

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1735 Session of
2007

INTRODUCED BY YEWCIC, CALTAGIRONE, CAPPELLI, FREEMAN, GEORGE,
HALUSKA, HENNESSEY, W. KELLER, KOTIK, MAHONEY, PASHINSKI,
PETRARCA, PETRONE, ROEBUCK, SOLOBAY, TANGRETTI, YOUNGBLOOD,
CREIGHTON, DENLINGER, FABRIZIO, DeWEESE AND HANNA,
JULY 13, 2007

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JULY 13, 2007

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, providing for coal.

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

5 Section 1. Title 27 of the Pennsylvania Consolidated
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 33

8 COAL

9 Sec.

10 3301. Definitions.

11 3302. Surface use agreements for coal bed methane wells.

12 § 3301. Definitions.

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

16 "Coal bed methane." Gas that can be produced from a coal

1 seam, a mined-out area or a gob well.

2 "Coal bed methane well." A hole or well that is sunk,
3 drilled, bored or dug into the earth for the production of coal
4 bed methane from a coal seam, a mined-out area or a gob well for
5 consumption or sale. The term includes a horizontal borehole.
6 The term does not include any of the following:

7 (1) A shaft, hole or well, which is sunk, drilled, bored
8 or dug into the earth for core drilling or production of coal
9 or water.

10 (2) A bore hole drilled or being drilled for the purpose
11 of or to be used for degasifying coal seams if a condition in
12 one of the following subparagraphs is met:

13 (i) The bore hole is:

14 (A) used to vent methane to the outside
15 atmosphere from an operating coal mine;

16 (B) regulated as part of the mining permit under
17 the act of June 22, 1937 (P.L.1987, No.394), known as
18 The Clean Streams Law, and the act of May 31, 1945
19 (P.L.1198, No.418), known as the Surface Mining
20 Conservation and Reclamation Act; and

21 (C) drilled by the operator of the operating
22 coal mine for the purpose of increased safety.

23 (ii) The bore hole is used to vent methane to the
24 outside atmosphere under a federally funded or
25 Commonwealth-funded abandoned mine reclamation project.

26 (3) A well or borehole drilled in a coal seam from
27 within an underground coal mine for the production of coal
28 bed methane. This paragraph includes a well or borehole
29 connected to a well or borehole that is sunk, drilled or dug
30 from the surface.

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

3 "Financial institution." Includes a bank, private bank, bank
4 and trust company, savings association, savings bank, trust
5 company, savings and loan association and building and loan
6 association, whether organized and operated under Federal or
7 State law.

8 "Surface owner." The owner of real property where a coal bed
9 methane well is located or proposed to be located that is not
10 entitled to royalties for the removal or recovery of the coal
11 bed methane from the well.

12 "Surface-use agreement." A written and signed agreement
13 between a surface owner and operator regarding the location of
14 proposed wells, access roads and other uses of the surface.

15 § 3302. Surface-use agreements for coal bed methane wells.

16 (a) Procedures.--If a surface owner is not entitled to
17 royalties under the act of July 20, 1979 (P.L.183, No.60),
18 entitled "An act regulating the terms and conditions of certain
19 leases regarding natural gas and oil," for the removal or
20 recovery of methane gas or any other gas found in any coal
21 formation, the following procedures shall apply:

22 (1) The notice and plat provided to surface owners
23 pursuant to the filing of a permit application for a coal bed
24 methane gas well under section 201 of the act of December 19,
25 1984 (P.L.1140, No.223), known as the Oil and Gas Act, shall
26 include all of the following:

27 (i) A plan of work and description of the proposed
28 location of the well and production-related horizontal
29 boreholes, if present, as plotted on current topographic
30 maps.

1 (ii) A statement citing deeds, leases, rights-of-way
2 or other rights relating to the operator's access to the
3 coal bed methane.

4 (iii) Information regarding required or recommended
5 predrilling or prealteration surveys and other provisions
6 relating to:

7 (A) protection of water supplies;

8 (B) well location restrictions;

9 (C) well site restoration; and

10 (D) casing, cementing or plugging of wells and
11 production-related horizontal boreholes pursuant to
12 the Oil and Gas Act.

13 (iv) A proposal for a surface use agreement, which
14 shall include all of the following provisions:

15 (A) Compensation for damage to the surface, for
16 the loss of agricultural production and income and
17 lost land values. The amount of damages may be
18 determined by any reasonable formula agreeable to the
19 surface use owner and operator, and consideration may
20 be given to the length and time during which the loss
21 is sustained.

22 (B) Consideration of the surface owner's
23 reasonable preferences regarding location of the
24 well, which would not negatively impact production,
25 as well as the location and maintenance of roads,
26 fencing and equipment, which shall comply with the
27 Oil and Gas Act, and health and safety requirements
28 of other applicable laws of this Commonwealth.

29 (C) An option for the surface owner to use gas
30 provided by the operator without charge in lieu of

1 all or part of the financial compensation due for
2 damages described in clause (A).

3 (2) Compensation under paragraph (1)(iv)(A) or election
4 of the option under paragraph (1)(iv)(C) does not relieve the
5 operator of responsibilities under the Oil and Gas Act,
6 including protection, contamination, loss or diminution of
7 water supplies, well site restoration and the casing,
8 cementing and plugging of wells.

9 (3) If the surface owner and operator are unable to
10 execute a surface use agreement within 45 days of the notice
11 provided under paragraph (1), the following shall apply:

12 (i) The operator shall place in escrow in a
13 financial institution approved by the surface owner an
14 amount equal to the last best offer of compensation made
15 by the operator to the surface owner, and the parties may
16 apply to the court of common pleas in the judicial
17 district in which the affected property is located for an
18 order establishing surface use guidelines and reasonable
19 compensation.

20 (ii) The department shall allow the operator to
21 commence operations pursuant to an approved permit upon
22 receipt of proof from the operator that:

23 (A) An amount equal to the last best offer of
24 compensation for surface use and damages has been
25 placed in escrow and approved by the surface owner;
26 and

27 (B) a monthly statement of escrowed funds shall
28 be provided to the surface owner by first class mail
29 pending further negotiations or court order.

30 (4) If an operator fails to comply with a surface use

1 agreement, the surface owner may bring an action for
2 enforcement in the court of common pleas in the judicial
3 district in which the affected property is located.

4 (b) Statute of limitations.--Notwithstanding 42 Pa.C.S. §
5 5527(b) (relating to six year limitation), a surface owner
6 entitled to bring an action under this section must bring an
7 action within two years after the damage has been discovered or
8 should have been discovered through due diligence by the surface
9 owner.

10 (c) Other remedies.--Nothing in this section precludes a
11 person from seeking other remedies, allowed by statute, common
12 law, deed or contract. This section does not vest the surface
13 owner with the title to oil, gas or coal bed methane interests
14 that have been severed from the surface estate.

15 (d) Prior agreements.--This section does not apply to a
16 written surface use agreement in effect prior to the effective
17 date of this section.

18 (e) Ordinances and resolutions superseded.--This section
19 supersedes the ordinances and resolutions of political
20 subdivisions dealing with material regulated by this section in
21 accordance with section 602 of the Oil and Gas Act.

22 (f) Enforcement actions.--The provisions of this act shall
23 not be construed to affect, limit or impair any enforcement
24 action taken by the department under the Oil and Gas Act prior
25 to the effective date of this section.

26 Section 2. This act shall take effect in 90 days.