

AMENDMENTS TO HOUSE BILL NO. 1950

Sponsor: REPRESENTATIVE BAKER

Printer's No. 2689

1 Amend Bill, page 1, line 12, by inserting after "Act"

2 with modifications and additions

3 Amend Bill, page 1, lines 17 through 23; pages 2 through 127,
4 lines 1 through 30, by striking out all of said lines on said
5 pages and inserting

6 Section 1. Title 27 of the Pennsylvania Consolidated
7 Statutes is amended by adding chapters to read:

8 CHAPTER 33

9 OIL AND GAS

10 Subchapter

11 A. (Reserved)

12 B. Oil and Gas Lease Fund

13 SUBCHAPTER A

14 (RESERVED)

15 SUBCHAPTER B

16 OIL AND GAS LEASE FUND

17 Sec.

18 3301. Definitions.

19 3302. Oil and Gas Lease Fund.

20 3303. Powers and duties of secretary.

21 3304. Appropriation of moneys.

22 3305. Interfund transfers.

23 § 3301. Definitions.

24 The following words and phrases when used in this chapter
25 shall have the meanings given to them in this section unless the
26 context clearly indicates otherwise:

27 "Department." The Department of Conservation and Natural
28 Resources of the Commonwealth.

29 "Fund." The Oil and Gas Lease Fund established by this
30 subchapter.

31 "Secretary." The Secretary of Conservation and Natural
32 Resources of the Commonwealth.

33 § 3302. Oil and Gas Lease Fund.

34 (a) Establishment.--The Oil and Gas Lease Fund is
35 established in the State Treasury.

36 (b) Deposits.--All rents and royalties from oil and gas

1 leases of any land owned by the Commonwealth, except rents and
2 royalties received from game and fish lands, shall be placed in
3 the fund to be used exclusively:

- 4 (1) for conservation, recreation, dams or flood control;
- 5 (2) to match any Federal grants which may be made for
6 any of the purposes enumerated in this subchapter; and
- 7 (3) for interfund transfers as provided in section 3305
8 (relating to interfund transfers).

9 § 3303. Powers and duties of secretary.

10 The secretary shall have the following powers and duties:

- 11 (1) To determine, in the secretary's discretion, the
12 need for and the location of any project authorized by this
13 chapter.
- 14 (2) To acquire in the name of the Commonwealth by
15 purchase, condemnation or otherwise such lands as may be
16 needed.

17 § 3304. Appropriation of moneys.

18 All the moneys from time to time paid into the fund are
19 specifically appropriated on a continuing basis to the
20 department to carry out the purposes of this subchapter.

21 § 3305. Interfund transfers.

22 Transfers shall be made between funds in the State Treasury
23 as follows:

24 (1) On July 1, 2013, and each July 1 thereafter, an
25 amount equal to 25% of the total moneys received from the
26 prior fiscal year shall be transferred from the fund to the
27 Environmental Stewardship Fund for the purpose of plugging
28 abandoned oil and gas wells and other uses authorized by law
29 for the Environmental Stewardship Fund.

30 (2) (i) Beginning July 1, 2014, a total of \$40,000,000
31 shall be transferred from the fund to the Hazardous Sites
32 Cleanup Fund for the purpose of remedial response or
33 remedy at oil and gas well sites and other uses
34 authorized by law for the Hazardous Sites Cleanup Fund.

35 (ii) On July 1, 2015, and each July 1 thereafter,
36 the following shall apply:

37 (A) the sum of the amount transferred under
38 subparagraph (i) during the prior fiscal year; and

39 (B) an amount equal to the percentage change in
40 the Consumer Price Index for All Urban Consumers from
41 the prior fiscal year, multiplied by the amount in
42 clause (A),

43 shall be transferred from the fund to the Hazardous Sites
44 Cleanup Fund for the purpose specified in subparagraph
45 (i).

46 (3) On July 1, 2013, and each July 1 thereafter, an
47 amount equal to 5% of the total moneys received from the
48 prior fiscal year, but not to exceed \$5,000,000, shall be
49 transferred from the fund to the several counties, school
50 districts and townships entitled to receive payment from the
51 Commonwealth in lieu of taxes under the act of May 17, 1929

1 (P.L.1798, No.591), referred to as the Forest Reserves
2 Municipal Financial Relief Law. The moneys transferred under
3 this paragraph shall be allocated to each county, school
4 district and township based on the number of acres of land in
5 the county, school district or township to which the payment
6 under that act applies in proportion to the aggregate number
7 of acres of all such lands of the counties, school districts
8 and townships in this Commonwealth.

9 (4) On July 1, 2013, and each July 1 thereafter, a total
10 of \$15,000,000 shall be transferred from the fund to the
11 Conservation District Fund. These funds shall be distributed
12 in a manner consistent with the act of May 15, 1945 (P.L.547,
13 No.217), known as the Conservation District Law, and the
14 provisions of the State Conservation Commission's
15 Conservation District Fund Allocation Program—Statement of
16 Policy under 25 Pa. Code Ch. 83 Subch. B (relating to
17 Conservation District Fund Allocation Program—Statement of
18 Policy).

19 CHAPTER 35

20 WELLS

21 Subchapter

22 A. Unconventional Gas Wells

23 B. (Reserved)

24 SUBCHAPTER A

25 UNCONVENTIONAL GAS WELLS

26 Sec.

27 3501. Short title.

28 3502. Definitions.

29 3503. Unconventional gas well impact fee.

30 3504. (Reserved).

31 3505. (Reserved).

32 3506. Administration.

33 3506.1. Well information.

34 3506.2. Payment confirmation.

35 3506.3. County authority.

36 3506.4. Enforcement.

37 3506.5. Examinations.

38 3507. Deposit of fees.

39 3508. Allocation and distribution of fees.

40 3509. Calculation of payments.

41 3510. Recordkeeping and State reporting.

42 3511. Expiration.

43 § 3501. Short title.

44 This subchapter shall be known and may be cited as the
45 Unconventional Gas Well Impact Act.

46 § 3502. Definitions.

47 The following words and phrases when used in this subchapter
48 shall have the meanings given to them in this section unless the
49 context clearly indicates otherwise:

50 "Association." A partnership, limited partnership or any
51 other form of unincorporated enterprise owned or conducted by

1 two or more persons.

2 "Coal bed methane." Gas that can be produced from coal beds,
3 coal seams, mined-out areas or gob wells.

4 "Corporation." A corporation, joint stock association,
5 limited liability company, business trust or any other
6 incorporated enterprise organized under the laws of the United
7 States, this Commonwealth or any other state, territory or
8 foreign country or dependency.

9 "Department." The Department of Environmental Protection of
10 the Commonwealth.

11 "Highway mileage." The number of miles of public roads and
12 streets most recently certified by the Department of
13 Transportation as eligible for distribution of liquid fuels
14 funds under the act of June 1, 1956 (1955 P.L.1944, No.655),
15 referred to as the Liquid Fuels Tax Municipal Allocation Law.

16 "Municipality." A city, borough, incorporated town or
17 township.

18 "Natural gas." A fossil fuel consisting of a mixture of
19 hydrocarbon gases, primarily methane, possibly including ethane,
20 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
21 hydrogen sulfide and other gas species. The term includes gas
22 from oil fields known as associated gas or casing head gas,
23 natural gas fields known as nonassociated gas, coal beds, shale
24 beds and other formations. The term does not include coal bed
25 methane.

26 "Nonproducing well." A natural gas well that produces an
27 average of less than 90,000 cubic feet of natural gas per day
28 during a calendar year.

29 "Operator." A person or its subsidiary, affiliate or holding
30 company that holds a permit or other authorization to engage in
31 the business of severing natural gas for sale, profit or
32 commercial use from an unconventional well in this Commonwealth.
33 The term does not include a person who severs natural gas from a
34 storage field.

35 "Person." A natural person or a corporation, fiduciary,
36 association or other entity, including the Commonwealth and any
37 of its political subdivisions, instrumentalities and
38 authorities. When the term is used in a provision prescribing
39 and imposing a penalty or imposing a fine or both, the term
40 shall include a member of an association and an officer of a
41 corporation.

42 "Rate." The rate under section 3503 (relating to
43 unconventional gas well impact fee).

44 "Reporting period." The fiscal year in which a well impact
45 fee is assessed.

46 "Unconventional gas well." A bore hole drilled or being
47 drilled for the purpose of or to be used for producing oil or
48 gas from a geologic shale formation existing below the base of
49 the Elk Sandstone or its geologic equivalent stratigraphic
50 interval where oil or gas generally cannot be produced at
51 economic flow rates or in economic volumes except by wells

1 stimulated by hydraulic fracture treatments, a horizontal well
2 bore or by using multilateral well bores or other techniques to
3 expose more of the formation of the well bore.

4 "Unconventional gas well impact fee." A fee that is adopted
5 under section 3503 (relating to unconventional gas well impact
6 fee) on each unconventional well producing natural gas within
7 this Commonwealth.

8 § 3503. Unconventional gas well impact fee.

9 (a) Imposition.--By enactment of an ordinance by the
10 governing body of a county, except as set forth in subsection
11 (b), a county may impose an unconventional gas well impact fee
12 on each unconventional gas well that is located on a well pad
13 and produces natural gas within the county.

14 (b) Exemptions.--The unconventional gas well impact fee
15 shall not be imposed on:

16 (1) nonproducing wells; or

17 (2) unconventional gas wells in which all of the natural
18 gas is used directly by a consumer at the site.

19 (c) Fee for existing unconventional gas wells.--The fee for
20 an unconventional gas well producing natural gas which is in
21 existence on the effective date of the ordinance under
22 subsection (a) shall be as follows:

23 (1) For the first year of production following the
24 effective date of the ordinance, not more than \$40,000.

25 (2) For the second year of production following the
26 effective date of the ordinance, not more than \$30,000.

27 (3) For the third year of production following the
28 effective date of the ordinance, not more than \$20,000.

29 (4) For the fourth year of production through the tenth
30 year of production following the effective date of the
31 ordinance, not more than \$10,000.

32 (d) Fee for new unconventional gas wells.--The fee for an
33 unconventional gas well producing natural gas drilled after the
34 effective date of the ordinance under subsection (a) shall be as
35 follows:

36 (1) For the first year of production, not more than
37 \$40,000.

38 (2) For the second year of production, not more than
39 \$30,000.

40 (3) For the third year of production, not more than
41 \$20,000.

42 (4) For the fourth year of production through the tenth
43 year of production, not more than \$10,000.

44 (e) Vertical unconventional gas well fee.--

45 (1) The fee for an unconventional vertical gas well
46 shall be not more than 25% of the fee established in
47 subsections (c) and (d).

48 (2) For purposes of this subsection, an unconventional
49 vertical gas well shall be defined as an unconventional gas
50 well that:

51 (i) Produces oil or gas from a geologic shale

1 formation existing below the base of the Elk Sandstone or
2 its geologic equivalent stratigraphic interval.

3 (ii) Utilizes hydraulic fracture treatment through a
4 single vertical well bore.

5 (f) Prohibition.--

6 (1) Under no circumstances may an operator make an
7 unconventional gas well impact fee, or any other levy related
8 to the removal or extraction of natural gas, an obligation,
9 indebtedness or liability of a landowner, leaseholder or
10 other person in possession of real property upon which such
11 removal or extraction occurs.

12 (2) Any provision of an agreement between an operator
13 and a landowner, leaseholder or other person in possession of
14 real property upon which removal or extraction of natural gas
15 occurs that violates paragraph (1) shall be null and void.

16 (3) This section shall be applicable to any agreement
17 entered into on or before the effective date of this section.

18 (g) Retroactivity prohibited.--No fee shall be imposed to
19 cover a period of natural gas production which occurred prior to
20 the effective date of the ordinance.

21 § 3504. (Reserved).

22 § 3505. (Reserved).

23 § 3506. Administration.

24 (a) Report.--By April 1 of the year after enactment of an
25 ordinance imposing a fee under this chapter and each April 1
26 thereafter, each operator shall submit a report and payment of
27 the fee with the county on a form prescribed by the department
28 for the previous calendar year. The report shall include the
29 following:

30 (1) The number of unconventional gas wells of an
31 operator in each municipality within the county.

32 (2) The total number of cubic feet of natural gas
33 severed by the operator for each unconventional gas well
34 identified under paragraph (1) during the previous calendar
35 year.

36 (3) The date that each unconventional gas well
37 identified under paragraph (1) began or ceased the production
38 of natural gas.

39 (b) Fee due date.--The fee imposed under this chapter shall
40 be due by April 1 of the year after enactment of an ordinance
41 imposing the fee and each April 1 thereafter. The fee shall
42 become delinquent if not remitted to the county on the reporting
43 date.

44 § 3506.1. Well information.

45 (a) List.--Upon request, the department shall provide a
46 county with a list of all unconventional gas wells that have
47 received a well permit from the department issued under this
48 chapter. The list shall be updated on a monthly basis. In lieu
49 of providing the list to each county, the department may
50 maintain a list on its publicly accessible Internet website if
51 the list is updated on a monthly basis.

1 (b) Updates.--An operator shall notify the county within 30
2 days from the date the unconventional gas well began or ceased
3 the production of natural gas.

4 § 3506.2. Payment confirmation.

5 Prior to issuing a permit to drill an unconventional gas well
6 in this Commonwealth, the department shall require the permit
7 applicant to certify in its well permit application that the
8 operator has paid all fees that may be owed under this chapter.
9 The department may deny a well permit application if it finds
10 that the operator falsified this certification.

11 § 3506.3. County authority.

12 (a) Powers.--A county may make all inquiries and
13 determinations necessary to calculate and collect a fee imposed
14 under this chapter, including, if applicable, interest and
15 penalties.

16 (b) Notice.--If a county determines that a fee imposed under
17 this chapter has not been paid in full, it may issue a notice of
18 the amount due and demand for payment and shall set forth the
19 basis for the determination.

20 (c) Address.--Notice of failure to pay the correct fee shall
21 be sent to the operator at its registered address via certified
22 mail.

23 (d) Time period.--A county may challenge the amount of a fee
24 paid under this chapter within three years after the date the
25 report under this chapter is filed.

26 (e) Intent.--If no report is filed or an operator files a
27 false or fraudulent return with the intent to evade a fee, an
28 assessment of the amount owed may be made at any time.

29 § 3506.4. Enforcement.

30 (a) Assessment.--A county may assess interest on any
31 delinquent fee imposed under this chapter at the rate prescribed
32 under section 806 of the act of April 9, 1929 (P.L.343, No.176),
33 known as The Fiscal Code.

34 (b) Penalty.--In addition to the interest under subsection
35 (a), if an operator fails to make timely payment of the fee, a
36 penalty shall be added to the amount of the fee due. The amount
37 of the penalty shall be 5% for each month, or fraction of a
38 month, during which the failure continues, not to exceed 25% in
39 the aggregate.

40 (c) Timely payment.--If a county determines that an operator
41 has not made a timely payment of the fee, the county shall send
42 a written notice of the amount of the deficiency to the operator
43 within 30 days from the date of determining the deficiency. If
44 the operator has not provided a complete and accurate statement
45 of the volume of natural gas extracted for the payment period,
46 the county may estimate the volume in its deficiency notice.

47 (d) Remedies.--The remedies provided under this chapter
48 shall be in addition to any other remedies provided at law or in
49 equity.

50 (e) Lien.--Fines, fees, interest and penalties shall be
51 collectible in the manner provided by law for the collection of

1 debts. If the operator liable to pay any amount neglects or
2 refuses to pay the amount after demand, the amount, together
3 with costs that may accrue, shall be a judgment in favor of the
4 county upon the property of the operator, if the judgment has
5 been entered and docketed of record by the prothonotary of the
6 county where the property is situated.

7 § 3506.5. Examinations.

8 (a) Access.--A county which has imposed a fee under this
9 chapter, or its authorized agents or representatives, shall:

10 (1) Have access to the books, papers and records of any
11 operator in order to verify the accuracy and completeness of
12 a report filed or fee paid under this chapter.

13 (2) Require and compel the preservation and production
14 of all books, papers and records for any period deemed proper
15 not to exceed three years from the end of the calendar year
16 to which the records relate.

17 (3) Examine any employee of an operator concerning the
18 severing of natural gas subject to a fee or any matter
19 relating to the enforcement of this chapter.

20 (b) Unauthorized disclosure.--

21 (1) Any information obtained by a county as a result of
22 any report, examination, investigation or hearing under this
23 chapter shall be confidential and shall be exempt from
24 disclosure under the provisions of the act of February 14,
25 2008 (P.L.6, No.3), known as the Right-to-Know Law, and shall
26 not be disclosed except in accordance with judicial order or
27 as otherwise provided by law.

28 (2) An individual unlawfully divulging the information
29 described under this subsection commits a misdemeanor and
30 shall, upon conviction, be sentenced to pay a fine of not
31 more than \$1,000 and costs of prosecution or to imprisonment
32 for not more than one year, or both.

33 § 3507. Deposit of fees.

34 (a) Establishment.--Each county imposing a fee under this
35 chapter shall establish an interest-bearing account designed
36 solely for fees.

37 (b) Deposit.--All fees collected by a county imposing a fee
38 under this chapter shall be deposited into the account described
39 under subsection (a).

40 § 3508. Allocation and distribution of fees.

41 (a) Allocation of fees.--The fees deposited into the account
42 established under section 3507 (relating to deposit of fees)
43 shall be allocated as follows:

44 (1) Seventy-five percent of the fees shall be allocated
45 to the county and its municipalities in the manner provided
46 under subsection (b).

47 (2) Twenty-five percent of the fees shall be allocated
48 to the Commonwealth and distributed in the manner provided
49 under subsections (c) and (d).

50 (b) Distribution of fees to county and municipalities.--The
51 fees allocated to the county and its municipalities under

1 subsection (a)(1) shall be distributed as follows:

2 (1) Thirty-six percent of the fees shall be retained by
3 the county where the producing unconventional gas wells are
4 located.

5 (2) Thirty-seven percent of the fees shall be
6 distributed to the municipalities where producing
7 unconventional gas wells are located. The amount for each
8 municipality shall be determined using a formula that divides
9 the number of producing unconventional gas wells in the
10 municipality by the number of producing unconventional gas
11 wells in the county and multiplies the resulting percentage
12 by the amount available for distribution under this
13 subparagraph.

14 (3) Twenty-seven percent of the fees shall be
15 distributed to all municipalities in the county where
16 producing unconventional gas wells are located as follows:

17 (i) Fifty percent shall be distributed to all
18 municipalities using a formula that divides the
19 population of the municipality within the county by the
20 total population of the county and multiplies the
21 resulting percentage by the amount available for
22 distribution to the county under this subparagraph.

23 (ii) Fifty percent shall be distributed to each
24 municipality using a formula that divides the highway
25 mileage of the municipality within the county by the
26 total highway mileage of the county and multiplies the
27 resulting percentage by the amount available for
28 distribution to the county under this subparagraph.

29 (c) Distribution of fees to Commonwealth.--The fees
30 allocated to the Commonwealth under subsection (a)(2) shall be
31 remitted to the Commonwealth for deposit into a restricted
32 account in the General Fund of the Commonwealth dedicated solely
33 for fees. The funds are hereby appropriated and shall be
34 distributed as follows and as set forth under subsection (e):

35 (1) Seventy percent to the Department of Transportation
36 for road, bridge, rail and other transportation
37 infrastructure improvements to address impacts from
38 unconventional natural gas development.

39 (2) Ten and one-half percent to the department, not to
40 exceed \$10,000,000 annually, for the regulation of
41 unconventional gas wells and the plugging of abandoned and
42 orphan gas wells within the Commonwealth.

43 (3) Seven and one-half percent to the Public Utility
44 Commission, not to exceed \$2,000,000 annually, for the
45 enhancement, inspection and enforcement of pipeline safety
46 standards as required by law related to the safe transport of
47 gas and hazardous liquids.

48 (4) Four and one-half percent to the Pennsylvania
49 Emergency Management Agency, not to exceed \$2,000,000
50 annually, for emergency response planning, training and
51 coordination associated with unconventional natural gas

1 production activity within the Commonwealth.

2 (5) Three and three-quarters percent to the Department
3 of Health, not to exceed \$2,000,000 annually, for collecting
4 and disseminating information, preparing and conducting
5 health care provider outreach and education and investigating
6 health-related complaints and other uses associated with
7 unconventional natural gas production activity within this
8 Commonwealth.

9 (6) Three and three-quarters percent to the Office of
10 State Fire Commissioner, not to exceed \$2,000,000 annually,
11 for the development, delivery and sustainment of training
12 programs for first responders and acquisition of specialized
13 equipment necessary for emergency response.

14 (d) Additional distribution of fees to Department of
15 Transportation.--In addition to the distribution of fees to the
16 Department of Transportation under subsection (c)(1), any funds
17 remaining in the restricted account after distribution of fees
18 under subsection (c)(2), (3), (4), (5) and (6) are hereby
19 appropriated shall be distributed to the Department of
20 Transportation.

21 (e) Continuing nature.--

22 (1) The distributions under subsections (c) and (d)
23 shall be executive authorizations.

24 (2) The appropriations under subsections (c) and (d)
25 shall be continuing appropriations. Those appropriations
26 shall not lapse at the end of any fiscal year.

27 (f) Timing of distribution.--A county shall distribute the
28 fees authorized under this chapter within 45 days after the date
29 the fees are received.

30 (g) Use of funds by counties and municipalities.--A county
31 or municipality receiving fees under this section shall make use
32 of the fees received only for the following purposes associated
33 with unconventional natural gas production within the county or
34 municipality:

35 (1) Construction, reconstruction, maintenance and repair
36 of roadways, bridges and public infrastructure.

37 (2) Water, storm water and sewer systems, including
38 construction, reconstruction, maintenance and repair.

39 (3) Emergency preparedness and response, including
40 police, fire, hazardous material response, 911, equipment
41 acquisition, responder recruitment and other services.

42 (4) Preservation and reclamation of surface and
43 subsurface waters and water supplies, including drinking
44 water monitoring and testing.

45 (5) Records management, geographic information systems
46 and information technology.

47 (6) Projects that increase the availability of
48 affordable housing, either for sale or rental, to residents
49 whose annual income is less than the area median income.

50 (7) Delivery of social services, including domestic
51 relations, drug and alcohol treatment, job training and

1 counseling.

2 (8) Assistance to the county conservation district for
3 inspection, oversight and enforcement of unconventional
4 natural gas development.

5 (9) County or municipal planning.

6 (10) Local tax reduction.

7 § 3509. Calculation of payments.

8 (a) General rule.--The county treasurer of a county that
9 imposes and collects the unconventional gas well impact fee
10 shall certify the number of all unconventional gas wells located
11 within each municipality of the county based upon the
12 appropriate reports provided by the department.

13 (b) Payments to municipalities.--The county treasurer of a
14 county that imposes and collects the unconventional gas well
15 impact fee shall pay to municipalities the amounts required
16 under this subchapter.

17 § 3510. Recordkeeping and State reporting.

18 (a) General rule.--Commencing in calendar year 2013 and
19 each year thereafter, before December 1, each county that
20 imposes and collects the unconventional gas well impact fee
21 authorized by this subchapter shall prepare and deliver a report
22 to the Secretary of the Senate and the Chief Clerk of the House
23 of Representatives detailing the expenditure of the funds
24 collected under this subchapter.

25 (b) Audit.--The Department of Community and Economic
26 Development may audit a county's and municipality's expenditure
27 of the funds.

28 (c) Availability of records.--A county and municipality that
29 receives the funds shall make its financial records and other
30 documents relating to its expenditure of the funds available to
31 the department.

32 (d) Time.--Reports shall be prepared no later than June 30
33 of the year following the initial receipt of any fees
34 distributed under this section and each June 30 thereafter.

35 (e) Location.--Reports shall be published on the county or
36 municipality's publicly accessible Internet website. If a
37 municipality does not maintain a publicly accessible Internet
38 website, the municipality shall provide its report to the
39 county, which shall publish the municipality's report on the
40 county's publicly accessible Internet website.

41 § 3511. Expiration.

42 (a) Notice.--The Secretary of the Commonwealth shall, upon
43 the effective date of an act authorizing a severance tax on each
44 unconventional well producing gas in this Commonwealth, submit
45 for publication in the Pennsylvania Bulletin notice of that
46 fact.

47 (b) Date.--This chapter shall expire on the date of the
48 publication of the notice under subsection (a).

49 SUBCHAPTER B

50 (RESERVED)

51 Section 2. Title 58 is amended by adding parts to read:

PART I
PRELIMINARY PROVISIONS
(RESERVED)
PART II
(RESERVED)
PART III
UTILIZATION

Chapter

31. (Reserved)
32. Development

CHAPTER 31
(RESERVED)
CHAPTER 32
DEVELOPMENT

Subchapter

- A. Preliminary Provisions
B. General Requirements
C. Underground Gas Storage
D. Eminent Domain
E. Enforcement and Remedies
F. Miscellaneous Provisions

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

3201. Scope of chapter.
3202. Declaration of purpose.
3203. Definitions.

§ 3201. Scope of chapter.

This chapter relates to oil and gas.

§ 3202. Declaration of purpose.

The purposes of this chapter are to:

(1) Permit optimal development of oil and gas resources
of this Commonwealth consistent with protection of the
health, safety, environment and property of Pennsylvania
citizens.

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

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

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

§ 3203. Definitions.

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

"Abandoned well." Any of the following:

(1) A well:

(i) that has not been used to produce, extract or
inject any gas, petroleum or other liquid within the

preceding 12 months;

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

(iii) considered dry and not equipped for production within 60 days after drilling, redrilling or deepening.

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

"Alteration." An operation which changes the physical characteristics of a well bore, including stimulation or removing, repairing or changing the casing. For the purpose of this chapter only, the term does not include:

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

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

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

(2) Stimulation of a well.

"Board." The Oil and Gas Technical Advisory Board.

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

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

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

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

(1) Hydraulic cement properly mixed with water only.

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

"Coal mine." Any of the following:

(1) Operations in a coal seam, including excavated portions, abandoned portions and places actually being worked.

(2) Underground workings and shafts, slopes, tunnels and other ways and openings, including those which are in the course of being sunk or driven, along with all roads and facilities connected with them below the surface.

"Coal operator." A person that operates or proposes to operate a coal mine as an owner or lessee.

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

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

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

"Environmental law." Any of the following:

1 (1) A Federal statute pertaining to oil and gas
2 operations, public health, safety, natural resources or the
3 environment.

4 (2) A Federal regulation, rule, administrative order or
5 agency interpretation or guidance pertaining to oil and gas
6 operations, public health, safety, natural resources or the
7 environment.

8 (3) A Federal judicial decision pertaining to oil and
9 gas operations, public health, safety, natural resources or
10 the environment.

11 (4) A Commonwealth statute pertaining to oil and gas
12 operations, public health, safety, natural resources or the
13 environment. The term includes any of the following:

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

16 (ii) The act of January 8, 1960 (1959 P.L.2119,
17 No.787), known as the Air Pollution Control Act.

18 (iii) The act of July 7, 1961 (P.L.518, No.268),
19 known as the Delaware River Basin Compact.

20 (iv) The act of July 25, 1961 (P.L.825, No.359),
21 known as the Oil and Gas Conservation Law.

22 (v) The act of July 17, 1968 (P.L.368, No.181),
23 referred to as the Susquehanna River Basin Compact Law.

24 (vi) The act of October 4, 1978 (P.L.864, No.167),
25 known as the Storm Water Management Act.

26 (vii) The act of November 26, 1978 (P.L.1375,
27 No.325), known as the Dam Safety and Encroachments Act.

28 (viii) The act of July 7, 1980 (P.L.380, No.97),
29 known as the Solid Waste Management Act.

30 (ix) The act of June 23, 1982 (P.L.597, No.170),
31 known as the Wild Resource Conservation Act.

32 (x) The act of May 1, 1984 (P.L.206, No.43), known
33 as the Pennsylvania Safe Drinking Water Act.

34 (xi) The act of July 10, 1984 (P.L.688, No.147),
35 known as the Radiation Protection Act.

36 (xii) The act of October 5, 1984 (P.L.734, No.159),
37 known as the Worker and Community Right-to-Know Act.

38 (xiii) The act of December 18, 1984 (P.L.1069,
39 No.214), known as the Coal and Gas Resource Coordination
40 Act.

41 (xiv) The act of December 19, 1984 (P.L.1093,
42 No.219), known as the Noncoal Surface Mining Conservation
43 and Reclamation Act.

44 (xv) The act of October 18, 1988 (P.L.756, No.108),
45 known as the Hazardous Sites Cleanup Act.

46 (xvi) The act of July 6, 1989 (P.L.169, No.32),
47 known as the Storage Tank and Spill Prevention Act.

48 (xvii) The act of December 7, 1990 (P.L.639,
49 No.165), known as the Hazardous Material Emergency
50 Planning and Response Act.

51 (xviii) The act of May 19, 1995 (P.L.4, No.2), known

1 as the Land Recycling and Environmental Remediation
2 Standards Act.

3 (xix) The act of July 4, 2008 (P.L.526, No.43),
4 known as the Great Lakes-St. Lawrence River Basin Water
5 Resources Compact.

6 (xx) The provisions of 27 Pa.C.S. Ch. 31 (relating
7 to water resources planning)

8 (xxi) The provisions of 27 Pa.C.S. Ch. 41 (relating
9 to environmental laboratory accreditation).

10 (xxii) The provisions of 27 Pa.C.S. Ch. 62 (relating
11 to waste transportation safety).

12 (xxiii) The provisions of 30 Pa.C.S. (relating to
13 fish).

14 (xxiv) The provisions of 34 Pa.C.S. (relating to
15 game).

16 (5) A regulation, rule, administrative order or agency
17 interpretation or guidance of a Commonwealth agency
18 pertaining to oil and gas operations, public health, safety,
19 natural resources or the environment.

20 (6) A decision of a court of this Commonwealth
21 pertaining to oil and gas operations, public health, safety,
22 natural resources or the environment.

23 "Fresh groundwater." Water in that portion of the generally
24 recognized hydrologic cycle which occupies the pore spaces and
25 fractures of saturated subsurface materials.

26 "Gas." Any of the following:

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

31 (2) Any manufactured gas, byproduct gas or mixture of
32 gases or natural gas liquids.

33 "Inactivate." To shut off the vertical movement of gas in a
34 gas storage well by means of a temporary plug or other suitable
35 device or by injecting bentonitic mud or other equally nonporous
36 material into the well.

37 "Linear foot." A unit or measurement in a straight line on a
38 horizontal plane.

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

42 "Oil and gas operations." Any of the following:

43 (1) Exploration for oil and gas. This paragraph includes
44 the conduct of seismic operations.

45 (2) Siting and locating of oil and gas wells.

46 (3) Drilling, stimulation and completion of oil and gas
47 wells.

48 (4) Generation, processing, treatment, storage,
49 transportation and disposal of fresh water, wastewater,
50 wastes, chemicals and other materials directly associated
51 with drilling, stimulation and completion of oil and gas

1 wells.

2 (5) Production, gathering and collection of oil or gas.

3 (6) Compression, transportation, processing, measurement
4 and storage of oil or gas.

5 (7) Reclamation activities.

6 (8) Construction and use of drilling rigs and pipelines.

7 This paragraph includes equipment directly related to the
8 activities set forth in this paragraph.

9 (9) Construction and use of access roads, well sites,
10 drilling pads, impoundments, compression stations, processing
11 stations, meter stations and storage tanks. This paragraph
12 includes buildings, facilities or structures, which are
13 directly related to the activities set forth in this
14 paragraph. This paragraph does not include ancillary support,
15 supply and service facilities, the location of which is not
16 dependent on the location of specific wells or pipelines.

17 "Operating coal mine." Any of the following:

18 (1) An underground coal mine which is producing coal or
19 has been in production of coal at any time during the 12
20 months immediately preceding the date its status is put in
21 question, including contiguous worked-out or abandoned coal
22 mines to which it is connected underground.

23 (2) An underground coal mine to be established or
24 reestablished under paragraph (1).

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

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

31 "Outside coal boundaries." When used in conjunction with the
32 term "operating coal mine," the boundaries of the coal acreage
33 assigned to the coal mine under an underground mine permit
34 issued by the Department of Environmental Protection.

35 "Owner." A person who owns, manages, leases, controls or
36 possesses a well or coal property. The term does not apply to
37 orphan wells, except where the Department of Environmental
38 Protection determines a prior owner or operator benefited from
39 the well as provided in section 3220(a) (relating to plugging
40 requirements).

41 "Person." An individual, association, partnership,
42 corporation, political subdivision or agency of the Federal
43 Government, State government or other legal entity.

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

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

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

51 "Reservoir protective area." The area surrounding a storage

1 reservoir boundary, but within 2,000 linear feet of the storage
2 reservoir boundary, unless an alternate area has been designated
3 by the Department of Environmental Protection, which is deemed
4 reasonably necessary to afford protection to the reservoir,
5 under a conference held in accordance with section 3251
6 (relating to conferences).

7 "Retreat mining." Removal of coal pillars, ribs and stumps
8 remaining after development mining has been completed in that
9 section of a coal mine.

10 "Secretary." The Secretary of Environmental Protection of
11 the Commonwealth.

12 "Storage operator." A person who operates or proposes to
13 operate a storage reservoir as an owner or lessee.

14 "Storage reservoir." That portion of a subsurface geological
15 stratum into which gas is or may be injected for storage
16 purposes or to test suitability of the stratum for storage.

17 "Unconventional well." A bore hole drilled or being drilled
18 for the purpose of or to be used for producing oil or gas from a
19 geological shale formation existing below the base of the Elk
20 Sandstone or its geologic equivalent stratigraphic interval
21 where oil or gas generally cannot be produced at economic flow
22 rates or in economic volumes except by one of the following:

23 (1) Vertical or horizontal well bores stimulated by
24 hydraulic fracture treatments.

25 (2) Using multilateral well bores or other techniques to
26 expose more of the formation of the well bore.

27 "Water management plan." A plan associated with drilling or
28 completing a well in an unconventional formation that
29 demonstrates that the withdrawal and use of water sources
30 protects those sources as required by law and protects public
31 health, safety and welfare.

32 "Water purveyor." Any of the following:

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

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

38 "Water source."

39 (1) Any of the following:

40 (i) Waters of this Commonwealth.

41 (ii) A source of water supply used by a water
42 purveyor.

43 (iii) Mine pools and discharges.

44 (iv) Any other waters that are used for drilling or
45 completing a well in an unconventional formation.

46 (2) The term does not include flowback or production
47 waters or other fluids:

48 (i) which are used for drilling or completing a well
49 in an unconventional formation; and

50 (ii) which do not discharge into waters of this
51 Commonwealth.

1 "Well." A bore hole drilled or being drilled for the purpose
2 of, or to be used for, producing, extracting or injecting gas,
3 petroleum or another liquid related to oil or gas production or
4 storage, including brine disposal, but excluding a bore hole
5 drilled to produce potable water. The term does not include a
6 bore hole drilled or being drilled for the purpose of, or to be
7 used for:

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

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

14 (i) used to vent methane to the outside atmosphere
15 from an operating coal mine; regulated as part of the
16 mining permit under the act of June 22, 1937 (P.L.1987,
17 No.394), known as The Clean Streams Law, and the act of
18 May 31, 1945 (P.L.1198, No.418), known as the Surface
19 Mining Conservation and Reclamation Act; and drilled by
20 the operator of the operating coal mine for the purpose
21 of increased safety; or

22 (ii) used to vent methane to the outside atmosphere
23 under a federally funded or State-funded abandoned mine
24 reclamation project.

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

30 "Well control specialist." Any person trained to respond to
31 a well control emergency with a current certification from a
32 well control course accredited by the International Association
33 of Drilling Contractors or other organization approved by the
34 department.

35 "Well operator" or "operator." Any of the following:

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

38 (2) If a permit or well registration was not issued, a
39 person who locates, drills, operates, alters or plugs a well
40 or reconditions a well with the purpose of production from
41 the well.

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

44 "Wetland." Areas inundated or saturated by surface or
45 groundwater at a frequency and duration sufficient to support,
46 and which normally support, a prevalence of vegetation typically
47 adapted for life in saturated soil conditions, including swamps,
48 marshes, bogs and similar areas.

49 "Workable coal seams." A coal seam which:

50 (1) is actually being mined in the area in question
51 under this chapter by underground methods; or

1 (2) in the judgment of the Department of Environmental
2 Protection, can reasonably be expected to be mined by
3 underground methods.

4 SUBCHAPTER B
5 GENERAL REQUIREMENTS

6 Sec.

7 3211. Well permits.

8 3212. Permit objections.

9 3212.1. Comments by municipalities.

10 3213. Well registration and identification.

11 3214. Inactive status.

12 3215. Well location restrictions.

13 3215.1. General restrictions.

14 3216. Well site restoration.

15 3217. Protection of fresh groundwater and casing requirements.

16 3218. Protection of water supplies.

17 3219. Use of safety devices.

18 3219.1. Well control emergency response.

19 3220. Plugging requirements.

20 3221. Alternative methods.

21 3222. Well reporting requirements.

22 3223. Notification and effect of well transfer.

23 3224. Coal operator responsibilities.

24 3225. Bonding.

25 3226. Oil and Gas Technical Advisory Board.

26 § 3211. Well permits.

27 (a) Permit required.--No person shall drill or alter a well,
28 except for alterations which satisfy the requirements of
29 subsection (j), without having first obtained a well permit
30 under subsections (b), (c), (d) and (e), or operate an abandoned
31 or orphan well unless in compliance with subsection (l). A copy
32 of the permit shall be kept at the well site during drilling or
33 alteration of the well. No person shall be required to obtain a
34 permit to redrill a nonproducing well if the redrilling:

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

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

42 (b) Plat.--

43 (1) The permit application shall be accompanied by a
44 plat prepared by a competent engineer or a competent
45 surveyor, on forms furnished by the department, showing the
46 political subdivision and county in which the tract of land
47 upon which the well to be drilled is located; a list of
48 municipalities adjacent to the well site; the name of the
49 surface landowner of record and lessor; the name of all
50 surface landowners and water purveyors whose water supplies
51 are within 1,000 feet of the proposed well location or, in

1 the case of an unconventional well, within 2,500 feet of the
2 proposed well location; the name of the owner of record or
3 operator of all known underlying workable coal seams; the
4 acreage in the tract to be drilled; the proposed location of
5 the well determined by survey, courses and distances of the
6 location from two or more permanent identifiable points or
7 landmarks on the tract boundary corners; the proposed angle
8 and direction of the well if the well is to be deviated
9 substantially from a vertical course; the number or other
10 identification to be given the well; the workable coal seams
11 underlying the tract of land upon which the well is to be
12 drilled or altered and which shall be cased off under section
13 3217 (relating to protection of fresh groundwater and casing
14 requirements); and any other information needed by the
15 department to administer this chapter.

16 (2) The applicant shall forward by certified mail a copy
17 of the plat to the surface landowner; the municipality in
18 which the tract of land upon which the well to be drilled is
19 located; the municipalities adjacent to the well; all surface
20 landowners and water purveyors, whose water supplies are
21 within 1,000 feet of the proposed well location or, in the
22 case of an unconventional well, within 2,500 feet of the
23 proposed well location; the owner and lessee of any coal
24 seams; and each coal operator required to be identified on
25 the well permit application.

26 (b.1) Notification.--The applicant shall submit proof of
27 notification with the well permit application. Notification of
28 surface owners shall be performed by sending notice to those
29 persons to whom the tax notices for the surface property are
30 sent, as indicated in the assessment books in the county in
31 which the property is located. Notification of surface
32 landowners or water purveyors whose water supplies are within
33 1,000 feet of the proposed well location shall be on forms, and
34 in a manner prescribed by the department, sufficient to identify
35 the rights afforded those persons under section 3218 (relating
36 to protection of water supplies) and to advise them of the
37 advantages of taking their own predrilling or prealteration
38 survey.

39 (b.2) Approval.--If the applicant submits to the department
40 written approval of the proposed well location by the surface
41 landowner and the coal operator, lessee or owner of any coal
42 underlying the proposed well location and no objections are
43 raised by the department within 15 days of filing, or if no
44 approval has been submitted and no objections are made to the
45 proposed well location within 15 days from receipt of notice by
46 the department, the surface landowner or any coal operator,
47 lessee or owner, the written approval shall be filed and become
48 a permanent record of the well location, subject to inspection
49 at any time by any interested person.

50 (c) Applicants.--If the applicant for a well permit is a
51 corporation, partnership or person that is not a resident of

1 this Commonwealth, the applicant shall designate the name and
2 address of an agent for the operator who shall be the attorney-
3 in-fact for the operator and who shall be a resident of this
4 Commonwealth upon whom notices, orders or other communications
5 issued under this chapter may be served and upon whom process
6 may be served. Each well operator required to designate an agent
7 under this section shall, within five days after termination of
8 the designation, notify the department of the termination and
9 designate a new agent.

10 (d) Permit fee.--Each application for a well permit shall be
11 accompanied by a permit fee, established by regulation of the
12 department, which bears a reasonable relationship to the cost of
13 administering this chapter.

14 (e) Issuance of permit.--The department shall issue a permit
15 within 45 days of submission of a permit application unless the
16 department denies the permit application for one or more of the
17 reasons set forth in subsection (e.1), except that the
18 department shall have the right to extend the period for 15 days
19 for cause shown upon notification to the applicant of the
20 reasons for the extension. The department may impose permit
21 terms and conditions necessary to assure compliance with this
22 chapter or other laws administered by the department.

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

25 (1) The well site for which a permit is requested is in
26 violation of any of this chapter or issuance of the permit
27 would result in a violation of this chapter or other
28 applicable law.

29 (2) The permit application is incomplete.

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

32 (4) The requirements of section 3225 (relating to
33 bonding) have not been met.

34 (5) The department finds that the applicant, or any
35 parent or subsidiary corporation of the applicant, is in
36 continuing violation of this subchapter, any other statute
37 administered by the department, any rule or regulation
38 promulgated under this subchapter or a statute administered
39 by the department or any plan approval, permit or order of
40 the department, unless the violation is being corrected to
41 the satisfaction of the department. The right of the
42 department to deny a permit under this paragraph shall not
43 take effect until the department has taken a final action on
44 the violations and:

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

49 (ii) if an appeal has been filed, no supersedeas
50 has been issued.

51 (f) Drilling.--

1 (1) Upon issuance of a permit, the well operator may
2 drill at the location shown on the plat after providing the
3 department, the surface landowner and the local political
4 subdivision in which the well is to be located 24 hours'
5 notice of the date that drilling will commence.

6 (2) The unconventional well operator shall provide the
7 department 24 hours' notice prior to cementing all casing
8 strings, conducting pressure tests of the production casing,
9 stimulation and abandoning or plugging an unconventional
10 well.

11 (3) In noncoal areas where more than one well is to be
12 drilled as part of the same development project, only the
13 first well of the project need be located by survey.
14 Remaining wells of the project shall be shown on the plat in
15 a manner prescribed by regulation.

16 (4) Prior to drilling each additional project well, the
17 well operator shall notify the department and provide
18 reasonable notice of the date on which drilling will
19 commence.

20 (5) Whenever, before or during the drilling of a well
21 not within the boundaries of an operating coal mine, the well
22 operator encounters conditions of a nature which renders
23 drilling of the bore hole or a portion thereof impossible, or
24 more hazardous than usual, the well operator, upon verbal
25 notice to the department, may immediately plug all or part of
26 the bore hole, if drilling has occurred, and commence a new
27 bore hole not more than 50 feet from the old bore hole if the
28 location of the new bore hole does not violate section 3215
29 (relating to well location restrictions) and, in the case of
30 a well subject to act of July 25, 1961 (P.L.825, No.359),
31 known as the Oil and Gas Conservation Law, if the new
32 location complies with existing laws, regulations and spacing
33 orders and the new bore hole is at least 330 feet from the
34 nearest lease boundary.

35 (6) Within ten days of commencement of the new bore
36 hole, the well operator shall file with the department a
37 written notice of intention to plug, a well record, a
38 completion report, a plugging certificate for the original
39 bore hole and an amended plat for the new bore hole.

40 (7) The well operator shall forward a copy of the
41 amended plat to the surface landowner identified on the well
42 permit application within ten days of commencement of the new
43 well bore.

44 (g) Posting.--The well permit number and operator's name,
45 address and telephone number shall be conspicuously posted at
46 the drilling site prior to commencement of drilling.

47 (h) Labeling.--The well operator shall install the permit
48 number issued by the department in a legible, visible and
49 permanent manner on the well upon completion.

50 (i) Expiration.--Well permits issued for drilling wells
51 under this chapter shall expire one year after issuance unless

1 operations for drilling the well are commenced within the period
2 and pursued with due diligence or unless the permit is renewed
3 in accordance with regulations of the department. If drilling is
4 commenced during the one-year period, the well permit shall
5 remain in force until the well is plugged in accordance with
6 section 3220 (relating to plugging requirements) or the permit
7 is revoked. A drilling permit issued prior to April 18, 1985,
8 for a well which is an operating well on April 18, 1985, shall
9 remain in force as a well permit until the well is plugged in
10 accordance with section 3220. Nothing in this subsection shall
11 be construed to rescind the provisions pertaining to drilling
12 permits contained in Chapter 34.

13 (j) Exceptions.--The Environmental Quality Board may
14 establish by regulation certain categories of alterations of
15 permitted or registered wells for which permitting requirements
16 of this section shall not apply. A well operator or owner who
17 proposes to conduct the alteration activity shall first obtain a
18 permit or registration modification from the department. The
19 Environmental Quality Board shall promulgate regulations as to
20 the requirements for modifications.

21 (k) No transfer permitted.--No permit issued under this
22 section or registration issued under section 3213 (relating to
23 well registration and identification) may be transferred without
24 prior approval of the department. A request for approval of a
25 transfer shall be on the forms, and in the manner, prescribed by
26 the department. The department shall approve or deny a transfer
27 request within 45 days of receipt of a complete and accurate
28 application. The department may deny a request only for reasons
29 set forth in subsection (e.1) (4) and (5). Approval of a transfer
30 request shall permanently transfer responsibility to plug the
31 well under section 3220 to the recipient of the transferred
32 permit or registration.

33 (l) Regulations.--The Environmental Quality Board may
34 establish by regulation requirements for the permitting and
35 operation of abandoned or orphan wells. A person who proposes to
36 conduct abandoned or orphan well operations shall first obtain a
37 permit to operate an abandoned or orphan well.

38 (m) Water management.--The following shall apply to water
39 management:

40 (1) No person may withdraw or use water from water
41 sources within this Commonwealth for the drilling or
42 hydraulic fracture stimulation of any natural gas well
43 completed in an unconventional gas formation, whether on or
44 off of the land where the gas well is located, except in
45 accordance with a water management plan approved by the
46 department.

47 (2) The department shall review and approve water
48 management plans based upon a determination that the proposed
49 withdrawal, when operated in accordance with the proposed
50 withdrawal operating conditions set forth in the plan,
51 including conditions relating to quantity, withdrawal rate

1 and timing and any passby flow conditions, will:

2 (i) not adversely affect the quantity or quality of
3 water available to other users of the same water sources;

4 (ii) protect and maintain the designated and
5 existing uses of water sources; and

6 (iii) not cause adverse impact to water quality in
7 the watershed considered as a whole.

8 (3) (i) The criteria under paragraph (2) shall be
9 presumed to be achieved if the proposed water withdrawal
10 has been approved by and is operated in accordance with
11 conditions established by the Susquehanna River Basin
12 Commission, the Delaware River Basin Commission or the
13 Great Lakes Commission, as applicable.

14 (ii) Notwithstanding subparagraph (i), the
15 department may establish additional requirements as
16 necessary to comply with the laws of this Commonwealth.

17 (4) In addition to the requirements under paragraphs
18 (1), (2) and (3), compliance with a department-approved water
19 management plan shall be a condition of any permit issued
20 under this chapter for the drilling or hydraulic fracture
21 stimulation of any natural gas well completed in an
22 unconventional formation and shall be deemed to satisfy the
23 laws of this Commonwealth.

24 § 3212. Permit objections.

25 (a) General rule.--If a well referred to in section 3211(b)
26 (relating to well permits) will be located on a tract whose
27 surface is owned by a person other than the well operator, the
28 surface landowner affected shall be notified of the intent to
29 drill and may file objections, in accordance with section 3251
30 (relating to conferences), based on the assertion that the well
31 location violates section 3215 (relating to well location
32 restrictions) or that information in the application is untrue
33 in any material respect, within 15 days of the receipt by the
34 surface owner of the plat under section 3211(b). Receipt of
35 notice by the surface owner shall be presumed to have occurred
36 15 days from the date of the certified mailing when the well
37 operator submits a copy of the certified mail receipt sent to
38 the surface owner and an affidavit certifying that the address
39 of the surface owner to which notice was sent is the same as the
40 address listed in the assessment books in the county where the
41 property is located. If no objection is filed or none is raised
42 by the department within 15 days after receipt of the plat by
43 the surface landowner, or, if written approval by the surface
44 landowner is filed with the department and no objection is
45 raised by the department within 15 days of filing, the
46 department shall proceed to issue or deny the permit.

47 (b) Special circumstances.--If a well referred to in section
48 3211(b) will penetrate within the outside coal boundaries of an
49 operating coal mine or a coal mine already projected and platted
50 but not yet being operated, or within 1,000 linear feet beyond
51 those boundaries, and, in the opinion of the coal owner or

1 operator, the well or a pillar of coal about the well will
2 unduly interfere with or endanger the mine, the coal owner or
3 operator affected may file objections under section 3251 to the
4 proposed location within 15 days of the receipt by the coal
5 operator of the plat under section 3211(b). If possible, an
6 alternative location at which the proposed well could be drilled
7 to overcome the objections shall be indicated. If no objection
8 to the proposed location is filed 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
11 or 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 (c) 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 3251
17 not more than ten 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 they fail to agree, the department, by
20 an appropriate order, shall determine a location on the tract of
21 land as near to the original location as possible where, in the
22 judgment of the department, the well can be safely drilled
23 without unduly interfering with or endangering the mine as
24 defined in subsection (b). The new location agreed upon by the
25 parties or determined by the department shall be indicated on
26 the plat on file with the department and become a permanent
27 record upon which the department shall proceed to issue or deny
28 the permit.

29 (d) Survey.--Within 120 days after commencement of drilling
30 operations, the coal operator shall accurately locate the well
31 by a closed survey on the same datum as the mine workings or
32 coal boundaries are mapped, file the results of the survey with
33 the department and forward a copy by certified mail to the well
34 operator.

35 § 3212.1. Comments by municipalities.

36 (a) General rule.--The municipality where the tract of land
37 upon which the unconventional well to be drilled is located may
38 submit written comments to the department describing local
39 conditions or circumstances which the municipality has
40 determined should be considered by the department in rendering
41 its determination on the unconventional well permit. A comment
42 under this subsection must be submitted to the department within
43 15 days of the receipt of the plat under section 3211(b)
44 (relating to well permits). The municipality shall
45 simultaneously forward a copy of its comments to the permit
46 applicant and all other parties entitled to a copy of the plat
47 under section 3211(b), who may submit a written response. A
48 written response must be submitted to the department within ten
49 days of receipt of the comments of the municipality.

50 (b) Consideration by department.--Comments and responses
51 under subsection (a) may be considered by the department in

1 accordance with section 3215(d) (relating to well location
2 restrictions).

3 (c) No extension of time period.--The process outlined in
4 this section shall not extend the time period for the issuance
5 or denial of a permit beyond the time period set forth in this
6 chapter.

7 § 3213. Well registration and identification.

8 (a) General rule.--On or before July 5, 1996, each person
9 who owned or operated a well in existence prior to April 18,
10 1985, which has not been registered with the department and for
11 which no drilling permit has been issued by the department,
12 shall register the well with the department. A well owner or
13 operator who registers under this subsection and a well owner or
14 operator who has previously registered a well under this chapter
15 shall, on or before July 5, 1996, identify any abandoned well on
16 property which the well owner or operator owns or leases and
17 request approval from the department for classification of the
18 well as an orphan well. Information regarding wells to be
19 registered or identified shall be provided on a form, or in a
20 manner prescribed by the department, and shall include:

21 (1) The name and address of the well operator and, if
22 the well operator is a corporation, partnership or person
23 nonresident of this Commonwealth, the name and address of an
24 agent for the operator upon whom notices, orders, process or
25 other communications issued under this chapter may be served.

26 (2) The well name and the location of the well indicated
27 by a point on a 7 1/2 minute United States Geological Survey
28 topographic map or any other location description sufficient
29 to enable the department to locate the well on the ground.

30 (3) The approximate date of drilling and completing the
31 well, its approximate depth and producing horizons, well
32 construction information and, if available, driller's logs.

33 (4) An indemnity bond, an alternative fee in lieu of
34 bonding or other evidence of financial security submitted by
35 the well operator and deemed appropriate by the department
36 and satisfying the requirements of section 3225 (relating to
37 bonding). No bond, alternative fee or other evidence of
38 financial security shall be required for identification of an
39 orphan well. For wells drilled prior to January 30, 1956,
40 which have not been bonded, the well operator shall have five
41 years to comply with the provisions of this paragraph.

42 (5) A registration fee of \$15 per well or blanket
43 registration fee of \$250 for multiple well registration
44 applications submitted simultaneously. The registration fee
45 shall be waived until July 5, 1996, and no fee shall be
46 charged for identification of an orphan well.

47 (a.1) Orphan wells.--After July 5, 1996, a well owner, well
48 operator or other person discovering an abandoned well on
49 property purchased or leased by the well owner, well operator or
50 other person shall identify it to the department within 60 days
51 of discovery and advise the department that he is seeking

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

3 (b) Extension.--The department may extend the one-year time
4 period under subsection (a) for good cause shown. The extension
5 may not exceed a period ending two years from April 18, 1985.
6 The department may adopt and promulgate guidelines designed to
7 ensure a fair implementation of this section, recognizing the
8 practical difficulties of locating unpermitted wells and
9 complying with the reporting requirements of this chapter.

10 (c) Installation of registration number.--The well operator
11 shall install the registration number issued by the department
12 in a legible, conspicuous and permanent manner on the well
13 within 60 days of issuance.

14 (d) Definition.--For purposes of subsection (a) (4) and (5),
15 the term "owner" does not include an owner or possessor of
16 surface real property, on which an abandoned well is located,
17 who did not participate or incur costs in, and had no right of
18 control over, the drilling or extraction operation of the
19 abandoned well.

20 § 3214. Inactive status.

21 (a) General rule.--Upon application, the department shall
22 grant inactive status for a period of five years for a permitted
23 or registered well, if the following requirements are met:

24 (1) the condition of the well is sufficient to prevent
25 damage to the producing zone or contamination of fresh water
26 or other natural resources or surface leakage of any
27 substance;

28 (2) the condition of the well is sufficient to stop the
29 vertical flow of fluids or gas within the well bore and is
30 adequate to protect freshwater aquifers, unless the
31 department determines the well poses a threat to the health
32 and safety of persons or property or to the environment;

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

37 (4) the applicant satisfies the bonding requirements of
38 sections 3213 (relating to well registration and
39 identification) and 3225 (relating to bonding), except that
40 the department may require additional financial security for
41 a well on which an alternative fee is being paid in lieu of
42 bonding under section 3225(d).

43 (b) Monitoring.--The owner or operator of a well granted
44 inactive status shall be responsible for monitoring the
45 mechanical integrity of the well to ensure that the requirements
46 of subsection (a) (1) and (2) are met and shall report the same
47 on an annual basis to the department in the manner and form
48 prescribed by departmental regulations.

49 (c) (Reserved).

50 (d) Return to active status.--A well granted inactive status
51 under subsection (a) shall be plugged in accordance with section

1 3220 (relating to plugging requirements) or returned to active
2 status within five years of the date inactive status was
3 granted, unless the owner or operator applies for an extension
4 of inactive status which may be granted on a year-to-year basis
5 if the department determines that the owner or operator has
6 demonstrated ability to continue meeting the requirements of
7 this section and the owner or operator certifies that the well
8 will be of future use within a reasonable period of time. An
9 owner or operator who has been granted inactive status for a
10 well which is returned to active status prior to expiration of
11 the five-year period set forth in subsection (a) shall notify
12 the department that the well has been returned to active status
13 and shall not be permitted to apply for another automatic five-
14 year period of inactive status for the well. The owner or
15 operator may make application to return the well to inactive
16 status, and the application may be approved on a year-to-year
17 basis if the department determines that the owner or operator
18 has demonstrated an ability to continue meeting the requirements
19 of this section and the owner or operator certifies that the
20 well will be of future use within a reasonable period of time.
21 The department shall approve or deny an application to extend a
22 period of inactive status or to return a well to inactive status
23 within 60 days of receipt of the application, and the
24 application shall not be unreasonably denied. If the department
25 has not completed its review of the application within 60 days,
26 the inactive status shall continue until the department has made
27 a determination on the request. If the department denies an
28 application to extend the period of inactive status or to return
29 a well to inactive status, a well owner or operator aggrieved by
30 the denial shall have the right to appeal the denial to the
31 Environmental Hearing Board within 30 days of receipt of the
32 denial. Upon cause shown by a well owner or operator, the board
33 may grant a supersedeas under section 4 of the act of July 13,
34 1988 (P.L.530, No.94), known as the Environmental Hearing Board
35 Act, so that the well in question may retain inactive status
36 during the period of the appeal.

37 (e) Revocation of inactive status.--The department may
38 revoke inactive status and order immediate plugging of a well if
39 the well is in violation of this chapter or rules or regulations
40 promulgated under this chapter or if the owner or operator
41 demonstrates inability to perform obligations under this chapter
42 or becomes financially insolvent, or upon receipt by the
43 department of notice of bankruptcy proceedings by the permittee.
44 § 3215. Well location restrictions.

45 (a) General rule.--Wells may not be drilled within 200 feet,
46 or, in the case of an unconventional gas well, 500 feet measured
47 horizontally from the vertical well bore to a building or water
48 well, existing when the copy of the plat is mailed as required
49 by section 3211(b) (relating to well permits) without written
50 consent of the owner of the building or water well.
51 Unconventional gas wells may not be drilled within 1,000 feet

1 measured horizontally from the vertical well bore to any
2 existing water well, surface water intake, reservoir or other
3 water supply extraction point used by a water purveyor without
4 the written consent of the water purveyor. If consent is not
5 obtained and the distance restriction would deprive the owner of
6 the oil and gas rights of the right to produce or share in the
7 oil or gas underlying the surface tract, the well operator shall
8 be granted a variance from the distance restriction upon
9 submission of a plan identifying the additional measures,
10 facilities or practices as prescribed by the department to be
11 employed during well site construction, drilling and operations.
12 The variance, if granted, shall include additional terms and
13 conditions required by the department to ensure safety and
14 protection of affected persons and property, including
15 insurance, bonding, indemnification and technical requirements.

16 (b) Limitation.--

17 (1) No well may be drilled within 100 feet, or, in the
18 case of an unconventional well, 300 feet measured
19 horizontally from any solid blue lined stream as identified
20 on the most current 7 1/2 minute topographic quadrangle map
21 of the United States Geological Survey.

22 (2) The edge of the disturbed area associated with any
23 unconventional well must maintain a 100-foot setback from the
24 edge of any solid blue lined stream as identified on the most
25 current 7 1/2 minute topographic quadrangle map of the United
26 States Geological Survey.

27 (3) No unconventional well may be drilled within 300
28 feet of any wetlands greater than one acre in size, and the
29 edge of the disturbed area must maintain a 100-foot setback
30 from the boundary of the wetlands.

31 (4) The department shall waive the distance restrictions
32 upon submission of a plan identifying additional measures,
33 facilities or practices to be employed during well site
34 construction, drilling and operations. The waiver shall impose
35 permit conditions necessary to protect the waters of this
36 Commonwealth.

37 (c) Impact.--On making a determination on a well permit, the
38 department shall consider impact of the proposed well on public
39 resources, including, but not limited to:

40 (1) Publicly owned parks, forests, game lands and
41 wildlife areas.

42 (2) National or State scenic rivers.

43 (3) National natural landmarks.

44 (4) Habitats of rare and endangered flora and fauna and
45 other critical communities.

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

48 (d) Consideration of municipality comments.--The department
49 may consider the comments submitted under section 3212.1
50 (relating to comments by municipalities) in making a
51 determination on a well permit. Notwithstanding any other law,

1 no municipality shall have a right of appeal or other form of
2 review from the department's decision.

3 (e) Regulation criteria.--The Environmental Quality Board
4 shall develop by regulation criteria:

5 (1) For the department to utilize for conditioning a
6 well permit based on its impact to the public resources
7 identified under subsection (c) and for ensuring optimal
8 development of oil and gas resources and respecting property
9 rights of oil and gas owners.

10 (2) For appeal to the Environmental Hearing Board of a
11 permit containing conditions imposed by the department. The
12 regulations shall also provide that the department has the
13 burden of proving by clear and convincing evidence that the
14 conditions were necessary to protect against a probable
15 harmful impact of the public resources.

16 (3) For processes and procedures for the adjudication of
17 compensation claims of affected owners, if any conditions or
18 restrictions imposed by application of the criteria developed
19 under paragraph (1) deprive the owner of the oil and gas
20 rights, in part or in whole, of the right to produce or share
21 in the oil as gas underlying the surface tract or tracts
22 affected by imposition of any condition or conditions.

23 (f) Floodplains.--

24 (1) No well site may be prepared or well drilled within
25 any floodplain if the well site will have:

26 (i) a pit or impoundment containing drilling
27 cuttings, flowback water, produced water or hazardous
28 materials, chemicals or wastes within the floodplain; or

29 (ii) a tank containing hazardous materials,
30 chemicals, condensate, wastes, flowback or produced water
31 within the floodway.

32 (2) A well site shall not be eligible for a floodplain
33 restriction waiver if the well site will have a tank
34 containing condensate, flowback or produced water within the
35 flood fringe unless all the tanks have adequate floodproofing
36 in accordance with the National Flood Insurance Program
37 standards and accepted engineering practices.

38 (3) The department may waive restrictions upon
39 submission of a plan that shall identify the additional
40 measures, facilities or practices to be employed during well
41 site construction, drilling and operations. The waiver, if
42 granted, shall impose permit conditions necessary to protect
43 the waters of this Commonwealth.

44 (4) Best practices to ensure the protection of the
45 waters of this Commonwealth must be utilized for the storage
46 and handling of all water, chemicals, fuels, hazardous
47 materials or solid waste on a well site located in a
48 floodplain. The department may request that the well site
49 operator submit a plan for the storage and handling of
50 materials for approval by the department and may impose
51 conditions or amend permits to include permit conditions as

1 are necessary to protect the environment, public health and
2 safety.

3 (5) Unless otherwise specified by the department, the
4 boundary of the floodplain shall be as indicated on maps and
5 flood insurance studies provided by the Federal Emergency
6 Management Agency. In an area where no Federal Emergency
7 Management Agency maps or studies have defined the boundary
8 of the 100-year frequency floodplain, absent evidence to the
9 contrary, the floodplain shall extend from:

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

12 (ii) from any intermittent stream up to 50 feet
13 horizontally from the top of the bank of the intermittent
14 stream.

15 (g) Existing wells and pads.--Subsections (a) and (b) shall
16 not apply to any of the following:

17 (1) A well for which a valid permit exists as of the
18 effective date of this subsection.

19 (2) A well permit application submitted after the
20 effective date of this subsection for a well that will be
21 located on a wellpad upon which a well has been drilled under
22 a valid permit that was approved before the effective date of
23 this subsection.

24 § 3215.1. General restrictions.

25 (a) Security fencing.--Security fencing shall be installed
26 at natural gas compressed stations, dehydration and processing
27 facilities and other central processing facilities to secure all
28 permanent buildings, facilities, structures and equipment and to
29 protect the public. Warning signs shall be placed on the
30 security fencing providing notice of potential dangers and
31 providing contact information in case of an emergency.

32 (b) Temporary operations.--The following shall apply to
33 temporary operations, such as well drilling and completion
34 operations:

35 (1) Except as provided under paragraph (2), temporary
36 security fencing shall be installed at the oil or gas well
37 site to secure all buildings, facilities, structures and
38 equipment at the site and to protect the public. Warning
39 signs shall be placed at the well site providing notice of
40 potential dangers and providing contact information in case
41 of an emergency.

42 (2) In lieu of security fencing under paragraph (1), a
43 well owner or operator may establish 24-hour security
44 staffing at the site and install a security gate at the
45 entrance of the access road to prevent unauthorized access.

46 (c) Lighting.--Lighting at the well site and at other
47 buildings, facilities and structures directly related to oil and
48 gas operations, either temporary or permanent, shall be directed
49 downward and inward toward the activity, to the extent
50 practicable, so as to minimize the glare on public roads and
51 nearby buildings within 100 feet of the well site, building,

1 facility or structure.

2 (d) Noise regulations.--Well owners and operators shall
3 comply with all applicable noise regulations promulgated by the
4 Federal Energy Regulatory Commission, except that the noise
5 level from permanent oil and gas operations may not exceed 60
6 dBA at the nearest property line of the tract of land upon which
7 oil and gas operations are being conducted.

8 (e) Atmospheric discharge.--Well owners and operators shall
9 comply with each applicable environmental law governing the
10 discharge of gases, vapors and odors into the atmosphere. The
11 discharge of gases, vapors and odors during oil and gas
12 operations may not unreasonably interfere with the comfortable
13 enjoyment of life or property.

14 (f) Applicability.--This section shall only apply to
15 unconventional natural gas wells.

16 § 3216. Well site restoration.

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

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 measures shall be implemented
24 in accordance with an erosion and sedimentation control plan
25 prepared in accordance with the act of June 22, 1937 (P.L.1987,
26 No.394), known as The Clean Streams Law.

27 (c) Pits, drilling supplies and equipment.--Within nine
28 months after completion of drilling of a well, the owner or
29 operator shall restore the well site, remove or fill all pits
30 used to contain produced fluids or industrial wastes and remove
31 all drilling supplies and equipment not needed for production.
32 Drilling supplies and equipment not needed for production may be
33 stored on the well site if express written consent of the
34 surface landowner is obtained.

35 (d) Items related to production or storage.--Within nine
36 months after plugging a well, the owner or operator shall remove
37 all production or storage facilities, supplies and equipment and
38 restore the well site.

39 (e) Clean Streams Law.--Restoration activities required by
40 this chapter or in regulations promulgated under this chapter
41 shall also comply with all applicable provisions of The Clean
42 Streams Law.

43 (f) Violation of chapter.--Failure to restore the well site
44 as required in this chapter or regulations promulgated under
45 this chapter constitutes a violation of this chapter.

46 (g) Extension.--

47 (1) The restoration period may be extended by the
48 department for an additional period of time not to exceed two
49 years upon demonstration by the well owner or operator that:

50 (i) the extension will result in less earth
51 disturbance, increased water reuse or more efficient

1 development of the resources; or

2 (ii) site restoration cannot be achieved due to
3 adverse weather conditions or a lack of essential fuel,
4 equipment or labor.

5 (2) The demonstration under paragraph (1) shall do all
6 of the following:

7 (i) Include a site restoration plan that shall
8 provide for:

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

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

13 (C) the stabilization of the well site that
14 shall include interim postconstruction storm water
15 management best management practices; or

16 (D) other measures to be employed to minimize
17 accelerated erosion and sedimentation in accordance
18 with The Clean Streams Law.

19 (ii) Provide for returning the portions of the site
20 not occupied by production facilities or equipment to
21 approximate original contours and making them capable of
22 supporting the uses that existed prior to drilling the
23 well.

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

27 § 3217. Protection of fresh groundwater and casing
28 requirements.

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

35 (b) Casing.--To prevent migration of gas or fluids into
36 sources of fresh groundwater and pollution or diminution of
37 fresh groundwater, a string or strings of casing shall be run
38 and permanently cemented in each well drilled through the fresh
39 water-bearing strata to a depth and in a manner prescribed by
40 regulation by the department.

41 (c) Procedure when coal has been removed.--If a well is
42 drilled at a location where coal has been removed from one or
43 more coal seams, the well shall be drilled and cased to prevent
44 migration of gas or fluids into the seam from which coal has
45 been removed in a manner prescribed by regulation of the
46 department. The department and the coal operator, owner or
47 lessee shall be given at least 72 hours' notice prior to
48 commencement of work protecting the mine.

49 (d) Procedure when coal has not been removed.--If a well is
50 drilled at a location where the coal seam has not been removed,
51 the well shall be drilled to a depth and of a size sufficient to

1 permit placement of casing, packers in and vents on the hole at
2 the points and in the manner prescribed by regulation to exclude
3 gas or fluids from the coal seam, except gas or fluids found
4 naturally in the seam itself, and to enable monitoring the
5 integrity of the production casing.

6 § 3218. Protection of water supplies.

7 (a) General rule.--A well operator who affects a public or
8 private water supply by pollution or diminution shall restore or
9 replace the affected supply with an alternate source of water
10 adequate in quantity or quality for the purposes served by the
11 supply.

12 (b) Pollution or diminution of water supply.--A landowner or
13 water purveyor suffering pollution or diminution of a water
14 supply as a result of the drilling, alteration or operation of
15 an oil or gas well may so notify the department and request that
16 an investigation be conducted. Within ten days of notification,
17 the department shall investigate the claim and make a
18 determination within 45 days following notification. If the
19 department finds that the pollution or diminution was caused by
20 drilling, alteration or operation activities or if it presumes
21 the well operator responsible for pollution under subsection
22 (c), the department shall issue orders to the well operator
23 necessary to assure compliance with subsection (a), including
24 orders requiring temporary replacement of a water supply where
25 it is determined that pollution or diminution may be of limited
26 duration.

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

30 (1) except as set forth in paragraph (2):

31 (i) the water supply is within 1,000 feet of an oil
32 or gas well; and

33 (ii) the pollution occurred within six months after
34 completion of drilling or alteration of the oil or gas
35 well; or

36 (2) in the case of an unconventional well:

37 (i) the water supply is within 2,500 feet of the
38 unconventional well; and

39 (ii) the pollution occurred within 12 months of the
40 later of completion, drilling or alteration of the
41 unconventional well.

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

45 (1) The pollution existed prior to the drilling or
46 alteration activity as determined by a predrilling or
47 prealteration survey.

48 (2) The landowner or water purveyor refused to allow the
49 operator access to conduct a predrilling or prealteration
50 survey.

51 (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.

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 § 3219. 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 § 3219.1. 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.

27 (b) Civil immunity.--Except as set forth in subsection (c),
28 a well control specialist with which the department has entered
29 into a contract under subsection (a) shall be immune from civil
30 liability for actions taken in good faith to carry out its
31 contractual obligations.

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

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

35 (2) An intentional tort.

36 (3) Gross negligence.

37 § 3220. Plugging requirements.

38 (a) General rule.--Upon abandoning a well, the owner or
39 operator shall plug it in the manner prescribed by regulation of
40 the department to stop vertical flow of fluids or gas within the
41 well bore, unless the department has granted inactive status for
42 the well or it has been approved by the department as an orphan
43 well. If the department determines that a prior owner or
44 operator received economic benefit, other than economic benefit
45 derived only as a landowner or from a royalty interest, after
46 April 18, 1979, from an orphan well or an unregistered well, the
47 owner or operator shall be responsible for plugging the well. In
48 the case of a gas well penetrating a workable coal seam which
49 was drilled prior to January 30, 1956, or which was permitted
50 after that date but not plugged in accordance with this chapter,
51 if the owner or operator or a coal operator or an agent proposes

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

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

33 (c) Abandoned wells.--Prior to abandonment of a well, except
34 an uncompleted bore hole plugged immediately upon suspension of
35 drilling in an area not underlain by a workable coal seam, the
36 well operator shall notify the department of the intention to
37 plug and abandon the well and submit a plat, on a form to be
38 furnished by the department, showing the location of the well
39 and fixing the date and time at which plugging will commence,
40 which shall be not less than three working days, nor more than
41 30 days, after the notice is received, to permit a department
42 representative to be present at the plugging. The notice or
43 waiting period may be verbally waived by the department. In
44 noncoal areas where more than one well has been drilled as part
45 of the same development project and the wells are now to be
46 plugged, the department shall be given three working days'
47 notice prior to plugging the first well of the project, subject
48 to waiver of notice described in subsection (b). In the plugging
49 of subsequent wells, no additional notice shall be required if
50 plugging on the project is continuous. If plugging of subsequent
51 wells is delayed for any reason, notice shall be given to the

1 department of continuation of the project. Whether or not a
2 representative attends, if the well operator has fully complied
3 with this section, the well operator may proceed, at the time
4 fixed, to plug the well in the manner prescribed by regulation
5 of the department. When plugging has been completed, a
6 certificate shall be prepared, on a form to be furnished by the
7 department, by two experienced and qualified people who
8 participated in the work setting forth the time and manner in
9 which the well was plugged. A copy of the certificate shall be
10 mailed to the department.

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

26 (e) Orphan wells.--If a well is an orphan well or abandoned
27 without plugging, or if a well is in operation but not
28 registered under section 3213 (relating to well registration and
29 identification), the department may enter upon the well site and
30 plug the well and to sell equipment, casing and pipe at the site
31 which may have been used in production of the well in order to
32 recover the costs of plugging. The department shall make an
33 effort to determine ownership of a well which is in operation
34 but has not been registered and provide written notice to the
35 owner of pending action under this subsection. If the department
36 cannot determine ownership within 30 days, it may proceed under
37 this subsection. Costs of plugging shall have priority over all
38 liens on equipment, casing and pipe, and the sale shall be free
39 and clear of those liens to the extent that the cost of plugging
40 exceeds the sale price. If the amount obtained for casing and
41 pipe salvaged at the site is inadequate to pay for plugging, the
42 owner or operator of the abandoned or unregistered well shall be
43 liable for the additional costs.

44 (f) Definition.--For purposes of this section, the term
45 "owner" does not include the owner or possessor of surface real
46 property, on which an abandoned well is located, who did not
47 participate or incur costs in and had no right of control over
48 the drilling or extraction operation of the abandoned well.
49 § 3221. Alternative methods.

50 A well operator may request permission to use a method or
51 material other than those required by this chapter for casing,

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

11 § 3222. Well reporting requirements.

12 (a) General rule.--Except as provided in subsection (a.1),
13 each well operator shall file with the department, on a form
14 provided by the department, an annual report specifying the
15 amount of production, on the most well-specific basis available,
16 along with the status of each well, except that in subsequent
17 years only changes in status must be reported. The Commonwealth
18 may utilize reported information in enforcement proceedings, in
19 making designations or determinations under section 1927-A of
20 the act of April 9, 1929 (P.L.177, No.175), known as The
21 Administrative Code of 1929, or in aggregate form for
22 statistical purposes.

23 (a.1) Marcellus Shale formation wells.--Each operator of an
24 unconventional well shall file with the department, on a form
25 provided by the department, a semiannual report specifying the
26 amount of production on the most well-specific basis available.
27 The initial report under this subsection shall be filed on or
28 before August 15, 2010, and shall include production data from
29 the preceding calendar year and specify the status of each well.
30 In subsequent reports, only changes in status must be reported.
31 Subsequent semiannual reports shall be filed with the department
32 on or before February 15 and August 15 of each year and shall
33 include production data from the preceding reporting period. The
34 Commonwealth may utilize reported information in enforcement
35 proceedings, in making designations or determinations under
36 section 1927-A of The Administrative Code of 1929 or in
37 aggregate form for statistical purposes. Beginning November 1,
38 2010, the department shall make the reports available on its
39 publicly accessible Internet website. Costs incurred by the
40 department to comply with the requirements of this subsection
41 shall be paid out of the fees collected under section 3211(d)
42 (relating to well permits).

43 (b) Collection of data.--

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

46 (2) A record containing the information required by the
47 department shall be filed within 30 days of cessation of
48 drilling of each well.

49 (3) A completion report containing any additional
50 required information shall be filed within 30 days after
51 completing the well and shall be kept on file by the

1 department.

2 (4) (i) The completion report shall include a
3 stimulation record. At a minimum, the stimulation record
4 shall contain pump rates, pressures, total volume used to
5 stimulate the well, a list of hazardous and other
6 chemicals used to stimulate the well, volume of water
7 used, identification of water sources used under a
8 department-approved water management plan and depth at
9 which potable aquifers are encountered during drilling.
10 The well operator may designate specific portions of the
11 stimulation record as containing a trade secret or
12 confidential proprietary information. The department
13 shall prevent disclosure of designated confidential
14 information to the extent permitted under the act of
15 February 14, 2008 (P.L.6, No.3), known as the Right-to-
16 Know Law.

17 (ii) The completion report shall identify:

18 (A) whether methane was encountered in other
19 than a target formation; and

20 (B) the country of origin and manufacture of the
21 steel products used in the construction of the well.

22 (iii) The completion report shall be kept on file by
23 the department and posted on the department's publicly
24 accessible Internet website.

25 (5) Upon request of the department, the well operator
26 shall, within 90 days of completion or recompletion of
27 drilling, submit a copy of any electrical, radioactive or
28 other standard industry logs which have been run. No
29 information under this paragraph shall be required unless the
30 well operator has compiled the information in the ordinary
31 course of business.

32 (6) Upon request by the department within one year, the
33 well operator shall file a copy of drill stem test charts,
34 formation water analysis, porosity, permeability or fluid
35 saturation measurements, core analysis and lithologic log or
36 sample description or other similar data as compiled. No
37 information under this paragraph shall be required unless the
38 well operator had it compiled in the ordinary course of
39 business, and interpretation of data under this paragraph is
40 not required to be filed.

41 (c) Drill cuttings and core samples.--Upon notification by
42 the department prior to commencement of drilling, the well
43 operator shall collect any additional data specified by the
44 department, including representative drill cuttings and samples
45 from cores taken and any other geological information that the
46 operator reasonably can compile. Interpretation of the data is
47 not required to be filed.

48 (d) Retention and filing of data.--Data required under
49 subsection (b) and drill cuttings required under subsection (c)
50 shall be retained by the well operator and filed with the
51 department no more than three years after completion of the

1 well. Upon request, the department shall extend the deadline up
2 to five years from the date of completion of the well. The
3 department shall be entitled to utilize information collected
4 under this subsection in enforcement proceedings, in making
5 designations or determinations under section 1927-A of The
6 Administrative Code of 1929 and in aggregate form for
7 statistical purposes.

8 § 3223. Notification and effect of well transfer.

9 The owner or operator of a well shall notify the department
10 in writing within 30 days, in a form directed by regulation, of
11 sale, assignment, transfer, conveyance or exchange by or to the
12 owner of the well. A transfer shall not relieve the well owner
13 or operator of an obligation accrued under this chapter, nor
14 shall it relieve the owner or operator of an obligation to plug
15 the well until the requirements of section 3225 (relating to
16 bonding) have been met, at which time the transferring owner or
17 operator shall be relieved from all obligations under this
18 chapter, including the obligation to plug the well.

19 § 3224. Coal operator responsibilities.

20 (a) General rule.--At any time prior to removing coal or
21 other underground materials from, or extending the workings in,
22 a coal mine within 500 feet of an oil or gas well of which the
23 coal operator has knowledge, or within 500 feet of an approved
24 well location of which the coal operator has knowledge, the coal
25 operator, by certified mail, shall forward to or file with the
26 well operator and the department a copy of the relevant part of
27 all maps and plans which it is presently required by law to
28 prepare and file with the department, showing the pillar which
29 the coal operator proposes to leave in place around each oil or
30 gas well in the projected workings. Thereafter, the coal
31 operator may proceed with mining operations in the manner
32 projected on the maps and plans, but the operator may not remove
33 coal or cut a passageway within 150 feet of the well or approved
34 well location without written approval under this section. If,
35 in the opinion of the well operator or the department, the plan
36 indicates that the proposed pillar is inadequate to protect
37 either the integrity of the well or public health and safety,
38 the affected well operator shall attempt to reach an agreement
39 with the coal operator on a suitable pillar, subject to approval
40 of the department. Upon failure to agree, the well operator may,
41 within ten days after receipt of the proposed plan under this
42 section, file objections under section 3251 (relating to
43 conferences), indicating the size of the pillar to be left as to
44 each well. If objections are not timely filed and the department
45 has none, the department shall grant approval, reciting that
46 maps and plans have been filed, no objections have been made
47 thereto and the pillar proposed to be left for each well is
48 approved in the manner as projected.

49 (b) Objections.--If an objection is filed by the well
50 operator or raised by the department, the department shall order
51 that a conference be held under section 3251 within ten days of

1 the filing of objections. At the conference, the coal operator
2 and the person who has objected shall attempt to agree on a
3 proposed plan, showing the pillar to be left around each well,
4 which will satisfy the objections and receive department
5 approval. If an agreement is reached, the department shall grant
6 approval to the coal operator, reciting that a plan has been
7 filed and the pillar to be left for each well is approved
8 pursuant to the agreement. If an agreement is not reached on a
9 plan showing the pillar to be left with respect to a well, the
10 department, by appropriate order, shall determine the pillar to
11 be left with respect to the well. In a proceeding under this
12 section, the department shall follow as nearly as is possible
13 the original plan filed by the coal operator. The department
14 shall not require the coal operator to leave a pillar in excess
15 of 100 feet in radius, except that the department may require a
16 pillar of up to 150 feet in radius if the existence of unusual
17 conditions is established. Pillars determined by the department
18 shall be shown on maps or plans on file with the department as
19 provided in subsection (a), and the department shall approve the
20 pillar to be left for each well.

21 (c) Pillars of reduced size.--Application may be made at any
22 time to the department by the coal operator to leave a pillar of
23 a size smaller than shown on the plan approved or determined by
24 the department under this section. If an application is filed,
25 the department shall:

26 (1) follow the appropriate procedure under subsection
27 (a) or (b);

28 (2) by appropriate order, determine a plan involving a
29 pillar of a smaller size as to any well covered by the
30 application; and

31 (3) grant approval for the pillar to be left with
32 respect to each well.

33 (d) Violation.--No coal operator, without written approval
34 of the department after notice and opportunity for a hearing
35 under this section, shall remove coal or cut a passageway so as
36 to leave a pillar of smaller size, with respect to an oil or gas
37 well, than that approved by the department under this chapter.

38 (e) Limitation.--With regard to a coal pillar required by
39 law to be left around a well drilled prior to April 18, 1985,
40 nothing in this chapter shall be construed to:

41 (1) require a well operator to pay for the coal pillar;

42 (2) affect a right which a coal operator may have had
43 prior to April 18, 1985, to obtain payment for the coal
44 pillar; or

45 (3) affect a duty or right which a storage operator or
46 landowner may have had prior to April 18, 1985, to pay or not
47 pay for the coal pillar.

48 (f) Mining through plugged wells.--A coal operator who
49 intends to mine through a plugged oil or gas well or otherwise
50 completely remove any pillar from around that well shall file a
51 plan under subsection (a) which shall be subject to all of the

1 provisions of this section. No coal operator may mine through a
2 plugged oil or gas well of which he has knowledge until written
3 approval has been granted by the department in accordance with
4 this section. The Bureau of Deep Mine Safety in the department
5 shall have the authority to establish conditions under which the
6 department may approve a coal operator's plan to mine through a
7 plugged oil or gas well.

8 § 3225. Bonding.

9 (a) General rule.--The following shall apply:

10 (1) Except as provided in subsection (d), upon filing an
11 application for a well permit, and before continuing to
12 operate an oil or gas well, the owner or operator of the well
13 shall file with the department a bond covering the well and
14 well site on a form to be prescribed and furnished by the
15 department. A bond filed with an application for a well
16 permit shall be payable to the Commonwealth and conditioned
17 upon the operator's faithful performance of all drilling,
18 water supply replacement, restoration and plugging
19 requirements of this chapter. A bond for a well in existence
20 on April 18, 1985, shall be payable to the Commonwealth and
21 conditioned upon the operator's faithful performance of all
22 water supply replacement, restoration and plugging
23 requirements of this chapter. The amount of the bond required
24 shall be in the following amounts and may be adjusted by the
25 Environmental Quality Board every two years to reflect the
26 projected costs to the Commonwealth of plugging the well:

27 (i) For wells with a total well bore length less
28 than 6,000 feet:

29 (A) For operating up to 50 wells, \$4,000 per
30 well; but no bond may be required under this clause
31 in excess of \$35,000.

32 (B) For operating 51 to 150 wells, \$35,000 plus
33 \$4,000 per well for each well in excess of 50 wells;
34 but no bond may be required under this clause in
35 excess of \$60,000.

36 (C) For operating 151 to 250 wells, \$60,000 plus
37 \$4,000 per well for each well in excess of 150 wells;
38 but no bond may be required under this clause in
39 excess of \$100,000.

40 (D) For operating more than 250 wells, \$100,000
41 plus \$4,000 per well for each well in excess of 250
42 wells; but no bond may be required under this clause
43 in excess of \$250,000.

44 (ii) For wells with a total well bore length greater
45 than 6,000 feet:

46 (A) For operating up to 25 wells, \$10,000 per
47 well; but no bond may be required under this clause
48 in excess of \$60,000.

49 (B) For operating 26 to 50 wells, \$60,000 plus
50 \$10,000 per well for each well in excess of 25 wells;
51 but no bond may be required under this clause in

1 excess of \$120,000.

2 (C) For operating 51 to 150 wells, \$120,000 plus
3 \$10,000 per well for each well in excess of 50 wells;
4 but no bond may be required under this clause in
5 excess of \$180,000.

6 (D) For operating more than 150 wells, \$180,000
7 plus \$10,000 per well for each well in excess of 150
8 wells; but no bond may be required under this clause
9 in excess of \$250,000.

10 (2) In lieu of individual bonds for each well, an owner
11 or operator may file a blanket bond for the applicable amount
12 under paragraph (1), on a form prepared by the department,
13 covering all of its wells in this Commonwealth, as enumerated
14 on the bond form.

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

23 (i) cash;

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

32 (iii) negotiable bonds of the United States
33 Government or the Commonwealth, the Pennsylvania Turnpike
34 Commission, the General State Authority, the State Public
35 School Building Authority or any municipality within the
36 Commonwealth; or

37 (iv) United States Treasury Bonds issued at a
38 discount without a regular schedule of interest payments
39 to maturity, otherwise known as Zero Coupon Bonds, having
40 a maturity date of not more than ten years after the date
41 of purchase and at the maturity date having a value of
42 not less than the applicable amount under paragraph (1).
43 The cash deposit, certificate of deposit, amount of the
44 irrevocable letter of credit or market value of the
45 securities shall be equal at least to the sum of the
46 bond.

47 (4) The secretary shall, upon receipt of a deposit of
48 cash, letters of credit or negotiable bonds, immediately
49 place the same with the State Treasurer, whose duty it shall
50 be to receive and hold the same in the name of the
51 Commonwealth, in trust, for the purpose for which the deposit

1 is made.

2 (5) The State Treasurer shall at all times be
3 responsible for custody and safekeeping of deposits. The
4 operator making the deposit shall be entitled from time to
5 time to demand and receive from the State Treasurer, on the
6 written order of the secretary, the whole or any portion of
7 collateral deposited, upon depositing with the State
8 Treasurer, in lieu of that collateral, other collateral of
9 classes specified in this section having a market value at
10 least equal to the sum of the bond, and also to demand,
11 receive and recover the interest and income from the
12 negotiable bonds as they become due and payable.

13 (6) If negotiable bonds on deposit under this subsection
14 mature or are called, the State Treasurer, at the request of
15 the owner of the bonds, shall convert them into other
16 negotiable bonds, of classes specified in this section,
17 designated by the owner.

18 (7) If notice of intent to terminate a letter of credit
19 is given, the department shall give the operator 30 days'
20 written notice to replace the letter of credit with other
21 acceptable bond guarantees as provided in this section. If
22 the owner or operator fails to timely replace the letter of
23 credit, the department shall draw upon and convert the letter
24 of credit into cash and hold it as a collateral bond
25 guarantee.

26 (b) Release.--No bond shall be fully released until the
27 requirements of subsection (a) and section 3223 (relating to
28 notification and effect of well transfer) have been fully met.
29 Upon release of bonds and collateral under this section, the
30 State Treasurer shall immediately return to the owner the
31 specified amount of cash or securities.

32 (c) Noncompliance.--If a well owner or operator fails or
33 refuses to comply with subsection (a), regulations promulgated
34 under this chapter or conditions of a permit relating to this
35 chapter, the department may declare the bond forfeited and shall
36 certify the same to the Attorney General, who shall proceed to
37 enforce and collect the full amount of the bond and, if the well
38 owner or operator has deposited cash or securities as collateral
39 in lieu of a corporate surety, the department shall declare the
40 collateral forfeited and direct the State Treasurer to pay the
41 full amount of the funds into the Well Plugging Restricted
42 Revenue Account or to sell the security to the extent forfeited
43 and pay the proceeds into the Well Plugging Restricted Revenue
44 Account. If a corporate surety or financial institution fails to
45 pay a forfeited bond promptly and in full, the corporate surety
46 or financial institution shall be disqualified from writing
47 further bonds under this chapter or any other environmental law
48 administered by the department. A person aggrieved by reason of
49 forfeiting the bond or converting collateral, as provided in
50 this section, shall have a right to appeal to the Environmental
51 Hearing Board in the manner provided by law. Upon forfeiture of

1 a blanket bond for a violation occurring at one or more well
2 sites, the person whose bond is forfeited shall, within ten days
3 of the forfeiture, submit a replacement bond to cover all other
4 wells of which the person is an owner or operator. Failure to
5 submit the replacement bond constitutes a violation of this
6 section as to each of the wells owned or operated by the person.

7 (d) Alternatives to certain bonds.--The following shall
8 apply:

9 (1) An operator of not more than 200 wells who cannot
10 obtain a bond for a well drilled prior to April 18, 1985, as
11 required under subsection (a), due to inability to
12 demonstrate sufficient financial resources may, in lieu of
13 the bond:

14 (i) Submit to the department a fee in the amount of
15 \$50 per well, a blanket fee of \$500 for ten to 20 wells
16 or a blanket fee of \$1,000 for more than 20 wells, which
17 shall be a nonrefundable fee paid each year that the
18 operator has not filed a bond with the department. All
19 fees collected in lieu of a bond under this subsection
20 shall be used for the purposes authorized by this
21 chapter. The Environmental Quality Board shall have the
22 power, by regulation, to increase the amount of the fees
23 established under this subsection.

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

26 (A) Payment shall be based on the number of
27 wells owned or operated. The operator shall make an
28 initial deposit and make annual deposits in
29 accordance with the schedule in clause (B). Interest
30 accumulated by the collateral shall become a part of
31 the bond until the collateral plus accumulated
32 interest equals the amount of the required bond. The
33 collateral shall be deposited, in trust, with the
34 State Treasurer as provided in this subsection or
35 with a bank selected by the department which shall
36 act as trustee for the benefit of the Commonwealth to
37 guarantee the operator's compliance with the
38 drilling, water supply replacement, restoration and
39 plugging requirements of this chapter. The operator
40 shall be required to pay all costs of the trust.

41 (B) An operator of up to ten existing wells who
42 does not intend to operate additional wells shall
43 deposit \$250 per well and shall, thereafter, annually
44 deposit \$50 per well until the obligations of this
45 section are fully met. An operator of 11 to 25 wells
46 or an operator of up to ten wells who applies for one
47 or more permits for additional wells shall deposit
48 \$2,000 and shall, thereafter, annually deposit \$1,150
49 plus \$150 for each additional well to be permitted
50 that year until the obligations of this section are
51 fully met. An operator of 26 to 50 wells shall

1 deposit \$3,000 and shall, thereafter, annually
2 deposit \$1,300 plus \$400 for each additional well to
3 be permitted that year until the obligations of this
4 section are fully met. An operator of 51 to 100 wells
5 shall deposit \$4,000 and shall, thereafter, annually
6 deposit \$1,500 plus \$400 for each additional well to
7 be permitted that year until the obligations of this
8 section are fully met. Operators of 101 to 200 wells
9 shall deposit \$8,000 and shall, thereafter, annually
10 deposit \$1,600 plus \$1,000 for each additional well
11 to be permitted that year until the obligations of
12 this section are fully met. Operators of more than
13 200 wells shall fully bond their wells immediately.

14 (C) The department shall reduce the amount of
15 phased collateral payments or the period of time over
16 which phased collateral payments shall be made on
17 behalf of owners or operators who, prior to August 1,
18 1992, have paid a fee in lieu of bond under
19 subparagraph (i), and who, by August 1, 1993, choose
20 to enter the phased collateral program under this
21 subparagraph rather than continue to make payments in
22 lieu of bond. Payments made prior to August 1, 1992,
23 in lieu of bond shall not be credited in any other
24 manner, and the department shall not be required to
25 refund the fees. The Environmental Quality Board, by
26 regulation, may change the annual deposits
27 established under clause (B) if necessary to
28 accommodate a change in the amount of the bond
29 required under this section.

30 (2) An operator may continue to pay a fee in lieu of
31 bond or make phased deposits of collateral to fully
32 collateralize the bond so long as the operator does not miss
33 a payment under this subsection and remains in compliance
34 with this chapter. If an operator misses a payment under this
35 subsection, the operator shall immediately:

- 36 (i) submit the appropriate bond amount in full; or
37 (ii) cease all operations and plug all wells.

38 (d.1) Individuals.--The following shall apply:

39 (1) An individual who is unable to obtain a bond to
40 drill new wells due to inability to demonstrate financial
41 resources may meet the collateral bond requirements of
42 subsection (a) by making phased deposits of collateral to
43 fully collateralize the bond. The individual shall be limited
44 to drilling ten new wells per calendar year and, for each
45 well to be drilled, deposit \$500 and make an annual deposit
46 of 10% of the remaining bond amount for a period of ten
47 years. Interest accumulated shall become a part of the bond
48 until the collateral plus accumulated interest equals the
49 amount of the required bond. The collateral shall be
50 deposited in trust with the State Treasurer under subsection
51 (a) or with a bank selected by the department which shall act

1 as trustee for the benefit of the Commonwealth to guarantee
2 the individual's compliance with the drilling, water supply
3 replacement, restoration and plugging requirements of this
4 chapter. The individual shall pay all costs of the trust.

5 (2) Individuals may continue to use phased collateral to
6 obtain permits if they have not missed a payment for a well
7 drilled under this provision and remain in compliance with
8 this chapter. If an individual misses a payment, the
9 individual shall:

10 (i) immediately submit the appropriate bond amount
11 in full; or

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

13 (3) For purposes of this subsection, an "individual"
14 means a natural person doing business under his own name.

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

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

27 § 3226. Oil and Gas Technical Advisory Board.

28 (a) Creation of board.--The Oil and Gas Technical Advisory
29 Board is created, consisting of the following members, all of
30 whom shall be chosen by the Governor and shall be residents of
31 this Commonwealth:

32 (1) Three individuals, each of whom shall be:

33 (i) a petroleum engineer;

34 (ii) a petroleum geologist; or

35 (iii) an experienced driller representative of the
36 oil and gas industry with three years of experience in
37 this Commonwealth.

38 (2) One mining engineer from the coal industry with
39 three years of experience in this Commonwealth.

40 (3) One geologist or petroleum engineer with three years
41 of experience in this Commonwealth, who shall be chosen from
42 a list of three names submitted by the Citizens Advisory
43 Council to the Governor and who shall sit as a representative
44 of the public interest.

45 (b) Reimbursement.--Board members shall not receive a salary
46 but shall be reimbursed for all necessary expenses incurred in
47 the performance of their duties.

48 (c) Majority vote.--All actions of the board shall be by
49 majority vote. The board shall meet as called by the secretary,
50 but not less than semiannually, to carry out its duties under
51 this chapter. The board shall select a chairman and other

1 officers deemed appropriate.

2 (d) Consultation.--The department shall consult with the
3 board in the formulation, drafting and presentation stages of
4 all regulations of a technical nature promulgated under this
5 chapter. The board shall be given a reasonable opportunity to
6 review and comment on all regulations of a technical nature
7 prior to submission to the Environmental Quality Board for
8 initial consideration. The written report of the board shall be
9 presented to the Environmental Quality Board with any regulatory
10 proposal. The chairman of the board shall be invited to
11 participate in the presentation of all regulations of a
12 technical nature before the Environmental Quality Board to the
13 extent allowed by procedures of the Environmental Quality Board.
14 Nothing herein shall preclude any member of the board from
15 filing a petition for rulemaking with the Environmental Quality
16 Board in accordance with procedures established by the
17 Environmental Quality Board.

18 SUBCHAPTER C

19 UNDERGROUND GAS STORAGE

20 Sec.

21 3231. Reporting requirements for gas storage operations.

22 3232. Reporting requirements for coal mining operations.

23 3233. General gas storage reservoir operations.

24 3234. Gas storage reservoir operations in coal areas.

25 3235. Inspection of facilities and records.

26 3236. Reliance on maps and burden of proof.

27 3237. Exemptions and prohibitions.

28 § 3231. Reporting requirements for gas storage operations.

29 (a) General duties.--The following shall apply:

30 (1) A person injecting into or storing gas in a storage
31 reservoir underlying or within 3,000 linear feet of a coal
32 mine operating in a coal seam that extends over the storage
33 reservoir or reservoir protective area shall, within 60 days,
34 file with the department a copy of a map and certain data in
35 the form and manner provided in this subsection or as
36 otherwise prescribed by regulation of the department.

37 (2) A person injecting gas into or storing gas in a
38 storage reservoir which is not under or within 3,000 linear
39 feet of, but less than 10,000 linear feet from, a coal mine
40 operating in a coal seam that extends over the storage
41 reservoir or reservoir protective area shall file the map and
42 data within 60 days or a longer period set by departmental
43 regulation.

44 (3) A person proposing to inject or store gas in a
45 storage reservoir located as defined in paragraph (1) or (2)
46 shall file the appropriate required map and data with the
47 department not less than six months prior to starting the
48 actual injection or storage.

49 (4) A map required by this subsection shall be prepared
50 by a competent engineer or geologist, showing:

51 (i) the stratum in which the existing or proposed

1 storage reservoir is or is proposed to be located;

2 (ii) the geographic location of the outside
3 boundaries of the storage reservoir and reservoir
4 protective area;

5 (iii) the location of all known oil or gas wells in
6 the reservoir or within 3,000 linear feet thereof which
7 have been drilled into or through the storage stratum,
8 indicating which have been or are to be cleaned out and
9 plugged or reconditioned for storage along with the
10 proposed location of all additional wells which are to be
11 drilled within the storage reservoir or within 3,000
12 linear feet thereof.

13 (5) The following, if available, shall be furnished for
14 all known oil or gas wells which have been drilled into or
15 through the storage stratum within the storage reservoir or
16 within 3,000 linear feet thereof: name of the operator, date
17 drilled, total depth, depth of production if the well was
18 productive of oil or gas, the initial rock pressure and
19 volume, the depths at which all coal seams were encountered
20 and a copy of the driller's log or other similar information.
21 At the time of the filing of the maps and data, a statement
22 shall be filed:

23 (i) detailing efforts made to determine that the
24 wells shown are accurately located on the map;

25 (ii) affirming that the wells shown represent, to
26 the best of the operator's knowledge, all oil or gas
27 wells which have ever been drilled into or below the
28 storage stratum within the proposed storage reservoir or
29 within the reservoir protective area;

30 (iii) stating whether the initial injection is for
31 testing purposes;

32 (iv) stating the maximum pressure at which injection
33 and storage of gas is contemplated; and

34 (v) providing a detailed explanation of the methods
35 to be used or which previously have been used in
36 drilling, cleaning out, reconditioning and plugging wells
37 in the storage reservoir or within the reservoir
38 protective area.

39 (6) The map and data required to be filed under
40 paragraph (5) shall be amended or supplemented semiannually
41 if material changes occur. The department may require a
42 storage operator to amend or supplement the map or data at
43 more frequent intervals if material changes have occurred
44 justifying the earlier filing.

45 (b) Other reporting requirements.--A person who is injecting
46 gas into or storing gas in a storage reservoir not at the time
47 subject to subsection (a), by a process other than that of
48 secondary recovery or gas recycling, shall, within 60 days, or a
49 longer period set by departmental regulations, file maps and
50 data required by departmental regulation and as follows:

51 (1) A person who, after April 18, 1985, proposes to

1 inject or store gas in a storage reservoir in an area not
2 covered by subsection (a) by a process other than that of
3 secondary recovery or gas recycling shall file the required
4 map and data with the department not less than six months
5 prior to the starting of actual injection or storage.

6 (2) The map shall be prepared by a competent engineer or
7 competent geologist and show:

8 (i) the stratum in which the existing or proposed
9 storage reservoir is or is to be located;

10 (ii) the geographic location of the outside
11 boundaries of the storage reservoir; and

12 (iii) the location of all known oil or gas wells
13 within the reservoir, or within 3,000 linear feet
14 thereof, which have been drilled into or through the
15 storage stratum, indicating which have been or are to be
16 cleaned out and plugged or reconditioned for storage and
17 the proposed location of all additional wells which are
18 to be drilled within the storage reservoir or within
19 3,000 linear feet thereof.

20 (3) The following, if available, shall be furnished for
21 all known oil or gas wells which have been drilled into or
22 through the storage stratum within the storage reservoir or
23 within 3,000 linear feet thereof: name of the operator, date
24 drilled, total depth, depth of production if the well was
25 productive of oil or gas, the initial rock pressure and
26 volume and a copy of the driller's log or other similar
27 information. At the time of the filing of the maps and data,
28 a statement shall be filed:

29 (i) detailing efforts made to determine that the
30 wells shown are accurately located on the map;

31 (ii) affirming that the wells shown represent, to
32 the best of the operator's knowledge, all oil or gas
33 wells which have ever been drilled into or below the
34 storage stratum within the proposed storage reservoir;

35 (iii) stating whether the initial injection is for
36 testing purposes;

37 (iv) stating the maximum pressure at which injection
38 and storage of gas is contemplated; and

39 (v) providing a detailed explanation of the methods
40 to be used or which previously have been used in
41 drilling, cleaning out, reconditioning and plugging wells
42 in the storage reservoir.

43 (4) The map and data required to be filed under
44 paragraph (3) shall be amended or supplemented semiannually
45 if material changes occur. The department may require a
46 storage operator to amend or supplement the map or data at
47 more frequent intervals if material changes have occurred
48 justifying the earlier filing.

49 (c) Political subdivisions.--Storage operators shall give
50 notice to the department of the name of each political
51 subdivision and county in which the operator maintains and

operates a gas storage reservoir.

(d) Notice to affected persons.--At the time of the filing of maps and data and the filing of amended or supplemental maps or data required by this section, the person filing the information shall give written notice of the filing to all persons who may be affected under the provisions of this chapter by the storage reservoir described in the maps or data. Notices shall contain a description of the boundaries of the storage reservoir. When a person operating a coal mine or owning an interest in coal properties which are or may be affected by the storage reservoir requests, in writing, a copy of any map or data filed with the department, the copy shall be furnished by the storage operator.

(e) Outside boundaries.--For purposes of this chapter, the outside boundaries of a storage reservoir shall be defined by the location of those wells around the periphery of the storage reservoir which had no gas production when drilled in the storage stratum. The boundaries shall be originally fixed or subsequently changed if, based on the number and nature of the wells and the geological and production knowledge of the storage stratum, its character, permeability, distribution and operating experience, it is determined in a conference under section 3251 (relating to conferences) that modifications should be made.

(f) Inapplicability of section.--The requirements of this section shall not apply to the operator of an underground gas storage reservoir so long as the reservoir is located more than 10,000 linear feet from an operating coal mine, except that the storage operator shall give notice to the department of the name of each political subdivision and county in which the operator maintains and operates a gas storage reservoir. In political subdivisions and counties where both gas storage reservoirs and coal mines are being operated, the department may request the storage operator to furnish maps showing geographical locations and outside boundaries of the storage reservoirs. The department shall keep a record of the information and promptly notify the coal operator and the storage operator when notified by them that the coal mine and storage reservoir are within 10,000 linear feet of each other.

§ 3232. Reporting requirements for coal mining operations.

(a) General rule.--A person owning or operating a coal mine shall file with the department a map prepared and sealed by a competent individual licensed as a professional engineer or professional land surveyor under the provisions of the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law, showing the outside coal boundaries of the operating coal mine, the existing workings and exhausted areas and the relationship of the boundaries to identifiable surface properties and landmarks. A person owning or operating an operating coal mine which has been penetrated by a well shall furnish a mine map to the department each year indicating the excavations for the preceding year and

1 the projections for the ensuing year. The map required by this
2 subsection shall be furnished to a person storing or
3 contemplating the storage of gas in the vicinity of operating
4 coal mines, upon written request, by the coal operator, and the
5 person and the department shall thereafter be informed of any
6 boundary changes at the time the changes occur. The department
7 shall keep a record of the information and promptly notify the
8 coal operator and storage operator when notified by them that
9 the coal mine and the storage reservoir are within 10,000 linear
10 feet of each other.

11 (b) Mines near certain reservoirs.--A person owning or
12 operating any coal mine which is or which comes within 10,000
13 linear feet of a storage reservoir and where the coal seam being
14 operated extends over the storage reservoir or reservoir
15 protective area shall, within 45 days after receiving notice
16 from the storage operator of that fact, file with the department
17 and furnish to the person operating the storage reservoir a map
18 in the form required by subsection (a) showing, in addition to
19 the requirements of subsection (a), existing and projected
20 excavations and workings of the operating coal mine for the
21 ensuing 18-month period and the location of oil or gas wells of
22 which the coal operator has knowledge. The person owning or
23 operating the coal mine shall, each six months thereafter, file
24 with the department and furnish to the person operating the
25 storage reservoir a revised map showing any additional
26 excavations and workings, together with the projected
27 excavations and workings for the then ensuing 18-month period,
28 which may be within 10,000 linear feet of the storage reservoir.
29 The department may require a coal operator to file revised maps
30 at more frequent intervals if material changes have occurred
31 justifying earlier filing. The person owning or operating the
32 coal mine shall also file with the department and furnish the
33 person operating the reservoir prompt notice of any wells which
34 have been cut into, together with all available pertinent
35 information.

36 (c) Mines near gas storage reservoirs.--A person owning or
37 operating a coal mine who has knowledge that it overlies or is
38 within 2,000 linear feet of a gas storage reservoir shall,
39 within 30 days, notify the department and the storage operator
40 of that fact.

41 (d) Mines projected to be near storage reservoirs.--When a
42 person owning or operating a coal mine expects that, within the
43 ensuing nine-month period, the coal mine will be extended to a
44 point which will be within 2,000 linear feet of any storage
45 reservoir, the person shall notify the department and storage
46 operator in writing of that fact.

47 (e) New mines.--A person intending to establish or
48 reestablish an operating coal mine which will be over a storage
49 reservoir or within 2,000 linear feet of a storage reservoir or
50 may, within nine months thereafter, be expected to be within
51 2,000 linear feet of a storage reservoir shall immediately

1 notify the department and storage operator in writing. Notice
2 shall include the date on which the person intends to establish
3 or reestablish the operating coal mine.

4 (f) Misdemeanor.--A person who serves notice as required by
5 this subsection of an intention to establish or reestablish an
6 operating coal mine, without intending in good faith to
7 establish or reestablish the mine, is liable for continuing
8 damages to a storage operator injured by the improper notice and
9 commits a misdemeanor subject to the penalties of section 3255
10 (relating to penalties).

11 § 3233. General gas storage reservoir operations.

12 (a) General rule.--A person who operates or proposes to
13 operate a storage reservoir, except one filled by the secondary
14 recovery or gas recycling process, shall:

15 (1) Use every known method which is reasonable under the
16 circumstances for discovering and locating all wells which
17 have or may have been drilled into or through the storage
18 reservoir.

19 (2) Plug or recondition, as provided in departmental
20 regulations, all known wells drilled into or through the
21 storage reservoir, except to the extent otherwise provided in
22 subsections (b) and (c).

23 (b) Wells to be plugged.--To comply with subsection (a),
24 wells which are to be plugged shall be plugged in the manner
25 specified in section 3220 (relating to plugging requirements).

26 (b.1) Wells plugged prior to enactment of section.--If a
27 well located in the storage reservoir area has been plugged
28 prior to April 18, 1985, and on the basis of data, information
29 and other evidence submitted to the department, it is determined
30 that the plugging was done in the manner required by section
31 3220 or approved as an alternative method under section 3221
32 (relating to alternative methods) and the plugging is still
33 sufficiently effective to meet the requirements of this chapter,
34 the obligations under subsection (a) with regard to plugging the
35 well shall be considered to have been fully satisfied.

36 (c) Wells to be reconditioned.--The following shall apply:

37 (1) To comply with subsection (a), wells which are to be
38 reconditioned shall, unless the department by regulation
39 specifies a different procedure, be cleaned out from the
40 surface through the storage horizon, and the producing casing
41 and casing strings determined not to be in good physical
42 condition shall be replaced with new casing, using the same
43 procedure as is applicable to drilling a new well under this
44 chapter. In the case of wells to be used for gas storage, the
45 annular space between each string of casing and the annular
46 space behind the largest diameter casing to the extent
47 possible shall be filled to the surface with cement or
48 bentonitic mud or a nonporous material approved by the
49 department under section 3221. At least 15 days prior to
50 reconditioning, the storage operator shall give notice to the
51 department, setting forth in the notice the manner in which

1 it is planned to recondition the well and any pertinent data
2 known to the storage operator which will indicate the
3 condition of the well existing at that time. In addition, the
4 storage operator shall give the department at least 72 hours'
5 notice of the time when reconditioning is to begin. If no
6 objections are raised by the department within ten days, the
7 storage operator may proceed with reconditioning in
8 accordance with the plan as submitted. If objections are made
9 by the department, the department may fix a time and place
10 for a conference under section 3251 (relating to conferences)
11 at which the storage operator and department shall endeavor
12 to agree on a plan to satisfy the objections and meet the
13 requirements of this section. If no agreement is reached, the
14 department may, by an appropriate order, determine whether
15 the plan as submitted meets the requirements of this section
16 or what changes, if any, are required. If, in reconditioning
17 a well in accordance with the plan, physical conditions are
18 encountered which justify or necessitate a change in the
19 plan, the storage operator may request that the plan be
20 changed. If the request is denied, the department shall fix a
21 conference under section 3251 and proceed in the same manner
22 as with original objections. An application may be made in
23 the manner prescribed by section 3221 for approval of an
24 alternative method of reconditioning a well. If a well
25 located within the storage reservoir was reconditioned, or
26 drilled and equipped, prior to April 18, 1985, the
27 obligations imposed by subsection (a), as to reconditioning
28 the well, shall be considered fully satisfied if, on the
29 basis of the data, information and other evidence submitted
30 to the department, it is determined that:

31 (i) The conditioning or previous drilling and
32 equipping was done in the manner required in this
33 subsection, in regulations promulgated under this chapter
34 or in a manner approved as an alternative method in
35 accordance with section 3221.

36 (ii) The reconditioning or previous drilling and
37 equipping is still sufficiently effective to meet the
38 requirements of this chapter.

39 (2) If a well requires emergency repairs, this chapter
40 shall not be construed to require the storage operator to
41 give any notice required by this subsection before making the
42 repairs.

43 (d) Exception.--The requirements of subsection (a) shall not
44 apply to injection of gas into a stratum when the sole purpose
45 of injection, referred to in this subsection as testing, is to
46 determine whether the stratum is suitable for storage purposes.
47 Testing shall be conducted only in compliance with the following
48 requirements:

49 (1) The person testing or proposing to test shall comply
50 with section 3231 (relating to reporting requirements for gas
51 storage operations) and verify the statement required to be

1 filed by that section.

2 (2) The storage operator shall give at least six months'
3 written notice to the department of the fact that injection
4 of gas for testing purposes is proposed.

5 (3) If the department has objections, the department
6 shall fix a time and place for a conference under section
7 3251, not more than ten days from the date of notice to the
8 storage operator, at which time the storage operator and
9 department shall attempt to resolve the issues presented. If
10 an agreement cannot be reached, the department may issue an
11 appropriate order.

12 (e) Failure to execute lawful order.--In a proceeding under
13 this chapter, if the department determines that an operator of a
14 storage reservoir has failed to carry out a lawful order issued
15 under this chapter, the department may require the operator to
16 suspend operation of the reservoir and withdraw the gas until
17 the violation is remedied, in which case the storage operator,
18 limited by due diligence insofar as existing facilities utilized
19 to remove gas from the reservoir will permit, shall:

20 (1) if possible, remove the amount required by the
21 department to be removed; or

22 (2) in any event, remove the maximum amount which can be
23 withdrawn in accordance with recognized engineering and
24 operating procedures.

25 (f) Duty of storage reservoir operator.--The following shall
26 apply:

27 (1) A person owning or operating a storage reservoir
28 subject to this chapter shall have a duty to:

29 (i) Maintain all wells drilled into or through the
30 reservoir in a condition, and operate them in a manner,
31 sufficient to prevent the escape of gas.

32 (ii) Operate and maintain the reservoir and its
33 facilities as prescribed by departmental regulations and
34 at a pressure which will prevent gas from escaping, but
35 the pressure shall not exceed the highest rock pressure
36 found to have existed during the production history of
37 the reservoir or another high pressure limit approved by
38 the department after holding a conference under section
39 3251 based on geological and production knowledge of the
40 reservoir, its character, permeability distribution and
41 operating experience.

42 (2) The duty under paragraph (1) shall not be construed
43 to include inability to prevent the escape of gas when gas
44 escapes as a result of an act of God or a person not under
45 the control of the storage operator. In that instance, the
46 storage operator shall have a duty to take action reasonably
47 necessary to prevent further escape of gas. This paragraph
48 does not apply to a well which the storage operator failed to
49 locate and make known to the department.

50 § 3234. Gas storage reservoir operations in coal areas.

51 (a) General rule.--A person operating a storage reservoir

1 which underlies or is within 2,000 linear feet of a coal mine
2 operating in a coal seam that extends over the storage reservoir
3 or the reservoir protective area shall:

4 (1) Use every known reasonable method for discovering
5 and locating all wells which have or may have been drilled
6 into or through the storage stratum in the acreage lying
7 within the outside coal boundaries of the operating coal mine
8 overlying the storage reservoir or the reservoir protective
9 area.

10 (2) Plug or recondition, as provided by section 3220
11 (relating to plugging requirements) and subsection (e), all
12 known wells, except to the extent provided in subsections
13 (e), (f), (g) and (h), drilled into or through the storage
14 stratum and located within the portion of the acreage of the
15 operating coal mine overlying the storage reservoir or the
16 reservoir protective area. If an objection is raised as to
17 use of a well as a storage well and after a conference under
18 section 3251 (relating to conferences), it is determined by
19 the department, taking into account all circumstances and
20 conditions, that the well should not be used as a storage
21 well, the well shall be plugged unless, in the opinion of the
22 storage operator, the well may be used as a storage well in
23 the future, in which case, upon approval of the department
24 after taking into account all circumstances and conditions,
25 the storage operator may recondition and inactivate the well
26 rather than plug it.

27 (3) The requirements of paragraph (2) shall be deemed to
28 have been fully complied with if, as the operating coal mine
29 is extended, all wells which from time to time come within
30 the acreage described in paragraph (2) are reconditioned or
31 plugged as provided in section 3220 and subsection (e) or (f)
32 so that, by the time the coal mine has reached a point within
33 2,000 linear feet of the wells, they will have been
34 reconditioned or plugged in accordance with section 3220 and
35 subsection (e) or (f).

36 (b) Verified statement.--A person operating a storage
37 reservoir referred to in subsection (a) shall file with the
38 department and furnish a copy to the person operating the
39 affected operating coal mine a verified statement setting forth:

40 (1) That the map and any supplemental maps required by
41 section 3231(a) (relating to reporting requirements for gas
42 storage operations) have been prepared and filed in
43 accordance with section 3231.

44 (2) A detailed explanation of what the storage operator
45 has done to comply with the requirements of subsection (a)(1)
46 and (2) and the results of those actions.

47 (3) Such additional efforts, if any, as the storage
48 operator is making and intends to make to locate all wells.

49 (4) Any additional wells that are to be plugged or
50 reconditioned to meet the requirements of subsection (a)(2).

51 (b.1) Order of department.--If the statement required under

1 subsection (b) is not filed by the storage reservoir operator
2 within the time specified by this chapter or the regulations of
3 the department, the department may order the operator to file
4 the statement.

5 (c) Procedure.--Within 120 days after receipt of a statement
6 required by this section, the department may direct that a
7 conference be held in accordance with section 3251 to determine
8 whether the requirements of section 3231 and subsection (a) have
9 been fully met. At the conference, if any person believes the
10 requirements have not been fully met, the parties shall attempt
11 to agree on additional actions to be taken and the time for
12 completion, subject to approval of the department. If an
13 agreement cannot be reached, the department shall make a
14 determination and, if the department determines any requirements
15 have not been met, the department shall issue an order
16 specifying in detail the extent to which the requirements have
17 not been met and the actions which the storage operator must
18 complete to meet the requirements. The order shall grant as much
19 time as is reasonably necessary to fully comply. If the storage
20 operator encounters conditions not known to exist at the time of
21 issuance of the order and which materially affect the validity
22 of the order or the ability of the storage operator to comply
23 with it, the storage operator may apply for a rehearing or
24 modification of the order.

25 (d) Notification.--If, in complying with subsection (a), a
26 storage operator, after filing the statement provided for in
27 subsection (b), plugs or reconditions a well, the storage
28 operator shall notify the department and the coal operator
29 affected, in writing, setting forth facts indicating the manner
30 in which the plugging or reconditioning was done. Upon receipt
31 of the notification, the coal operator or department may request
32 a conference under section 3251.

33 (e) Plugging wells.--In order to meet the requirements of
34 subsection (a), wells which are to be plugged shall be plugged
35 in the manner specified in regulations promulgated under section
36 3211 (relating to well permits). When a well located within the
37 storage reservoir or the reservoir protective area has been
38 plugged prior to April 18, 1985, and, on the basis of the data
39 information and other evidence submitted to the department, it
40 is determined that the plugging was done in the manner required
41 by section 3220, or in a manner approved as an alternative
42 method in accordance with section 3221 (relating to alternative
43 methods), and the plugging is still sufficiently effective to
44 meet the requirements of this chapter, the requirements of
45 subsection (a) as to plugging the well shall be considered to
46 have been fully satisfied.

47 (f) Reconditioned wells.--The following shall apply:

48 (1) In order to comply with subsection (a), unless the
49 department by regulation specifies a different procedure,
50 wells which are to be reconditioned shall be cleaned out from
51 the surface through the storage horizon, and the following

1 casing strings shall be pulled and replaced with new casing,
2 using the procedure applicable to drilling a new well under
3 this chapter:

4 (i) the producing casing;

5 (ii) the largest diameter casing passing through the
6 lowest workable coal seam unless it extends at least 25
7 feet below the bottom of the coal seam and is determined
8 to be in good physical condition, but the storage
9 operator may, instead of replacing the largest diameter
10 casing, replace the next largest casing string if the
11 casing string extends at least 25 feet below the lowest
12 workable coal seam; and

13 (iii) casing strings determined not to be in good
14 physical condition.

15 (2) In the case of a well to be used for gas storage,
16 the annular space between each string of casing and the
17 annular space behind the largest diameter casing, to the
18 extent possible, shall be filled to the surface with cement
19 or bentonitic mud or an equally nonporous material approved
20 by the department under section 3221.

21 (3) At least 15 days before a well is to be
22 reconditioned, the storage operator shall give notice to the
23 department and the coal operator, lessee or owner, setting
24 forth the manner in which reconditioning is planned and
25 pertinent data known to the storage operator which will
26 indicate the current condition of the well, along with at
27 least 72 hours' notice of the date and time when
28 reconditioning will begin. The coal operator, lessee or owner
29 shall have the right to file, within ten days after receipt
30 of the notice, objections to the plan of reconditioning as
31 submitted by the storage operator. If no objections are filed
32 and none are raised by the department within ten days, the
33 storage operator may proceed with reconditioning in
34 accordance with the plan as submitted. If an objection is
35 filed or made by the department, the department shall fix a
36 time and place for a conference under section 3251, at which
37 conference the storage operator and the person having
38 objections shall attempt to agree on a plan of reconditioning
39 that meets the requirements of this section. If no agreement
40 is reached, the department shall, by an appropriate order,
41 determine whether the plan as submitted meets the
42 requirements of this section or what changes should be made
43 to meet the requirements. If, in reconditioning the well in
44 accordance with the plan, physical conditions are encountered
45 which justify or necessitate a change in the plan, the
46 storage operator or coal operator may request that the plan
47 be changed. If the parties cannot agree on a change, the
48 department shall arrange for a conference to determine the
49 matter in the same manner as set forth in connection with
50 original objections to the plan.

51 (4) Application may be made to the department in the

1 manner prescribed in section 3221 for approval of an
2 alternative method of reconditioning a well. When a well
3 located within the storage reservoir or the reservoir
4 protective area has been reconditioned or drilled and
5 equipped prior to April 18, 1985, and, on the basis of the
6 data, information and other evidence submitted to the
7 department, the obligations imposed by subsection (a) as to
8 reconditioning the well shall be considered to be fully
9 satisfied if it is determined that reconditioning or previous
10 drilling and equipping:

11 (i) was done in the manner required in this
12 subsection, or in regulations promulgated hereunder, or
13 in a manner approved as an alternative method in
14 accordance with section 3221; or

15 (ii) is still sufficiently effective to meet the
16 requirements of this chapter.

17 (5) If a well requires emergency repairs, this
18 subsection shall not be construed to require the storage
19 operator to give the notices specified herein before making
20 the repairs.

21 (g) Producing wells.--If a well located within the reservoir
22 protective area is a producing well in a stratum below the
23 storage stratum, the obligations imposed by subsection (a) shall
24 not begin until the well ceases to be a producing well.

25 (h) Certain other wells.--If a well within a storage
26 reservoir or reservoir protective area penetrates the storage
27 stratum but does not penetrate the coal seam being mined by an
28 operating coal mine, the department may, upon application of the
29 operator of the storage reservoir, exempt the well from the
30 requirements of this section. Either party affected may request
31 a conference under section 3251 with respect to exemption of a
32 well covered by this subsection.

33 (i) Plugging limitation.--In fulfilling the requirements of
34 subsection (a)(2) with respect to a well within the reservoir
35 protective area, the storage operator shall not be required to
36 plug or recondition the well until the storage operator has
37 received from the coal operator written notice that the mine
38 workings will, within the period stated in the notice, be within
39 2,000 linear feet of the well. Upon the receipt of the notice,
40 the storage operator shall use due diligence to complete the
41 plugging or reconditioning of the well in accordance with the
42 requirements of this section and section 3220. If the mine
43 workings do not, within a period of three years after the well
44 has been plugged, come within 2,000 linear feet of the well, the
45 coal operator shall reimburse the storage operator for the cost
46 of plugging, provided that the well is still within the
47 reservoir protective area as of that time.

48 (j) Retreat mining.--If retreat mining approaches a point
49 where, within 90 days, it is expected that the retreat work will
50 be at the location of the pillar surrounding an active storage
51 well, the coal operator shall give written notice to the storage

1 operator, and by agreement, the parties shall determine whether
2 it is necessary or advisable to effectively and temporarily
3 inactivate the well. The well shall not be reactivated until a
4 reasonable period, determined by the parties, has elapsed. If
5 the parties cannot agree as required by this subsection, the
6 matter shall be submitted to the department for resolution. The
7 number of wells required to be temporarily inactivated during
8 the retreat period shall not be of a number that materially
9 affects efficient operation of the storage pool, except that
10 this provision shall not preclude temporary inactivation of a
11 particular well if the practical effect of inactivating it is to
12 render the pool temporarily inoperative.

13 (k) Exceptions.--The requirements of subsections (a), (l)
14 and (m) shall not apply to injection of gas into a stratum when
15 the whole purpose of injection, referred to in this subsection
16 as testing, is to determine whether the stratum is suitable for
17 storage purposes. Testing shall be conducted only in compliance
18 with the following requirements:

19 (1) The person testing or proposing to test shall comply
20 with all provisions and requirements of section 3231 and
21 verify the statement required to be filed by that section.

22 (2) If any part of the proposed storage reservoir is
23 under or within 2,000 linear feet of an operating coal mine
24 which is operating in a coal seam that extends over the
25 proposed storage reservoir or the reservoir protective area,
26 the storage operator shall give at least six months' written
27 notice to the department and coal operator of the fact that
28 injection of gas for testing purposes is proposed.

29 (3) The coal operator affected may at any time file
30 objections with the department, whereupon the department
31 shall fix a time and place for a conference under section
32 3251, not more than ten days from the date of the notice to
33 the storage operator. At the conference, the storage operator
34 and the objecting party shall attempt to agree, subject to
35 approval of the department, on the questions involved. If an
36 agreement cannot be reached, the department may issue an
37 appropriate order.

38 (4) If at any time a proposed storage reservoir being
39 tested comes under or within 2,000 linear feet of an
40 operating coal mine because of extension of the storage
41 reservoir being tested or because of extension or
42 establishment or reestablishment of the operating coal mine,
43 the requirements of this subsection shall immediately become
44 applicable to the testing.

45 (l) Storage reservoirs near operating coal mines.--A person
46 who proposes to establish a storage reservoir under or within
47 2,000 linear feet of a coal mine operating in a coal seam that
48 extends over the storage reservoir or the reservoir protective
49 area shall, prior to establishing the reservoir, and in addition
50 to complying with section 3231 and subsection (a), file the
51 verified statement required by subsection (b) and fully comply

1 with any order of the department in the manner provided under
2 subsection (b) or (c) before commencing operation of the storage
3 reservoir. After the person proposing to operate the storage
4 reservoir complies with the requirements of this subsection and
5 commences operations, the person shall continue to be subject to
6 all provisions of this chapter.

7 (m) Gas storage reservoirs.--If a gas storage reservoir is
8 in operation on April 18, 1985, and at any time thereafter it is
9 under or within 2,000 linear feet of an operating coal mine, or
10 if a gas storage reservoir is put in operation after April 18,
11 1985, and at any time after storage operations begin it is under
12 or within 2,000 linear feet of an operating coal mine, the
13 storage operator shall comply with all of the provisions of this
14 section, except that:

15 (1) the time for filing the verified statement under
16 subsection (b) shall be 60 days after the date stated in the
17 notice filed by the coal operator under section 3232(d) and
18 (e) (relating to reporting requirements for coal mining
19 operations);

20 (2) the coal operator shall give notice of the delay to
21 the department;

22 (3) the department shall, upon the request of the
23 storage operator, extend the time for filing the statement by
24 the additional time which will be required to extend or
25 establish or reestablish the operating coal mine to a point
26 within 2,000 linear feet of the reservoir;

27 (4) the verified statement shall also indicate that the
28 map referred to in section 3231(a) has been currently amended
29 as of the time of the filing of the statement; and

30 (5) the person operating the storage reservoir shall
31 continue to be subject to all of the provisions of this
32 chapter.

33 (n) Failure to comply with order.--If, in any proceeding
34 under this chapter, the department determines that an operator
35 of a storage reservoir has failed to comply with a lawful order
36 issued under this chapter, the department may require the
37 storage operator to suspend operation of the reservoir and
38 withdraw the gas from it until the violation is remedied, in
39 which case the storage operator, limited by due diligence
40 insofar as existing facilities utilized to remove gas from the
41 reservoir will permit, shall:

42 (1) if possible, remove the amount required by the
43 department to be removed; or

44 (2) in any event, remove the maximum amount which can be
45 withdrawn in accordance with recognized engineering and
46 operating procedures.

47 (o) Prevention of escape of gas.--In addition to initial
48 compliance with other provisions of this chapter and lawful
49 orders issued under this chapter, it shall be the duty, at all
50 times, of a person owning or operating a storage reservoir
51 subject to this chapter to keep all wells drilled into or

1 through the storage stratum in a condition, and operate the
2 wells in a manner, which is designed to prevent the escape of
3 gas out of the storage reservoir and its facilities, and to
4 operate and maintain the storage reservoir and its facilities in
5 the manner prescribed by regulation of the department and at a
6 pressure that will prevent gas from escaping from the reservoir
7 or its facilities. This duty shall not be construed to include
8 inability to prevent the escape of gas when escape results from
9 an act of God or a person not under the control of the storage
10 operator, except that this exception does not apply to a well
11 which the storage operator has failed to locate and make known
12 to the department. If an escape of gas results from an act of
13 God or a person not under the control of the storage operator,
14 the storage operator shall be under the duty to take any action
15 reasonably necessary to prevent further escape of gas out of the
16 storage reservoir and its facilities.

17 § 3235. Inspection of facilities and records.

18 (a) General rule.--The person operating a storage reservoir
19 affected by this chapter shall, at all reasonable times, be
20 permitted to inspect applicable records and facilities of a coal
21 mine overlying the storage reservoir or reservoir protective
22 area. The person operating a coal mine affected by this chapter
23 shall, at all reasonable times, be permitted to inspect
24 applicable records and facilities of a storage reservoir
25 underlying the coal mine.

26 (b) Order.--If a storage operator or coal operator subject
27 to subsection (a) refuses to permit inspection of records or
28 facilities, the department may, on its own motion or on
29 application of the party seeking inspection, after reasonable
30 written notice and a hearing if requested by an affected party,
31 order inspection.

32 § 3236. Reliance on maps and burden of proof.

33 (a) General rule.--In determining whether a coal mine or
34 operating coal mine is or will be within a particular distance
35 from a storage reservoir which is material under this chapter,
36 the owner or operator of the coal mine and the storage operator
37 may rely on the most recent map of the storage reservoir or coal
38 mine filed by the other party with the department.

39 (b) Accuracy.--Where accuracy of a map or data filed under
40 this chapter is in issue, the person that filed the map or data
41 shall:

42 (1) at the request of an objecting party, disclose the
43 information and method used to compile the map or data, along
44 with any information available to the person that might
45 affect current validity of the map or data; and

46 (2) have the burden of proving accuracy of the map or
47 data.

48 § 3237. Exemptions and prohibitions.

49 (a) Inapplicability of chapter to certain coal mines.--This
50 chapter shall not apply to the following types of coal mines:

51 (1) Strip mines and auger mines operating from the

1 surface.

2 (2) Mines to which the former act of June 9, 1911
3 (P.L.756, No.319), entitled "An act to provide for the health
4 and safety of persons employed in and about the bituminous
5 coal-mines of Pennsylvania, and for the protection and
6 preservation of property connected therewith," did not apply
7 in accordance with section 3 of that act.

8 (3) Mines to which the former act of June 2, 1891
9 (P.L.176, No.177), entitled "An act to provide for the health
10 and safety of persons employed in and about the anthracite
11 coal mines of Pennsylvania and for the protection and
12 preservation of property connected therewith," did not apply
13 in accordance with section 32 of that act.

14 (b) Workable coal seams.--Injection of gas for storage
15 purposes in a workable coal seam, whether or not it is being or
16 has been mined, is prohibited.

17 (b.1) Original extraction.--Nothing in this chapter
18 prohibits original extraction of natural gas, crude oil or coal.

19 (c) Certain rock formations.--Nothing in this chapter
20 applies to storage of gas or liquids in storage reservoirs
21 excavated in rock formations specifically for storage purposes.

22 SUBCHAPTER D
23 EMINENT DOMAIN

24 Sec.

25 3241. Appropriation of interest in real property.

26 § 3241. Appropriation of interest in real property.

27 (a) General rule.--Except as provided in this subsection, a
28 corporation empowered to transport, sell or store natural gas or
29 manufactured gas in this Commonwealth may appropriate an
30 interest in real property located in a storage reservoir or
31 reservoir protective area for injection, storage and removal
32 from storage of natural gas or manufactured gas in a stratum
33 which is or previously has been commercially productive of
34 natural gas. The right granted by this subsection shall not be
35 exercised to acquire any of the following for the purpose of gas
36 storage:

37 (1) An interest in a geological stratum within the area
38 of a proposed storage reservoir or reservoir protective area:

39 (i) unless the original recoverable oil or gas
40 reserves in the proposed storage reservoir have been
41 depleted or exhausted by at least 80%; and

42 (ii) until the condemnor has acquired the right, by
43 grant, lease or other agreement, to store gas in the
44 geological stratum underlying at least 75% of the area of
45 the proposed storage reservoir.

46 (2) An interest in a geological stratum within the area
47 of a proposed storage reservoir or reservoir protective area
48 owned directly or indirectly by a gas company or other person
49 engaged in local distribution of natural gas, if the interest
50 to be acquired is presently being used by the gas company or
51 other person for storage of gas in performance of service to

1 customers in its service area.

2 (b) Construction.--The following shall apply:

3 (1) This chapter authorizes appropriation within a
4 storage reservoir or reservoir protective area of the
5 following:

6 (i) a stratum to be used for storage;

7 (ii) any gas reserve remaining a stratum to be used
8 for storage;

9 (iii) an active or abandoned well or wells drilled
10 into a stratum to be used for storage; and

11 (iv) the right to enter upon and use the surface of
12 lands to:

13 (A) locate, recondition, maintain, plug or
14 replug an active or abandoned well; or

15 (B) operate a well drilled into or through a
16 stratum to be used for storage.

17 (2) This chapter does not preclude the owner of
18 nonstorage strata from drilling wells to produce oil or gas
19 from a stratum above or below the storage stratum
20 appropriated by another person, but a person appropriating or
21 holding storage rights may access, inspect and examine the
22 drilling, the completed well, drilling logs and other records
23 relating to drilling, equipping or operating the well in
24 order to determine whether the storage stratum is being
25 adequately protected to prevent escape of gas stored therein.

26 (3) This chapter does not authorize appropriation of a
27 coal or coal measure, regardless of whether it is being
28 mined, or an interest in the coal mine or coal measure.

29 (c) Activities through appropriated strata.--A person
30 drilling, operating, using or plugging a well through a stratum
31 appropriated under this chapter shall drill, case, equip,
32 operate or plug it in a manner designed to prevent avoidable
33 escape of gas that may be stored in the storage stratum. Upon
34 violation of this subsection, the court of common pleas of the
35 county where the land in question is situated may compel
36 compliance by injunction or grant other appropriate relief in an
37 action brought by the person storing gas in the storage stratum.

38 (d) Prerequisites to appropriation.--Before appropriating
39 under this chapter, a person shall attempt to agree with owners
40 of interests in the real property involved as to damages payable
41 for rights and interests to be appropriated, if the owners can
42 be found and are sui juris. If the parties fail to agree, the
43 person shall tender a surety bond to the owners to secure them
44 in the payment of damages. If the owners refuse to accept the
45 bond, cannot be found or are not sui juris, and after reasonable
46 notice to the owners by advertisement or otherwise, the bond
47 shall be presented for approval to the court of common pleas of
48 the county in which the tract of land is situated. Upon the
49 approval of the bond by the court, the right of the person to
50 appropriate in accordance with the provisions of this chapter
51 shall be complete.

1 (e) Appointment of viewers.--Upon petition of a property
2 owner or a person appropriating under this chapter, the court
3 shall:

4 (1) appoint three disinterested freeholders of the
5 county to serve as viewers to assess damages to be paid to
6 the property owner for the rights appropriated;

7 (2) fix a time for the parties to meet;

8 (3) provide notice to the parties; and

9 (4) after the viewers have filed their report, fix
10 reasonable compensation for the service of the viewers.

11 (f) Appeal.--Within 20 days after the filing of a report by
12 viewers appointed under subsection (e), a party may appeal and
13 proceed to a jury trial as in ordinary cases.

14 (g) Requirements.--Nothing in this section shall relieve a
15 person operating a storage reservoir from the requirements of
16 this chapter.

17 SUBCHAPTER E
18 ENFORCEMENT AND REMEDIES

19 Sec.

20 3251. Conferences.

21 3252. Public nuisances.

22 3253. Enforcement orders.

23 3254. Restraining violations.

24 3254.1. Well control emergency response cost recovery.

25 3255. Penalties.

26 3256. Civil penalties.

27 3257. Existing rights and remedies preserved and cumulative
28 remedies authorized.

29 3258. Inspection and production of materials, witnesses,
30 depositions and rights of entry.

31 3259. Unlawful conduct.

32 3260. Collection of fines and penalties.

33 3261. Third party liability.

34 3262. Inspection reports.

35 § 3251. Conferences.

36 (a) General rule.--The department or any person having a
37 direct interest in a matter subject to this chapter may, at any
38 time, request that a conference be held to discuss and attempt
39 to resolve by mutual agreement a matter arising under this
40 chapter. Unless otherwise provided, conferences shall be held
41 within 90 days after a request is received by the department,
42 and notice shall be given by the department to all interested
43 parties. A representative of the department shall attend the
44 conference and the department may make recommendations. An
45 agreement reached at a conference shall be consistent with this
46 chapter and, if approved by the department, it shall be reduced
47 to writing and shall be effective, unless reviewed and rejected
48 by the department within ten days after the conference. The
49 record of an agreement approved by the department shall be kept
50 on file by the department and copies shall be furnished to the
51 parties. The scheduling of a conference shall have no effect on

1 the department's authority to issue orders to compel compliance
2 with this chapter.

3 (b) Notification.--When a coal operator is to be notified of
4 a proceeding under this section, the department simultaneously
5 shall send a copy of the notice to the collective bargaining
6 representative of employees of the coal operator.

7 § 3252. Public nuisances.

8 A violation of section 3215.1 (relating to general
9 restrictions), 3216 (relating to well site restoration), 3217
10 (relating to protection of fresh groundwater and casing
11 requirements), 3218 (relating to protection of water supplies),
12 3219 (relating to use of safety devices) or 3220 (relating to
13 plugging requirements), or a rule, regulation, order, term or
14 condition of a permit relating to any of those sections
15 constitutes a public nuisance.

16 § 3253. Enforcement orders.

17 (a) General rule.--Except as modified by subsections (b),
18 (c) and (d), the department may issue orders necessary to aid in
19 enforcement of this chapter. An order issued under this chapter
20 shall take effect upon notice, unless the order specifies
21 otherwise. The power of the department to issue an order under
22 this chapter is in addition to any other remedy available to the
23 department under this chapter or under any other law.

24 (b) Suspension and revocation.--The department may suspend
25 or revoke a well permit or well registration for any well in
26 continuing violation of this chapter, the act of June 22, 1937
27 (P.L.1987, No.394), known as The Clean Streams Law; the act of
28 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
29 Management Act; any other statute administered by the
30 department; or a rule or regulation. A suspension order of the
31 department shall automatically terminate if the violation upon
32 which it is based is corrected by the operator to the
33 satisfaction of the department in order to bring the well into
34 compliance with this chapter.

35 (c) Written notice.--Prior to suspension or revocation of a
36 well permit or registration, the department shall serve written
37 notice on the well operator or its agent, stating specifically
38 the statutory provision, rule, regulation or other reason relied
39 upon, along with factual circumstances surrounding the alleged
40 violation.

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

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

48 § 3254. Restraining violations.

49 (a) General rule.--In addition to any other remedy provided
50 in this chapter, the department may institute a suit in equity
51 in the name of the Commonwealth for an injunction to restrain a

1 violation of this chapter or rules, regulations, standards or
2 orders adopted or issued under this chapter and to restrain the
3 maintenance or threat of a public nuisance. Upon motion of the
4 Commonwealth, the court shall issue a prohibitory or mandatory
5 preliminary injunction if it finds that the defendant is
6 engaging in unlawful conduct, as defined by this chapter, or
7 conduct causing immediate and irreparable harm to the public.
8 The Commonwealth shall not be required to furnish bond or other
9 security in connection with the proceeding. In addition to an
10 injunction, the court in equity may level civil penalties as
11 specified in section 3256 (relating to civil penalties).

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

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

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

27 § 3254.1. Well control emergency response cost recovery.

28 A person liable for a well control emergency is responsible
29 for all response costs incurred by the department to respond to
30 the well control emergency. In an action before a court of
31 competent jurisdiction, the department may recover all its
32 response costs, including the cost of regaining control of the
33 well, controlling the perimeter of the well site, preparing
34 water sprays, establishing trenches or dikes to capture runoff
35 fluids and providing the resources and equipment needs for the
36 incident.

37 § 3255. Penalties.

38 (a) General violation.--A person violating a provision of
39 this chapter commits a summary offense and, upon conviction,
40 shall be sentenced to pay a fine of not more than \$300 or to
41 imprisonment of not more than 90 days, or both. Each day during
42 which the violation continues is a separate and distinct
43 offense.

44 (b) Willful violation.--A person willfully violating a
45 provision of this chapter or an order of the department issued
46 under this chapter commits a misdemeanor and, upon conviction,
47 shall be sentenced to pay a fine of not more than \$5,000 or to
48 imprisonment of not more than one year, or both. Each day during
49 which the violation continues is a separate and distinct
50 offense.

51 (c) Authority.--The department may institute a prosecution

1 against any person or municipality for a violation of this
2 chapter.

3 § 3256. Civil penalties.

4 In addition to other remedies available at law or in equity
5 for a violation of this chapter, a rule or regulation of the
6 department or a departmental order, the department, after a
7 hearing, may assess a civil penalty regardless of whether the
8 violation was willful. The penalty shall not exceed \$50,000 plus
9 \$2,000 for each day during which the violation continues. In
10 determining the amount, the department shall consider
11 willfulness of the violation, damage or injury to natural
12 resources of this Commonwealth or their uses, endangerment of
13 safety of others, the cost of remedying the harm, savings
14 resulting to the violator as a result of the violation and any
15 other relevant factor. When the department proposes to assess a
16 civil penalty, it shall notify the person of the proposed amount
17 of the penalty. The person charged with the penalty must, within
18 30 days of notification, pay the proposed penalty in full or
19 file an appeal of the assessment with the Environmental Hearing
20 Board. Failure to comply with the time period under this section
21 shall result in a waiver of all legal rights to contest the
22 violation or the amount of the penalty. The civil penalty shall
23 be payable to the Commonwealth and collectible in any manner
24 provided at law for collection of debts. If a violator neglects
25 or refuses to pay the penalty after demand, the amount, together
26 with interest and costs that may accrue, shall become a lien in
27 favor of the Commonwealth on the real and personal property of
28 the violator, but only after the lien has been entered and
29 docketed of record by the prothonotary of the county where the
30 property is situated. The department may at any time transmit to
31 the prothonotaries of the various counties certified copies of
32 all liens. It shall be the duty of each prothonotary to enter
33 and docket the liens of record in the prothonotary's office and
34 index them as judgments are indexed, without requiring payment
35 of costs as a condition precedent to entry.

36 § 3257. Existing rights and remedies preserved and cumulative
37 remedies authorized.

38 Nothing in this chapter estops the Commonwealth or a district
39 attorney from proceeding in a court of law or in equity to abate
40 pollution forbidden under this chapter or a nuisance under
41 existing law. It is hereby declared to be the purpose of this
42 chapter to provide additional and cumulative remedies to control
43 activities related to drilling for, or production of, oil and
44 gas in this Commonwealth, and nothing contained in this chapter
45 abridges or alters rights of action or remedies existing, or
46 which existed previously, in equity or under common or statutory
47 law, criminal or civil. Neither this chapter, the grant of a
48 permit under this chapter nor an act done by virtue of this
49 chapter estops the Commonwealth, in exercising rights under
50 common or decisional law or in equity, from suppressing a
51 nuisance, abating pollution or enforcing common law or statutory

1 rights. No court of this Commonwealth with jurisdiction to abate
2 public or private nuisances shall be deprived of jurisdiction in
3 an action to abate a private or public nuisance instituted by
4 any person on grounds that the nuisance constitutes air or water
5 pollution.

6 § 3258. Inspection and production of materials, witnesses,
7 depositions and rights of entry.

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

15 (a.1) Preoperation inspections.--The operator may not
16 commence drilling activities until the department has conducted
17 an inspection of the unconventional well site after the
18 installation of erosion and sediment control measures. The
19 department may conduct follow-up inspections of well sites and
20 related activities to determine compliance with the act.

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

32 (1) there is probable cause to believe that the object
33 of the investigation is subject to regulation under this
34 chapter; and

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

37 (c) Witnesses.--In any part of this Commonwealth, the
38 department may subpoena witnesses, administer oaths, examine
39 witnesses, take testimony and compel production of books,
40 records, maps, plats, papers, documents and other writings
41 pertinent to proceedings or investigations conducted by the
42 department under this chapter. Upon refusal to obey a subpoena
43 by any person and on application of the department, a court may
44 enforce a subpoena in contempt proceedings. Fees for serving a
45 subpoena shall be the same as those paid to sheriffs for similar
46 services.

47 (d) Deposition.--The department or a party to a proceeding
48 before the department may cause the deposition of a witness who
49 resides in or outside of this Commonwealth to be taken in the
50 manner prescribed by law for taking depositions in civil
51 actions.

1 (e) Witness fee.--Witnesses summoned before the department
2 shall be paid the same fees as are paid to witnesses in courts
3 of record of general jurisdiction. Witnesses whose depositions
4 are taken under this chapter, and the officers taking those
5 depositions, shall be entitled to the same fees as those paid
6 for like services in court.

7 (f) Purchasers.--Upon request, a purchaser of oil or gas
8 shall provide the department information necessary to determine
9 ownership of facilities from which the purchaser obtained oil or
10 gas. The information shall be kept confidential for a period of
11 five years, and the department may utilize it in enforcement
12 proceedings. The department may request information under this
13 section only when a well does not comply with section 3211(h)
14 (relating to well permits).

15 § 3259. Unlawful conduct.

16 It shall be unlawful for any person to:

17 (1) Drill, alter, operate or utilize an oil or gas well
18 without a permit or registration from the department as
19 required by this chapter or in violation of rules or
20 regulations adopted under this chapter, orders of the
21 department or a term or condition of a permit issued by the
22 department.

23 (2) Conduct an activity related to drilling for, or
24 production of, oil and gas:

25 (i) contrary to this chapter, rules or regulations
26 adopted under this chapter, an order of the department or
27 a term or condition of a permit issued by the department;
28 or

29 (ii) in any manner as to create a public nuisance or
30 adversely affect public health, safety, welfare or the
31 environment.

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

36 (4) Attempt to obtain a permit or identify a well as an
37 orphan well by misrepresentation or failure to disclose all
38 relevant facts.

39 (5) Cause abandonment of a well by removal of casing or
40 equipment necessary for production without plugging the well
41 in the manner prescribed under section 3220 (relating to
42 plugging requirements), except that the owner or operator of
43 a well may temporarily remove casing or equipment necessary
44 for production, but only if it is part of the normal course
45 of production activities.

46 § 3260. Collection of fines and penalties.

47 Fines and penalties shall be collectible in a manner provided
48 by law for collection of debts. If a person liable to pay a
49 penalty neglects or refuses to pay after demand, the amount,
50 together with interest and costs that may accrue, shall be a
51 judgment in favor of the Commonwealth on the person's property,

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

9 § 3261. Third party liability.

10 If a person other than a well operator renders a service or
11 product to a well or well site, that person is jointly and
12 severally liable with the well owner or operator for violations
13 of this chapter arising out of and caused by the person's
14 actions at the well or well site.

15 § 3262. Inspection reports.

16 The department shall post inspection reports on its publicly
17 accessible Internet website. The inspection reports shall
18 include:

19 (1) The nature and description of violations.

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

22 (3) The status of the violation.

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

25 SUBCHAPTER F

26 MISCELLANEOUS PROVISIONS

27 Sec.

28 3271. Well plugging funds.

29 3272. Local ordinances.

30 3273. Effect on department authority.

31 3273.1. Relationship to solid waste and surface mining.

32 3274. Regulatory authority.

33 § 3271. Well plugging funds.

34 (a) Appropriation.--Fines, civil penalties and permit and
35 registration fees collected under this chapter are appropriated
36 to the department to carry out the purposes of this chapter.

37 (b) Surcharge.--To aid in indemnifying the Commonwealth for
38 the cost of plugging abandoned wells, a \$50 surcharge is added
39 to the permit fee established by the department under section
40 3211 (relating to well permits) for new wells. Money collected
41 as a result of the surcharge shall be paid into a restricted
42 revenue account in the State Treasury to be known as the
43 Abandoned Well Plugging Fund and expended by the department to
44 plug abandoned wells threatening the health and safety of
45 persons or property or pollution of waters of this Commonwealth.

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

47 (1) A restricted revenue account to be known as the
48 Orphan Well Plugging Fund is created. A \$100 surcharge for
49 wells to be drilled for oil production and a \$200 surcharge
50 for wells to be drilled for gas production are added to the
51 permit fee established by the department under section 3211

1 for new wells. The surcharges shall be placed in the Orphan
2 Well Plugging Fund and expended by the department to plug
3 orphan wells. If an operator rehabilitates a well abandoned
4 by another operator or an orphan well, the permit fee and the
5 surcharge for the well shall be waived.

6 (2) The department shall study its experience in
7 implementing this section and shall report its findings to
8 the Governor and the General Assembly by August 1, 1992. The
9 report shall contain information relating to the balance of
10 the fund, number of wells plugged, number of identified wells
11 eligible for plugging and recommendations as to alternative
12 funding mechanisms.

13 (3) Expenditures by the department for plugging orphan
14 wells are limited to fees collected under this chapter. No
15 money from the General Fund shall be expended for this
16 purpose.

17 § 3272. Local ordinances.

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

32 § 3273. Effect on department authority.

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

41 § 3273.1. Relationship to solid waste and surface mining.

42 (a) General rule.--The obligation to obtain a permit and
43 post a bond under Articles III and V of the act of July 7, 1980
44 (P.L.380, No.97), known as the Solid Waste Management Act, and
45 to provide public notice under section 1905-A(b)(1)(v) of the
46 act of April 9, 1929 (P.L.177, No.175), known as The
47 Administrative Code of 1929, for any pit, impoundment, method or
48 facility employed for the disposal, processing or storage of
49 residual wastes generated by the drilling of an oil or gas well
50 or from the production of wells which is located on the well
51 site, shall be considered to have been satisfied if the owner or

operator of the well meets the following conditions:

(1) the well is permitted under the requirements of section 3211 (relating to well permits) or registered under section 3213 (relating to well registration and identification);

(2) the owner or operator has satisfied the financial security requirements of section 3215 (relating to well location restrictions) by obtaining a surety or collateral bond for the well and well site; and

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

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

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

(d) Definition.--As used in this section and sections 3216 (relating to well site restoration) and 3225 (relating to bonding), the term "well site" means areas occupied by all equipment or facilities necessary for or incidental to drilling, production or plugging a well.
§ 3274. Regulatory authority.

(a) Existing regulations.--The rulemaking for 25 Pa. Code Ch. 78 (relating to oil and gas wells) promulgated at 41 Pa.B. 805 (February 5, 2011), shall apply only to unconventional gas wells.

(b) New regulations.--The Environmental Quality Board shall adopt regulations to implement this chapter.

CHAPTER 33

LOCAL ORDINANCES RELATING TO OIL AND GAS OPERATIONS

Sec.

3301. Scope of chapter.

3302. Definitions.

3303. Local ordinances.

3304. Review by Attorney General.

3305. Civil actions.

3306. Commonwealth Court masters.

1 3307. Attorney fees and costs.

2 3308. Sanction.

3 3309. Provisions of local ordinances.

4 3310. Applicability.

5 § 3301. Scope of chapter.

6 The purposes of this chapter are to:

7 (1) Allow municipalities to efficiently regulate oil and
8 gas operations consistent with their authority under the act
9 of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
10 Municipalities Planning Code.

11 (2) Foster the expeditious and efficient handling of
12 municipal oil and gas procedures.

13 (3) Clarify the role of all Federal and State agencies
14 and municipal governments with regard to oil and gas
15 development activities.

16 § 3302. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Building." An occupied structure with walls and roof within
21 which individuals live or customarily work.

22 "Environment acts." All statutes enacted by the Commonwealth
23 relating to the protection of the environment or the protection
24 of public health, safety and welfare, that are administered and
25 enforced by the department or by another Commonwealth agency,
26 including an independent agency, and all Federal statutes
27 relating to the protection of the environment, to the extent
28 those statutes regulate oil and gas operations.

29 "Local government." A county, city, borough, incorporated
30 town or township of this Commonwealth.

31 "Local ordinance." An ordinance adopted by a local
32 government that regulates oil and gas operations.

33 "MPC." The act of July 31, 1968 (P.L.805, No.247), known as
34 the Pennsylvania Municipalities Planning Code.

35 "Oil and gas operations." The term includes the following:

36 (1) well location assessment, including seismic
37 operations, well site preparation, construction, drilling,
38 hydraulic fracturing and site restoration associated with an
39 oil or gas well of any depth;

40 (2) water and other fluid storage or impoundment areas
41 used exclusively for oil and gas operations;

42 (3) construction, installation, use, maintenance and
43 repair of:

44 (i) oil and gas pipelines;

45 (ii) natural gas compressor stations; and

46 (iii) natural gas processing plants or facilities
47 performing equivalent functions; and

48 (4) construction, installation, use, maintenance and
49 repair of all equipment directly associated with activities
50 specified in paragraphs (1), (2) and (3), to the extent that:

51 (i) the equipment is necessarily located at or

1 immediately adjacent to a well site, impoundment area,
2 oil and gas pipeline, natural gas compressor station or
3 natural gas processing plant; and

4 (ii) the activities are authorized and permitted
5 under the authority of a Federal or Commonwealth agency.

6 "Permitted use." A use which, upon submission of notice to
7 and receipt of a permit issued by a zoning officer or equivalent
8 official, is authorized to be conducted without restrictions
9 other than those set forth in section 3309 (relating to
10 provisions of local ordinances).

11 § 3303. Local ordinances.

12 (a) General rule.--A local ordinance may only be enacted
13 pursuant to the MPC, the act of March 31, 1927 (P.L.98, No.69),
14 referred to as the Second Class City Zoning Law, or the act of
15 October 4, 1978 (P.L.851, No.166), known as the Flood Plain
16 Management Act, as applicable, and shall provide for the
17 reasonable development of minerals within the local government
18 in accordance with the provisions of section 603(i) of the MPC
19 and this chapter.

20 (b) Limitation.--Except as provided in this chapter, a local
21 ordinance shall not conflict with and shall not regulate oil and
22 gas operations covered by the environment acts, except to the
23 extent that the environment acts provide the authority.

24 (c) Construction.--Nothing in this chapter shall be
25 construed to impair or infringe on the preemption provisions of
26 section 3272 (relating to local ordinances).

27 § 3304. Review by Attorney General.

28 (a) Request of owner or operator.--An owner or operator of
29 an oil and gas operation, or any person having the right to
30 royalty payments under a lease of oil or gas mineral rights, may
31 request the Attorney General to review a local ordinance to
32 determine whether it allows for the reasonable development of
33 oil and gas resources in accordance with the provisions
34 specifically addressed in this chapter, the MPC and judicial
35 decisions of the Commonwealth.

36 (b) Preenactment review.--A local government may, prior to
37 the enactment of a local ordinance, request the Attorney General
38 to review the ordinance to determine whether it allows for the
39 reasonable development of oil and gas resources in accordance
40 with the provisions of Chapter 32 (relating to development), the
41 MPC and judicial decisions of the Commonwealth.

42 (c) Time period for review.--Within 120 days of receiving a
43 request under subsection (a) or (b), the Attorney General shall
44 advise in writing the person that made the request whether or
45 not the Attorney General determines that the local ordinance
46 provides for the reasonable development of oil and gas reserves
47 and provide a copy of the written determination to the affected
48 local government.

49 § 3305. Civil actions.

50 (a) Attorney General.--The Attorney General may bring an
51 action against a local government in Commonwealth Court to

1 invalidate or enjoin the enforcement of a local ordinance that
2 does not allow for the reasonable development of oil and gas
3 resources.

4 (b) Private right of action.--

5 (1) Notwithstanding any provision of 42 Pa.C.S. Ch. 85
6 Subch. C (relating to actions against local parties), any
7 person who is aggrieved by the enactment or enforcement of a
8 local ordinance that does not allow for the reasonable
9 development of oil and gas resources in accordance with the
10 provisions of section 3272 (relating to local ordinances) may
11 bring an action in Commonwealth Court to invalidate the
12 ordinance or enjoin its enforcement.

13 (2) An aggrieved person may proceed without first
14 obtaining review of the ordinance by the Attorney General or
15 may proceed after receiving such review if the Attorney
16 General determines that the ordinance fails to comply with
17 this chapter but declines to bring an action under subsection
18 (a).

19 (3) In an action brought relating to the enactment or
20 enforcement of a local ordinance, the determination of the
21 Attorney General made under section 3304 (relating to review
22 by Attorney General) shall become part of the record before
23 the court.

24 § 3306. Commonwealth Court masters.

25 (a) General rule.--The Commonwealth Court may promulgate
26 rules for the selection and appointment of masters on a full-
27 time or part-time basis to oversee actions brought under section
28 3305 (relating to civil actions). A master must be a member of
29 the bar of this Commonwealth. The number and compensation of
30 masters shall be fixed by the Commonwealth Court, and their
31 compensation shall be paid by the Commonwealth.

32 (b) Procedure.--

33 (1) The Commonwealth Court may direct that a hearing in
34 an action brought under section 3305 be conducted in the
35 first instance by the master in the manner provided for in
36 this section.

37 (2) Upon the conclusion of a hearing before a master,
38 the master shall transmit written findings and
39 recommendations for disposition to the president judge.
40 Prompt written notice and copies of the findings and
41 recommendations shall be given to the parties to the
42 proceeding.

43 (3) The findings and recommendations of the master shall
44 become the findings and order of the Commonwealth Court upon
45 written confirmation by the president judge. A rehearing may
46 be ordered by the president judge at any time upon cause
47 shown.

48 § 3307. Attorney fees and costs.

49 In an action brought under section 3305 (relating to civil
50 actions), the court may do any of the following:

51 (1) If the court determines that the local government

1 enacted or enforced a local ordinance with willful or
2 reckless disregard for the limitation of authority
3 established under State law, it may order the local
4 government to pay the plaintiff reasonable attorney fees and
5 other reasonable costs incurred by the plaintiff in
6 connection with the action.

7 (2) If the court determines that the action brought by
8 the plaintiff was frivolous or was brought without
9 substantial justification in claiming that the local
10 ordinance in question was contrary to the requirements of
11 this chapter or Chapter 32 (relating to development), it may
12 order the plaintiff to pay the local government reasonable
13 attorney fees and other reasonable costs incurred by the
14 local government in defending the action.

15 § 3308. Sanction.

16 If the Attorney General, the Commonwealth Court or the
17 Supreme Court determines that a local ordinance fails to provide
18 for the reasonable development of oil and gas resources, the
19 local government enacting or enforcing the local ordinance shall
20 be immediately ineligible to receive any funds collected under
21 Chapter 23 (relating to drilling impact fee). The local
22 government shall remain ineligible to receive funds under
23 Chapter 23 until the local government amends or repeals its
24 local ordinance in accordance with this chapter.

25 § 3309. Provisions of local ordinances.

26 In order to allow for the reasonable development of oil and
27 gas resources, a local ordinance must, in addition to complying
28 with this chapter, Chapter 32 (relating to development), the MPC
29 and judicial decisions of the Commonwealth:

30 (1) Allow well and pipeline location assessment
31 operations, including seismic operations and related
32 activities conducted in accordance with all applicable
33 Federal and State laws and regulations relating to the
34 storage and use of explosives throughout every local
35 government.

36 (2) Impose conditions, requirements or limitations on
37 oil and gas operations that are no more stringent than
38 similar conditions, requirements or limitations imposed on
39 construction activities for other land development within the
40 zoning district where the oil and gas operations are
41 situated.

42 (3) Impose conditions, requirements or limitations on
43 the height of permanent structures, setbacks from property
44 lines, screening and fencing, lighting and noise relating to
45 oil and gas operations that are no more stringent than
46 similar conditions, requirements or limitations imposed on
47 industrial uses or what is allowed within the particular
48 zoning district within the local government where the oil and
49 gas operations are situated or stipulated in or set forth in
50 State statute or regulations pertaining to oil and gas
51 operations.

1 (4) Have a review period for permitted uses that does
2 not exceed 30 days for complete submissions or that exceeds
3 120 days for conditional uses.

4 (5) Authorize oil and gas operations, other than
5 activities in or at impoundment areas, compressor stations
6 and processing plants, as a permitted use in all zoning
7 districts.

8 (5.1) Notwithstanding section 3215 (relating to well
9 location restrictions) the oil and gas operations under
10 paragraph (5) may be prohibited, or permitted only as a
11 conditional use within a residential district where a well
12 site cannot be placed so that the wellhead is at least 500
13 feet from any existing building. In a residential district,
14 all of the following apply:

15 (i) A well site may not be located so that the outer
16 edge of the well pad is closer than 300 feet from an
17 existing building.

18 (ii) Except as set forth in paragraph (5) and in
19 this paragraph, oil and gas operations, other than the
20 placement, use and repair of oil and gas pipelines, water
21 pipelines, access roads or security facilities, may not
22 take place within 300 feet of an existing building.

23 (6) Authorize impoundment areas used for oil and gas
24 operations as a permitted use in all zoning districts,
25 provided that the edge of any impoundment area shall not be
26 located closer than 300 feet from an existing building.

27 (7) Authorize natural gas compressor stations as a
28 permitted use in agriculture and industrial zoning districts
29 and as a conditional use in all other zoning districts, if
30 the natural gas compressor building meets the following
31 conditions:

32 (i) is located 750 feet or more from the nearest
33 existing building or 200 feet from the nearest lot line,
34 whichever is greater, unless waived by the owner of the
35 building or adjoining lot; and

36 (ii) does not exceed a noise standard of 60dbA at
37 the nearest property line or the applicable standard
38 imposed by Federal law, whichever is lesser.

39 (8) Authorize natural gas processing plants as a
40 permitted use in an industrial zoning district and as
41 conditional uses in agricultural zoning districts, if the
42 natural gas processing plant buildings meet the following
43 conditions:

44 (i) Unless there is a waiver by the owner of the
45 building or adjoining lot, the natural gas processing
46 plant building is located at the greater of:

47 (A) at least 750 feet from the nearest existing
48 building; or

49 (B) at least 200 feet from the nearest lot line.

50 (ii) The noise level of the natural gas processing
51 plant at the property line does not exceed the lesser of:

1 (A) a noise standard of 60dbA; or

2 (B) the applicable standard imposed by Federal
3 law.

4 (9) Impose restrictions on vehicular access routes for
5 overweight vehicles only as authorized under 75 Pa.C.S.
6 (relating to vehicles) or the MPC.

7 (10) Does not attempt to impose limits or conditions on
8 subterranean operations or hours of operation.

9 § 3310. Applicability.

10 This chapter shall apply to the enforcement of local
11 ordinances existing on the date of this section and to the
12 enactment or enforcement of local ordinances enacted on or after
13 the effective date of this chapter.

14 Section 3. The addition of 27 Pa.C.S. Ch. 33 Subch. B is a
15 continuation of the former act of December 15, 1955 (P.L.865,
16 No.256), entitled "An act requiring rents and royalties from oil
17 and gas leases of Commonwealth land to be placed in a special
18 fund to be used for conservation, recreation, dams and flood
19 control; authorizing the Secretary of Forests and Waters to
20 determine the need for and location of such projects and to
21 acquire the necessary land." The following apply:

22 (1) Except as otherwise provided in 27 Pa.C.S. Ch. 33
23 Subch. B, all activities initiated under the former act of
24 December 15, 1955 (P.L.865, No.256) shall continue and remain
25 in full force and effect and may be completed under 27
26 Pa.C.S. Ch. 33 Subch. B. Resolutions, orders, regulations,
27 rules and decisions which were made under the former act of
28 December 15, 1955 (P.L.865, No.256) and which are in effect
29 on the effective date of this section shall remain in full
30 force and effect until revoked, vacated or modified under 27
31 Pa.C.S. Ch. 33 Subch. B. Contracts, obligations and
32 agreements entered into under the former act of December 15,
33 1955 (P.L.865, No.256) are not affected nor impaired by the
34 repeal of the former act of December 15, 1955 (P.L.865,
35 No.256).

36 (2) Except as set forth in paragraph (3), any difference
37 in language between 27 Pa.C.S. Ch. 33 Subch. B and the former
38 act of December 15, 1955 (P.L.865, No.256) is intended only
39 to conform to the style of the Pennsylvania Consolidated
40 Statutes and is not intended to change or affect the
41 legislative intent, judicial construction or administrative
42 interpretation and implementation of the former act of
43 December 15, 1955 (P.L.865, No.256).

44 (3) Paragraph (2) does not apply to 27 Pa.C.S. §§ 3301,
45 3302(b)(3) and 3305.

46 Section 4. Repeals are as follows:

47 (1) The General Assembly declares that the repeal under
48 paragraph (2) is necessary to effectuate the addition of 27
49 Pa.C.S. Ch. 33.

50 (2) The act of December 15, 1955 (P.L.865, No.256),
51 entitled "An act requiring rents and royalties from oil and

1 gas leases of Commonwealth land to be placed in a special
2 fund to be used for conservation, recreation, dams, and flood
3 control; authorizing the Secretary of Forests and Waters to
4 determine the need for and location of such projects and to
5 acquire the necessary land," is repealed.

6 (3) The General Assembly declares that the repeal under
7 paragraph (4) is necessary to effectuate the addition of 58
8 Pa.C.S. Ch. 32.

9 (4) The act of December 19, 1984 (P.L.1140, No.223),
10 known as the Oil and Gas Act, is repealed.

11 Section 5. The addition of 58 Pa.C.S. Ch. 32 is a
12 continuation of the act of December 19, 1984 (P.L.1140, No.223),
13 known as the Oil and Gas Act. The following apply:

14 (1) Except as otherwise provided in 58 Pa.C.S. Ch. 32,
15 all activities initiated under the Oil and Gas Act shall
16 continue and remain in full force and effect and may be
17 completed under 58 Pa.C.S. Ch. 32. Orders, regulations, rules
18 and decisions which were made under the Oil and Gas Act and
19 which are in effect on the effective date of section 2(2) of
20 this act shall remain in full force and effect until revoked,
21 vacated or modified under 58 Pa.C.S. Ch. 32. Contracts,
22 obligations and collective bargaining agreements entered into
23 under the Oil and Gas Act are not affected nor impaired by
24 the repeal of the Oil and Gas Act.

25 (2) Except as set forth in paragraph (3), any difference
26 in language between 58 Pa.C.S. Ch. 32 and the Oil and Gas Act
27 is intended only to conform to the style of the Pennsylvania
28 Consolidated Statutes and is not intended to change or affect
29 the legislative intent, judicial construction or
30 administration and implementation of the Oil and Gas Act.

31 (3) Paragraph (2) does not apply to the addition of 58
32 Pa.C.S. §§ 3203, 3211, 3212.1, 3215, 3215.1, 3216, 3218,
33 3219.1, 3222, 3225, 3252, 3253, 3254.1, 3256, 3258, 3262,
34 3272 and 3274.

35 (4) It is not the intent of the General Assembly to
36 change, repeal or otherwise affect any of the provisions of
37 the act of December 18, 1984 (P.L. 1069, No. 214), known as
38 the Coal and Gas Resource Coordination Act, or to change,
39 repeal or otherwise affect any of the provisions of the act
40 of January 26, 2011 (P.L.7, No.2), entitled "An act amending
41 the act of December 18, 1984 (P.L.1069, No.214), entitled 'An
42 act requiring coordination of coal mine and gas well
43 operators; authorizing Department of Environmental Resources
44 enforcement powers; and providing penalties,' further
45 providing for definitions, for permits, for permit
46 application, for minimum distance between gas wells, for well
47 class designation and for coordination of gas well drilling
48 through active coal mines; providing for a pillar support
49 study; and further providing for plugging gas wells
50 penetrating workable coal seams, for penalties and for
51 validity of other laws," which amended the Coal and Gas

1 Resource Coordination Act.

2 Section 5.1. The addition of 58 Pa.C.S. § 3215(g)(2) shall
3 expire three years after the effective date of this act.

4 Section 6. This act shall take effect in 60 days.