

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 866 Session of
1991

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DERMODY, VEON, CLYMER, LUCYK, TANGRETTI AND COLAFELLA,
MARCH 19, 1991

REFERRED TO COMMITTEE ON CONSERVATION, MARCH 19, 1991

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," further
17 providing for definitions, well permits, well registration,
18 inactive status, plugging requirements, well reporting
19 requirements, bonding, the Oil and Gas Technical Advisory
20 Board, public nuisances, civil penalties, determination of
21 compliance, unlawful conduct, surcharges for new wells;
22 exempting certain wells from bonding requirements; and
23 further providing for local ordinances.

24 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. The definitions of "alteration" and "well
3 operator" or "operator" in section 103 of the act of December
4 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act,
5 amended October 9, 1986 (P.L.1431, No.135), are amended and the
6 section is amended by adding a definition to read:

7 Section 103. Definitions.

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

11 * * *

12 "Alteration." Any operation which changes the physical
13 characteristics of the well bore, including stimulation or
14 removing, repairing or changing the casing: Provided, however,
15 That, for the purpose of this act only, the term shall not
16 include:

17 (1) repairing or replacing of casing [with casing of the
18 same diameter and length in noncoal areas;

19 (2) repairing or replacing of production casing with
20 casing of the same or smaller diameter and length: Provided,
21 however, That] if the activity does not affect the depth or
22 diameter of the well bore, provided that the use or purpose
23 of the well does not change and provided that the activity
24 complies with regulations promulgated hereunder. However,
25 this exclusion shall not apply to production casings in coal
26 areas when said production casings are also the coal
27 protection casings and shall not apply when the method of
28 repairing or replacing the casing would affect the coal
29 protection casing;

30 [(3)] (2) nor shall it include stimulation [as a normal

1 initial completion procedure nor stimulation used to enhance
2 additional oil or gas zones within the same well bore.] of a
3 well.

4 * * *

5 "Orphan well." Any well abandoned prior to the effective
6 date of this act that has not been affected or operated by the
7 present owner or operator, and which the present owner, operator
8 or lessee has received no economic benefit, except only as a
9 landowner or recipient of a royalty interest from the well.

10 * * *

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

19 * * *

20 Section 2. The act is amended by adding a section to read:
21 Section 104. Exemptions.

22 All wells drilled prior to January 1, 1975, shall be exempt
23 from the bonding provisions of this act, if they are registered
24 within one year of the effective date of this amendatory act.
25 Well owners or operators registering their wells pursuant to
26 this amendatory act shall not be subject to fines, penalties or
27 other enforcement or department actions as a consequence of not
28 heretofore registering or complying with the bonding provisions
29 of this act. Owners or operators of wells drilled prior to
30 January 1, 1975 that have already complied with the bonding

1 provisions of this act shall also be exempt from the bonding
2 requirement, provided they comply with all other applicable
3 environmental protection provisions of this act. The department
4 is not required to return bonds or fees submitted by the owner
5 or operator to comply with the bonding provisions of the act for
6 wells drilled prior to 1975, however, the owner or operator may
7 use the bonds or fees he deposited as a credit toward bonding
8 wells drilled after January 1, 1975.

9 Section 3. Section 201(a) and (k) of the act, amended
10 October 9, 1986 (P.L.1431, No.135), are amended to read:

11 Section 201. Well permits.

12 (a) No person shall drill a well or alter any existing well,
13 except for alterations which satisfy the requirements of
14 subsection (j), without having first obtained a well permit
15 pursuant to subsections (b), (c), (d) and (e). A copy of the
16 permit shall be kept at the well site during drilling or
17 alteration of the well. However, no person shall be required to
18 obtain a permit to redrill a nonproducing well, if:

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

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

28 * * *

29 (k) No permit issued pursuant to this section or
30 registration issued pursuant to section 203 may be transferred

1 without prior approval of the department. Requests for approval
2 of such transfer shall be made on forms or in a manner
3 prescribed by the department. The department shall approve or
4 deny the transfer request within 45 days of receipt of a
5 complete and accurate application. The department shall only
6 have the authority to deny such request for the reasons set
7 forth in subsection (e)(4) or (5). Approval of the transfer
8 request shall permanently transfer responsibility to plug the
9 well under section 210 to the recipient of the transferred
10 permit or registration.

11 * * *

12 Section 4. Section 203(a) of the act is amended and the
13 section is amended by adding subsections to read:

14 Section 203. Well registration and identification.

15 (a) [Within one year from the effective date of this act,
16 every person owning or operating a well for which no drilling
17 permit was issued by the department shall register such well on
18 forms or in a manner prescribed by the department, which shall
19 contain the following information:] Within one year of the
20 effective date of this amendatory act, every person who is the
21 owner or operator of a well in existence prior to April 18,
22 1985, which well has not been registered with the department and
23 for which no drilling permit has been issued by the department,
24 shall register such well with the department. Any well owner or
25 operator who registers a well pursuant to this subsection, and
26 any well owner or operator who has previously registered a well
27 pursuant to this act shall, within one year of the effective
28 date of this amendatory act, identify any abandoned well on
29 property such well owner or operator owns or leases and request
30 approval from the department for classification of the well as

1 an orphan well. Information regarding wells to be registered or
2 identified shall be provided on forms or in a manner prescribed
3 by the department and shall include:

4 (1) The name and address of the well operator and, if
5 the well operator is a corporation, partnership or a person
6 nonresident of the Commonwealth, there shall be designated on
7 the well registration application the name and address of an
8 agent for such operator upon whom notices, orders, process or
9 other communications issued pursuant to this act may be
10 served.

11 (2) The well name of such well and the location of the
12 well indicated by a point on a 7 1/2 minute United States
13 Geological Survey topographic map or any other location
14 description sufficient to enable the department to locate the
15 well on the ground.

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

20 (4) An indemnity bond [or], an alternative fee in lieu
21 of bonding or such other evidence of financial security
22 submitted by the well operator and deemed appropriate by the
23 department and satisfying the requirements of section 215:
24 Provided, however, That no bond, alternative fee or other
25 evidence of financial security shall be required for
26 identification of an orphan well.

27 (5) A registration fee of \$15 per well[, except that the
28 department may establish] or a blanket registration fee [not
29 to exceed \$250 where] of \$250 for multiple well registration
30 applications which are submitted simultaneously [for wells

1 that are part of the same development project. The blanket
2 registration fee shall bear a reasonable relationship to the
3 administrative costs associated with processing such multiple
4 well registration applications]. The registration fee shall
5 be waived for a period of one year from the effective date of
6 this amendatory act, and no fee shall be charged for
7 identification of an orphan well.

8 (a.1) Well owners or operators who discover abandoned wells
9 on property purchased or leased by them after expiration of the
10 one-year period provided in subsection (a) shall identify such
11 well to the department within 60 days of discovery and advise
12 the department that they are seeking classification of such well
13 as an orphan well. No fee shall be required for such
14 identification.

15 (a.2) Persons who are not well owners or operators and who
16 discover an abandoned well on property owned or leased by them
17 shall identify such well to the department within 60 days of
18 discovery and advise the department that they are seeking
19 classification for such well as an orphan well. No fee shall be
20 required for such identification.

21 * * *

22 Section 5. Sections 204, 210, 212(a) and 213 of the act are
23 amended to read:

24 Section 204. Inactive status.

25 (a) Upon application, the department [may] shall grant
26 inactive status for a period of ten years for any permitted or
27 registered well [which satisfies] provided the following
28 requirements are met:

29 (1) the condition of the well is sufficient to prevent
30 damage to the producing zone or contamination of fresh water

1 or other natural resources or surface leakage of any
2 substance;

3 (2) the condition of the well is sufficient to stop the
4 vertical flow of fluids or gas within the well bore and
5 [which] is adequate to protect freshwater aquifers, [if]
6 unless the department determines the well poses a threat to
7 the health and safety of persons or property or to the
8 environment;

9 (3) [the applicant certifies that the well is of future
10 utility and presents a viable plan for utilizing the well
11 within a reasonable time] the operator anticipates future use
12 of the well for primary or enhanced recovery, future gas
13 storage, or the operator anticipates the construction of a
14 pipeline, for approved disposal or other appropriate uses
15 related to oil and gas well production; and

16 (4) the applicant satisfies the bonding requirements of
17 section 215, except that the department may require
18 additional financial security for any well on which an
19 alternative fee is being paid in lieu of bonding under
20 section 215(d).

21 (b) The owner or operator of any well granted inactive
22 status shall be responsible for monitoring the mechanical
23 integrity of such well to insure that the requirements of
24 subsection (a)(1) and (2) are met and shall report the same on
25 an annual basis to the department in a manner and form as the
26 department shall prescribe by regulation.

27 [(c) Approval of inactive status under this section shall be
28 valid for a period of five years unless renewed pursuant to the
29 requirements of this section. The department shall have the
30 right to revoke such status and order the immediate plugging of

1 said well if it is in violation of this act or any other
2 statute, rule or regulation administered by the department or
3 upon receipt by the department of notice of bankruptcy
4 proceedings by the permittee.]

5 (c) Any well granted inactive status pursuant to subsection
6 (a) shall be plugged in accordance with section 210 or returned
7 to active status within ten years of the date inactive status
8 was granted, unless the owner or operator applies for an
9 extension of inactive status which may be granted on a year-to-
10 year basis if the department determines that the owner or
11 operator has demonstrated his ability to continue to meet the
12 requirements of this section, and the owner or operator
13 certifies that the well will be of future use within a
14 reasonable period of time. An owner or operator who has been
15 granted inactive status for a well which is returned to active
16 status prior to expiration of the ten-year period set forth in
17 subsection (a) shall notify the department that the well has
18 been returned to active status and shall not be permitted to
19 apply for another automatic ten-year period of inactive status
20 for such well. The owner or operator may make application to
21 return the well to inactive status, and such application may be
22 approved on a year-to-year basis if the department determines
23 that the owner or operator has demonstrated an ability to
24 continue to meet the requirements of this section, and the owner
25 or operator certifies that the well will be of future use within
26 a reasonable period of time. The department shall approve or
27 deny an application to extend a period of inactive status or to
28 return a well to inactive status within 60 days of receipt of
29 such application, and such application shall not be unreasonably
30 denied. If the department has not completed its review of the

1 application within 60 days, the inactive status shall be
2 presumed to be renewed. If the department denies an application
3 to extend the period of inactive status or to return a well to
4 inactive status, a well owner or operator aggrieved thereby
5 shall have the right to appeal such denial to the Environmental
6 Hearing Board within 30 days of receipt of such denial. Upon
7 cause shown by a well owner or operator, the board may grant a
8 supersedeas pursuant to section 4 of the act of July 13, 1988
9 (P.L.530, No.94), known as the Environmental Hearing Board Act,
10 in order that the well in question may retain inactive status
11 during the period of appeal.

12 (d) The department shall have the right to revoke inactive
13 status and order the immediate plugging of a well if it is in
14 violation of this act or rules or regulations promulgated
15 thereunder, or if the owner or operator demonstrates inability
16 to perform his obligations under this act or becomes financially
17 insolvent, or upon receipt by the department of notice of
18 bankruptcy proceedings by the permittee.

19 Section 210. Plugging requirements.

20 (a) Upon abandoning any well, the owner or operator thereof
21 shall plug the well in a manner prescribed by regulation of the
22 department in order to stop any vertical flow of fluids or gas
23 within the well bore unless the department has granted inactive
24 status for such well pursuant to section 204[.] or the well has
25 been approved by the department as an orphan well pursuant to
26 section 203. Where the department determines that a prior owner
27 or operator received economic benefit, other than economic
28 benefit derived only as a landowner or from a royalty interest,
29 subsequent to April 18, 1979, from an orphan well or from a well
30 which has not been registered, such owner or operator shall be

1 responsible for the plugging of the well. Where, in the case of
2 gas wells penetrating workable coal seams which were drilled
3 prior to the effective date of the Gas Operations Well-Drilling
4 Petroleum and Coal Mining Act or which were permitted after such
5 date but not plugged in accordance with this act, the owner or
6 operator of such a well, or a coal operator or his agent,
7 proposes to plug such well for the purpose of allowing the
8 mining through of it, the gas well shall be cleaned out to a
9 depth of at least 200 feet below the coal seam in which the
10 mining through is proposed and unless impracticable, to a point
11 200 feet below the deepest minable coal seam. Such gas well
12 shall be plugged from that depth in accordance with the
13 provisions of section 13 of the act of December 18, 1984
14 (P.L.1069, No.214), known as the Coal and Gas Resource
15 Coordination Act, and the regulations of the department.

16 (b) Prior to the abandonment of any well in an area
17 underlain by a workable coal seam, the well operator or owner
18 shall notify the coal operator, lessee or owner and the
19 department of his intention to plug and abandon any such well
20 and submit a plat, on a form to be furnished by the department,
21 showing the location of the well and fixing the date and time at
22 which the work of plugging will be commenced, which time shall
23 be not less than [72 hours] three working days after the time
24 when such notice is received, nor more than 30 days thereafter
25 in order that their representatives may be present at the
26 plugging of the well. Such notice may be waived by the
27 department and said coal operator, lessee or owner, and any of
28 them may likewise waive their right to be present, but such
29 waiver by coal operator, lessee or owner shall be in writing and
30 a copy thereof attached to the notice of abandonment, filed with

1 the department under this section. Whether or not such
2 representatives appear, the well operator may, if he has fully
3 complied with the requirements of this section, proceed at the
4 time fixed, to plug the well in the manner as prescribed by
5 regulation of the department. When such plugging has been
6 completed, a certificate shall be prepared and signed, on a form
7 to be furnished by the department, by two experienced and
8 qualified people who participated in the work setting forth the
9 time and manner in which the well has been plugged. One copy of
10 this certificate shall be mailed to each coal operator, lessee
11 or owner to whom notice was given by certified mail and another
12 copy shall be mailed to the department.

13 (c) Prior to the abandonment of any well, except an
14 uncompleted bore hole plugged immediately upon suspension of
15 drilling in an area not underlain by a workable coal seam, the
16 well operator shall notify the department of his intention to
17 plug and abandon any such well and submit a plat, on a form to
18 be furnished by the department, showing the location of the well
19 and fixing the date and time at which the work of plugging will
20 be commenced, which time shall not be less than [72 hours] three
21 working days nor more than 30 days after the time [of mailing]
22 when such notice is received, in order that the department
23 representative may be present at the plugging of the well. Such
24 notice or waiting period may be verbally waived by the
25 department. In noncoal areas where more than one well has been
26 drilled as part of the same development project and these wells
27 are now to be plugged, it is required that the department be
28 given [72 hours'] three working days' notice prior to plugging
29 the first well of such project subject to waiver of notice
30 described herein. In the plugging of subsequent wells, no

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

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

29 (e) If a well is an orphan well or abandoned without
30 plugging or if a well is in operation but is not registered

1 pursuant to section 203, the department shall have the right to
2 enter upon the well site and plug the [abandoned] well and to
3 sell such equipment, casing and pipe at the abandoned well or
4 unregistered well site as may have been used in the production
5 of the well in order to recover the costs of plugging. In the
6 case of a well which is in operation but has not been
7 registered, the department shall make an effort to determine
8 ownership of such well and provide written notice to such owner
9 of pending action which may be taken pursuant to this
10 subsection. If the department cannot determine ownership of the
11 well within 30 days, it may proceed pursuant to this subsection.
12 [Said costs] Costs of plugging shall have priority over all
13 liens on said equipment, casing and pipe, and said sale shall be
14 free and clear of any such liens to the extent the costs of
15 plugging exceed the sale price. If the equipment price obtained
16 for casing and pipe salvaged at the abandoned well or
17 unregistered well site is inadequate to pay for the cost of
18 plugging the abandoned or unregistered well, the owner or
19 operator of the abandoned or unregistered well shall be legally
20 liable for the additional costs of plugging the well.

21 Section 212. Well reporting requirements.

22 (a) Every well operator shall file with the department, on a
23 form provided by the department, an annual report specifying the
24 amount of production [from each well on an individual well
25 basis. Where said data is not available on a well basis, it may
26 be reported] on the most well-specific basis available. Annual
27 reports shall also specify the status of each well; however, in
28 subsequent years, only changes in the status need be reported.
29 [All such reports shall be kept confidential for one year after
30 the date the information is required to be filed hereunder. Upon

request of the well operator, the department shall extend the period of confidentiality for four years. The total period of confidentiality shall not exceed] The department shall keep all such reports confidential for five years: Provided, however, That the [department] Commonwealth shall have the right to utilize such information in enforcement proceedings, in making designations or determinations under section 1927-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, or in aggregate form for statistical purposes.

* * *

Section 213. Notification and effect of well transfer.

The owner or operator of any well shall notify the department, in writing, in such form as the department may direct by regulation, of the sale, assignment, transfer, conveyance or exchange by the owner or to the owner of such well within 30 days after such sale, assignment, conveyance or exchange. No such transfer shall relieve the well owner or operator of any [liability] obligation accrued under this act, nor shall it relieve him of the obligation to plug said well until the requirements of section 215 have been met, after which time the transferring owner or operator shall be relieved from any obligation under this act including the obligation to plug said well.

Section 6. Section 215 of the act, amended October 9, 1986 (P.L.1431, No.135), is amended to read:

Section 215. Bonding.

(a) (1) Except as provided in section 104 and subsections (d) and (d.1) [hereof] of this section, upon filing an application for a well permit and before continuing to operate any oil or gas well, the owner or operator thereof

1 shall file with the department a bond for the well and the
2 well site on a form to be prescribed and furnished by the
3 department. Any such bond filed with an application for a
4 well permit shall be payable to the Commonwealth and
5 conditioned that the operator shall faithfully perform all of
6 the drilling, water supply replacement, restoration and
7 plugging requirements of this act. Any such bond filed with
8 the department for a well in existence on the effective date
9 of this act shall be payable to the Commonwealth and
10 conditioned that the operator shall faithfully perform all of
11 the water supply replacement, restoration and plugging
12 requirements of this act. The amount of the bond required
13 shall be in the amount of \$2,500 per well for at least two
14 years following the effective date of this act, after which
15 time the bond amount may be adjusted by the Environmental
16 Quality Board every two years to reflect the projected costs
17 to the Commonwealth of performing well plugging.

18 (2) In lieu of individual bonds for each well, an owner
19 or operator may file a blanket bond, on a form prepared by
20 the department, covering all of its wells in Pennsylvania as
21 enumerated on the bond form. A blanket bond shall be in the
22 amount of \$25,000 for at least two years following the
23 effective date of this act, after which time the bond amount
24 may be adjusted by the Environmental Quality Board every two
25 years to reflect the projected costs to the Commonwealth of
26 performing well plugging.

27 (3) Liability under such bond shall continue until the
28 well has been properly plugged in accordance with this act
29 and for a period of one year after filing of the certificate
30 of plugging with the department. Each bond shall be executed

1 by the operator and a corporate surety licensed to do
2 business in the Commonwealth and approved by the secretary.
3 The operator may elect to deposit cash, [bank] certificates
4 of deposit[,] or automatically renewable irrevocable [bank]
5 letters of credit from financial institutions chartered or
6 authorized to do business in Pennsylvania and regulated and
7 examined by the Commonwealth or a Federal agency which may be
8 terminated [by the bank] at the end of a term only upon the
9 [bank] financial institution giving 90 days prior written
10 notice to the permittee and the department or negotiable
11 bonds of the United States Government or the Commonwealth,
12 the Pennsylvania Turnpike Commission, the General State
13 Authority, the State Public School Building Authority or any
14 municipality within the Commonwealth, or United States
15 Treasury Bonds issued at a discount without a regular
16 schedule of interest payments to maturity, otherwise known as
17 Zero Coupon Bonds, having a maturity date of not more than
18 ten years after the date of purchase and at such maturity
19 date having a value of not less than \$25,000, with the
20 department in lieu of a corporate surety. The cash deposit,
21 [bank] certificate of deposit, amount of such irrevocable
22 letter of credit or market value of such securities shall be
23 equal at least to the sum of the bond. The secretary shall,
24 upon receipt of any such deposit of cash, letters of credit
25 or negotiable bonds, immediately place the same with the
26 State Treasurer, whose duty it shall be to receive and hold
27 the same in the name of the Commonwealth, in trust, for the
28 purpose for which such deposit is made. The State Treasurer
29 shall at all times be responsible for the custody and
30 safekeeping of such deposits. The operator making deposit

1 shall be entitled from time to time to demand and receive
2 from the State Treasurer, on the written order of the
3 secretary, the whole or any portion of any collateral so
4 deposited, upon depositing with him, in lieu thereof, other
5 collateral of the classes herein specified having a market
6 value at least equal to the sum of the bond, and also to
7 demand, receive and recover the interest and income from said
8 negotiable bonds as the same becomes due and payable. Where
9 negotiable bonds, deposited as aforesaid, mature or are
10 called, the State Treasurer, at the request of the owner
11 thereof, shall convert such negotiable bonds into such other
12 negotiable bonds of the classes herein specified as may be
13 designated by the owner. Where notice of intent to terminate
14 a letter of credit is given, the department shall give the
15 operator 30 days' written notice to replace the letter of
16 credit with other acceptable bond guarantees as provided
17 herein and, if the owner or operator fails to replace the
18 letter of credit within the 30-day notification period, the
19 department shall draw upon and convert such letter of credit
20 into cash and hold it as a collateral bond guarantee.

21 (b) No bond shall be fully released until all requirements
22 of this act identified in subsection (a) or section 213 are
23 fully met. Upon release of all of the bonds and collateral as
24 herein provided, the State Treasurer shall immediately return to
25 the owner the amount of cash or securities specified therein.

26 (c) If the well owner or operator fails or refuses to comply
27 with the applicable requirements of this act identified in
28 subsection (a), the regulations promulgated hereunder or the
29 conditions of the permit relating thereto, the department may
30 declare the bond forfeited and shall certify the same to the

1 Attorney General, who shall proceed to enforce and collect the
2 full amount of the bond and, where the owner or operator has
3 deposited cash or securities as collateral in lieu of a
4 corporate surety, the department shall declare said collateral
5 forfeited and shall direct the State Treasurer to pay the full
6 amount of said funds into the Well Plugging Restricted Revenue
7 Account or to proceed to sell said security to the extent
8 forfeited and pay the proceeds thereof into the Well Plugging
9 Restricted Revenue Account. Should any corporate surety or
10 [bank] financial institution fail to promptly pay, in full, a
11 forfeited bond, it shall be disqualified from writing any
12 further bonds under the act or any other environmental act
13 administered by the department. Any person aggrieved by reason
14 of forfeiting the bond or converting collateral, as herein
15 provided, shall have a right to appeal to the Environmental
16 Hearing Board in the manner provided by law. Upon forfeiture of
17 a blanket bond for a violation occurring at one or more well
18 sites, the person whose bond is forfeited shall submit a
19 replacement bond to cover all other wells of which he is owner
20 or operator within ten days of said forfeiture. Failure to
21 submit said replacement bond constitutes a violation of this
22 section as to each of the wells owned or operated by said
23 person.

24 (d) (1) Any [well] operator of not more than 200 wells who
25 cannot obtain a bond for a well drilled prior to [the
26 effective date of this act] April 18, 1985, as required under
27 subsection (a), due to an inability to demonstrate sufficient
28 financial resources [shall submit to the department letters
29 of rejection from three separate bonding companies licensed
30 to do business in the Commonwealth. Such letters shall state

1 that the operator has been denied a bond and state the
2 grounds for denial of the bond. In] may, in lieu of the
3 bond[, the operator shall submit]:

4 (i) Submit to the department a fee in the amount of
5 \$50 per well, or a blanket fee of \$500 for ten to 20
6 wells, or a blanket fee of \$1,000 for more than 20 wells,
7 which shall be a nonrefundable fee paid each year that
8 the operator has not filed a bond with the department.

9 [The operator must demonstrate every three years a
10 continued inability to obtain a bond as prescribed
11 above.] All fees collected in lieu of a bond under this
12 subsection shall be paid into the Well Plugging
13 Restricted Revenue Account and shall be used for the
14 purposes authorized by this act. The Environmental
15 Quality Board shall have the power, by regulation, to
16 increase the amount of the fees established under this
17 subsection [if it is found that the total moneys
18 collected hereunder are insufficient to reimburse the
19 Commonwealth for costs incurred in correcting violations
20 on wells covered under this subsection].

21 (ii) (A) Make phased deposits of collateral to
22 fully collateralize the bond. Such payment shall be
23 based on the number of wells the operator owns or
24 operates. The operator shall make an initial deposit
25 and shall, thereafter, make annual deposits in
26 accordance with the schedule in clause (B). Interest
27 accumulated by the collateral shall become a part of
28 the bond until such time as the collateral, plus
29 accumulated interest, equals the amount of the
30 required bond. The collateral shall be deposited, in

1 trust, with the State Treasurer, as provided in this
2 subsection, or with a bank selected by the department
3 which shall act as trustee for the benefit of the
4 Commonwealth, to guarantee the operator's compliance
5 with the drilling, water supply replacement,
6 restoration and plugging requirements of this act.
7 The operator shall be required to pay all costs of
8 the trust.

9 (B) An operator of up to ten existing wells who
10 does not intend to operate additional wells shall
11 deposit \$250 per well and shall, thereafter, annually
12 deposit \$50 per well until the obligations of this
13 section are fully met. An operator of 11 to 25 wells
14 or an operator of up to ten wells who applies for one
15 or more permits for additional wells shall deposit
16 \$2,000 and shall, thereafter, annually deposit
17 \$1,150, plus \$150 for each additional well to be
18 permitted that year, until the obligations of this
19 section are fully met. An operator or 26 to 50 wells
20 shall deposit \$3,000, and shall, thereafter, annually
21 deposit \$1,300, plus \$400 for each additional well to
22 be permitted that year, until the obligations of this
23 section are fully met. An operator of 51 to 100 wells
24 shall deposit \$4,000 and shall, thereafter, annually
25 deposit \$1,500, plus \$400 for each additional well to
26 be permitted that year, until the obligations of this
27 section are fully met. Operators of 101 to 200 wells
28 shall deposit \$8,000 and shall, thereafter, annually
29 deposit \$1,600, plus \$1,000 for each additional well
30 to be permitted that year until the obligations of

1 this section are fully met. Operators of more than
2 200 wells shall fully bond their wells immediately.
3 The department shall reduce the amount of phased
4 collateral payments or the period of time over which
5 phased collateral payments shall be made on behalf of
6 owners or operators who, prior to the effective date
7 of this amendatory act, have paid a fee in lieu of
8 bond pursuant to subsection (d)(1)(i), and who,
9 within one year of the effective date of this
10 amendatory act, choose to enter the phased collateral
11 program pursuant to subsection (d)(1)(ii) rather than
12 to continue to make payments in lieu of bond.
13 Payments made in lieu of bond prior to the effective
14 date of this amendatory act shall not be credited in
15 any other manner, nor shall the department be
16 required to refund such fees at any time. The
17 Environmental Quality Board shall have the power, by
18 regulation, to change the annual deposits established
19 under this clause if it is found to be necessary to
20 accommodate a change in the amount of the bond
21 required under this section.

22 (2) An operator may continue to pay a fee in lieu of
23 bond or make phased deposits of collateral to fully
24 collateralize the bond so long as the operator does not miss
25 any payments for wells as provided under this subsection and
26 so long as the operator remains in compliance with the
27 provisions of this act and regulations and permits issued
28 thereunder. If an operator has missed any payments for wells
29 as provided under this subsection, the operator shall:

30 (i) immediately submit the appropriate bond amount

1 in full; or

2 (ii) cease all operations and plug the wells in
3 accordance with section 210.

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

24 (2) Individuals may continue to use phased collateral to
25 obtain permits so long as they have not missed any payments
26 for wells drilled under this provision and so long as they
27 remain in compliance with this act[, and regulations and
28 permits issued thereunder. If an individual has missed any
29 payments for wells under this subsection, the operator shall:

30 (i) immediately submit the appropriate bond amount

1 in full; or

2 (ii) cease all operations and plug the wells in
3 accordance with section 210.

4 For the purposes of this subsection an "individual" is defined
5 as an applicant who is a natural person doing business under his
6 own name.

7 (e) All remedies for violation of this act, the regulations
8 adopted hereunder or the conditions of permits are expressly
9 preserved. Nothing in [subsections (a), (b) and (c)] this
10 section shall be construed as an exclusive penalty or remedy for
11 such violations of law. No action taken pursuant to [subsection
12 (c)] this section shall waive or impair any other remedy or
13 penalty provided in law.

14 (f) Owners or operators who have failed to meet the
15 requirements of this section prior to the effective date of this
16 amendatory act shall not be required to make payments pursuant
17 to this section on a retroactive basis as a condition of
18 obtaining a permit under this act.

19 Section 7. Section 505 of the act is amended by adding a
20 subsection to read:

21 Section 505. Penalties.

22 * * *

23 (d) Any person who fails to register a well pursuant to the
24 provisions of this amendatory act shall be subject to pay a fine
25 of \$2,500 per well to a maximum of \$25,000 in addition to any
26 other fines provided by this act.

27 Section 8. The heading of section 508 of the act is amended
28 and the section is amended by adding a subsection to read:

29 Section 508. Production of materials; witnesses; depositions;
30 rights of entry; determination of compliance.

1 * * *

2 (f) Any purchaser of oil or gas shall, upon request, provide
3 to the department information as may be necessary for the
4 department to determine ownership of facilities from which such
5 oil or gas was obtained. Such information shall be kept
6 confidential for a period of five years. The department shall
7 have the right to utilize such information in enforcement
8 proceedings.

9 Section 9. Sections 509, 601 and 602 of the act are amended
10 to read:

11 Section 509. Unlawful conduct.

12 It shall be unlawful for any person to:

13 (1) Drill, alter, operate or utilize an oil or gas well
14 without a permit or registration from the department as
15 required by this act or in violation of the rules or
16 regulations adopted under this act, or orders of the
17 department, or in violation of any term or condition of any
18 permit issued by the department.

19 (2) Conduct any activities related to drilling for, or
20 production of, oil and gas, contrary to the rules or
21 regulations adopted under this act, or orders of the
22 department, or any term or any condition of any permit, or in
23 any manner as to create a public nuisance or to adversely
24 affect the public health, safety, welfare or the environment.

25 (3) Refuse, obstruct, delay or threaten any agent or
26 employee of the department in the course of lawful
27 performance of any duty under this act, including, but not
28 limited to, entry and inspection [under any circumstances].

29 (4) Attempt to obtain a permit or identify a well as an
30 orphan well by misrepresentation or failure to disclose all

1 relevant facts.

2 (5) Cause the abandonment of a well by removal of casing
3 or equipment necessary for production without plugging the
4 well in a manner prescribed pursuant to section 210. The
5 owner or operator of a well may only temporarily remove
6 casing or equipment necessary for production if it is part of
7 the normal course of production activities.

8 Section 601. [Well Plugging Restricted Revenue Account.] Well
9 plugging funds.

10 (a) All fines, civil penalties, permit and registration fees
11 collected under this act [shall be paid into the State Treasury
12 into a restricted revenue account to be known as the Well
13 Plugging Restricted Revenue Account, hereby established, which
14 shall be administered by the department for the plugging and
15 sealing of abandoned wells and to cover the purposes of
16 administering this act. All the moneys from time to time paid
17 into the Well Plugging Restricted Revenue Account are
18 specifically appropriated, upon annual approval by the
19 Governor,] are hereby appropriated to the Department of
20 Environmental Resources to carry out the purposes of this act.

21 (b) To aid in the indemnification of the Commonwealth for
22 the cost of plugging abandoned wells, there shall be added to
23 the permit fee established by the department under section 201
24 for new wells a \$50 surcharge. All moneys [deposited in this
25 restricted revenue account from the surcharge] collected as a
26 result of this surcharge shall be paid into the State Treasury
27 into a restricted revenue account to be known as the Abandoned
28 Well Plugging Fund, hereby established, and shall be expended by
29 the department to plug abandoned wells which threaten the health
30 and safety of persons or property or pollution of the waters of

1 the Commonwealth.

2 (c) (1) There is hereby created a restricted revenue
3 account to be known as the Orphan Well Plugging Fund. There
4 shall be added to the permit fee established by the
5 department under section 201 for new wells a \$100 surcharge
6 for wells to be drilled for oil production and a \$200
7 surcharge for wells to be drilled for gas production, which
8 surcharges shall be placed in the Orphan Well Plugging Fund
9 and shall be expended by the department to plug orphan wells.
10 If an operator rehabilitates a well abandoned by another
11 operator or an orphan well, the permit fee and the surcharge
12 for such well shall be waived.

13 (2) The department shall conduct a study of its
14 experience in implementing this section and shall report its
15 findings to the Governor and the General Assembly within five
16 years of the effective date of this amendatory act. The
17 report shall contain information relating to the balance of
18 the fund, the number of wells plugged, the number of
19 identified wells eligible for plugging, and any
20 recommendations on alternative funding mechanisms.

21 Section 602. Local ordinances.

22 Except with respect to ordinances adopted pursuant to the act
23 of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
24 Municipalities Planning Code and the act of October 4, 1978
25 (P.L.851, No.166), known as the Flood Plain Management Act, all
26 local ordinances and enactments purporting to regulate oil and
27 gas well operations regulated by this act are hereby superseded.

28 No ordinances or enactments adopted pursuant to the
29 aforementioned acts shall contain provisions which impose
30 conditions, requirements or limitations on the same features of

1 oil and gas well operations regulated by this act or that
2 accomplish the same purposes as set forth in this act. The
3 Commonwealth, by this enactment, hereby preempts and supersedes
4 the regulation of oil and gas wells as herein defined.

5 Section 10. Section 603.1 of the act, added October 9, 1986
6 (P.L.1431, No.135), is amended to read:

7 Section 603.1. Relationship to solid waste and surface mining.

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

19 (1) the well is permitted pursuant to the requirements
20 of section 201 or registered pursuant to the requirements of
21 section 203;

22 (2) the owner or operator satisfies the financial
23 security requirements of section 215 by obtaining a surety or
24 collateral bond for the well and well site; and

25 (3) the owner or operator maintains compliance with
26 [the] this act and any applicable regulations promulgated by
27 the Environmental Quality Board.

28 (b) Obligations under the act of December 19, 1984
29 (P.L.1093, No.219), known as the Noncoal Surface Mining
30 Conservation and Reclamation Act, or any rule or regulation

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

9 [(b)] (c) Nothing in this section shall diminish any other
10 duties or obligations that an owner or operator may have under
11 the Solid Waste Management Act. The provisions of this section
12 shall not apply to any waste which is classified as a hazardous
13 waste pursuant to the Solid Waste Management Act, or the
14 Resource Conservation and Recovery Act of 1976 (Public Law 94-
15 580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq.).

16 [(c)] (d) As used in this section and sections 206 and 215,
17 the term "well site" means the areas occupied by all equipment
18 or facilities necessary for or incidental to the drilling,
19 production or plugging of a well.

20 Section 11. This act shall take effect in 30 days.