
22 subsection (d), it shall be presumed that a well operator is
23 responsible for the pollution of a water supply that is within
24 2,500 feet of the oil or gas well, where the pollution occurred
25 within 24 months after the completion of drilling or alteration
26 of such well.

27 (d) In order to rebut the presumption of liability
28 established in subsection (c), the well operator must
29 affirmatively prove one of the following five defenses:

30 (1) The pollution existed prior to the drilling or

1 alteration activity as determined by a predrilling or
2 prealteration survey.

3 (2) The landowner or water purveyor refused to allow the
4 operator access to conduct a predrilling or prealteration
5 survey.

6 (3) The water supply is not within 1,000 feet of the
7 well or, in the case of an unconventional well, not within
8 2,500 feet of the well.

9 (4) The pollution occurred more than six months after
10 completion of drilling or alteration activities or, in the
11 case of an unconventional well, the pollution occurred more
12 than 24 months after the completion of drilling or alteration
13 activities.

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

16 * * *

17 (e.1) (1) At least 30 days prior to commencing a well
18 drilling operation, the unconventional well operator shall
19 survey, sample and analyze the quality and flow of water from
20 any wells, springs or other water sources located within
21 2,500 feet of the proposed oil or gas well. The water well,
22 spring or other water source to be tested shall be a supply
23 that is utilized by a landowner or water purveyor for human
24 consumption, domestic animals or other general use.

25 (2) The unconventional well operator shall utilize a
26 laboratory approved by the department to perform the water
27 supply analysis.

28 (3) The unconventional well operator shall within five
29 days of receipt of the test results provide this information
30 in writing to the landowner or water purveyor.

1 (4) In the event the landowner or water purveyor rejects
2 the offer to have the water supply tested or denies access to
3 the landowner's or water purveyor's property for the test to
4 be conducted, the unconventional well operator shall not be
5 required to meet the provisions of this subsection.

6 (5) The performance or excused performance of a water
7 supply test under this subsection shall in no way prohibit
8 the unconventional well operator from commencing drilling
9 operations, provided the appropriate permit approvals are
10 obtained.

11 (e.2) (1) Upon the completion of drilling activities and
12 for a period of 24 months thereafter, the unconventional well
13 operator, upon written request of the landowner or water
14 purveyor, shall conduct a follow-up survey and analysis of
15 the quality and flow of water from any wells, springs or
16 other water sources initially tested by the well operator
17 under subsection (e.1). The unconventional well operator
18 shall not be required to conduct such follow-up test more
19 than once in a 12-month period. The unconventional well
20 operator's duty to conduct follow-up testing shall end 24
21 months after the completion of drilling activities.

22 (2) The unconventional well operator shall provide
23 written notice to the landowner or water purveyor of the
24 right to request follow-up tests.

25 (3) The unconventional well operator shall obtain and
26 analyze the water samples in accordance with methods
27 established by the department. All follow-up tests shall be
28 conducted by a laboratory certified by the department to
29 perform such testing.

30 (4) The unconventional well operator shall, within five

1 days of receipt of the test results, provide this information
2 in writing to the landowner or water purveyor.

3 (5) In the event the landowner or water purveyor rejects
4 the offer to have a follow-up water supply test or denies
5 access to the landowner's or water purveyor's property for
6 the test to be conducted, the unconventional well operator
7 shall not be required to meet the provisions of this
8 subsection.

9 (6) The performance or excused performance of a follow-
10 up water supply test under this subsection shall in no way
11 prohibit the unconventional well operator from proceeding
12 with a drilling operation, provided the appropriate permit
13 approvals are obtained.

14 * * *

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