

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2213 Session of  
2010

INTRODUCED BY GEORGE, McILVAINE SMITH, BELFANTI, BRADFORD,  
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STURLA, THOMAS, YOUNGBLOOD AND YUDICHAK, JANUARY 20, 2010

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JANUARY 20, 2010

AN ACT

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

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 Section 1. The definition of "department" in section 103 of  
26 the act of December 19, 1984 (P.L.1140, No.223), known as the

1 Oil and Gas Act, is amended to read:

2 Section 103. Definitions.

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

6 \* \* \*

7 "Department." The Department of Environmental [Resources]  
8 Protection of the Commonwealth.

9 \* \* \*

10 Section 2. Section 207 of the act is amended by adding a  
11 subsection to read:

12 Section 207. Protection of fresh groundwater; casing  
13 requirements.

14 \* \* \*

15 (e) The department shall inspect each permitted well drilled  
16 in the Marcellus Shale formation, during the phases of siting,  
17 drilling, casing, cementing, completing, altering and  
18 stimulating. The department shall allocate an appropriate  
19 portion of the well permit fees to fund the inspection and may  
20 increase the permit fees to meet an increase in the inspection  
21 costs.

22 Section 3. Section 208(c) and (d) of the act are amended to  
23 read:

24 Section 208. Protection of water supplies.

25 \* \* \*

26 (c) Unless rebutted by one of the five defenses established  
27 in subsection (d), it shall be presumed that a well operator is  
28 responsible for the pollution or the diminution of a water  
29 supply that is within [1,000] 2,500 feet of the oil or gas well,  
30 where the pollution occurred within six months after the

1 completion of drilling or alteration of such well.

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

5 (1) The pollution [existed] or the diminution prior to  
6 the drilling or alteration activity as determined by a  
7 predrilling or prealteration survey.

8 (2) The landowner or water purveyor refused to allow the  
9 operator access to conduct a predrilling or prealteration  
10 survey.

11 (3) The water supply is not within [1,000] 2,500 feet of  
12 the well.

13 (4) The pollution or the diminution occurred more than  
14 six months after completion of drilling or alteration  
15 activities.

16 (5) The pollution or the diminution occurred as the  
17 result of some cause other than the drilling or alteration  
18 activity.

19 \* \* \*

20 Section 4. The act is amended by adding a section to read:  
21 Section 208.1. Hydraulic fracturing chemicals disclosure.

22 (a) Notwithstanding a trade secret claim, a well operator  
23 utilizing the hydraulic fracturing process to extract natural  
24 gas from the Marcellus Shale formation shall disclose to the  
25 department the complete list of the chemicals and chemical  
26 compounds used in the fracturing fluid products. The list shall  
27 include the Chemical Abstract Service registry number for each  
28 constituent chemical, the concentration of each constituent  
29 chemical and the formula for each chemical compound. The  
30 department shall publish the list on its Internet website.

1 (b) If the natural gas well operator fails to comply with  
2 the requirements of section 208(c) and (d), the department may  
3 not issue any permit to the operator and shall revoke an  
4 existing natural gas well permit issued to the operator.

5 Section 5. Sections 215(a), 601(a) and 602 of the act,  
6 amended July 2, 1992 (P.L.365, No.78), are amended to read:  
7 Section 215. Bonding.

8 (a) (1) Except as provided in subsection (d) hereof, upon  
9 filing an application for a well permit and before continuing  
10 to operate any oil or gas well, the owner or operator thereof  
11 shall file with the department a bond for the well and the  
12 well site on a form to be prescribed and furnished by the  
13 department. Any such bond filed with an application for a  
14 well permit shall be payable to the Commonwealth and  
15 conditioned that the operator shall faithfully perform all of  
16 the drilling, water supply replacement, restoration and  
17 plugging requirements of this act. Any such bond filed with  
18 the department for a well in existence on the effective date  
19 of this act shall be payable to the Commonwealth and  
20 conditioned that the operator shall faithfully perform all of  
21 the water supply replacement, restoration and plugging  
22 requirements of this act. The amount of the bond required  
23 shall be in the amount of [~~\$2,500~~] \$150,000 per well for any  
24 Marcellus Shale well utilizing hydraulic fracturing process  
25 and \$12,000 per well for at least two years following the  
26 effective date of this act, after which time the bond amount  
27 may be adjusted by the Environmental Quality Board every two  
28 years to reflect the projected costs to the Commonwealth of  
29 performing well plugging.

30 (2) In lieu of individual bonds for each well, an owner

1 or operator may file a blanket bond, on a form prepared by  
2 the department, covering all of its wells in Pennsylvania as  
3 enumerated on the bond form. A blanket bond shall be in the  
4 amount of [~~\$25,000~~] \$240,000 for at least two years following  
5 the effective date of this act, after which time the bond  
6 amount may be adjusted by the Environmental Quality Board  
7 every two years to reflect the projected costs to the  
8 Commonwealth of performing well plugging. No blanket bond is  
9 available for wells drilled in the Marcellus Shale formation.

10 (3) Liability under such bond shall continue until the  
11 well has been properly plugged in accordance with this act  
12 and for a period of one year after filing of the certificate  
13 of plugging with the department. Each bond shall be executed  
14 by the operator and a corporate surety licensed to do  
15 business in the Commonwealth and approved by the secretary.  
16 The operator may elect to deposit cash, certificates of  
17 deposit or automatically renewable irrevocable letters of  
18 credit from financial institutions chartered or authorized to  
19 do business in Pennsylvania and regulated and examined by the  
20 Commonwealth or a Federal agency which may be terminated at  
21 the end of a term only upon the financial institution giving  
22 90 days prior written notice to the permittee and the  
23 department or negotiable bonds of the United States  
24 Government or the Commonwealth, the Pennsylvania Turnpike  
25 Commission, the General State Authority, the State Public  
26 School Building Authority or any municipality within the  
27 Commonwealth, or United States Treasury Bonds issued at a  
28 discount without a regular schedule of interest payments to  
29 maturity, otherwise known as Zero Coupon Bonds, having a  
30 maturity date of not more than ten years after the date of

1 purchase and at such maturity date having a value of not less  
2 than \$25,000, with the department in lieu of a corporate  
3 surety. The cash deposit, certificate of deposit, amount of  
4 such irrevocable letter of credit or market value of such  
5 securities shall be equal at least to the sum of the bond.  
6 The secretary shall, upon receipt of any such deposit of  
7 cash, letters of credit or negotiable bonds, immediately  
8 place the same with the State Treasurer, whose duty it shall  
9 be to receive and hold the same in the name of the  
10 Commonwealth, in trust, for the purpose for which such  
11 deposit is made. The State Treasurer shall at all times be  
12 responsible for the custody and safekeeping of such deposits.  
13 The operator making deposit shall be entitled from time to  
14 time to demand and receive from the State Treasurer, on the  
15 written order of the secretary, the whole or any portion of  
16 any collateral so deposited, upon depositing with him, in  
17 lieu thereof, other collateral of the classes herein  
18 specified having a market value at least equal to the sum of  
19 the bond, and also to demand, receive and recover the  
20 interest and income from said negotiable bonds as the same  
21 becomes due and payable. Where negotiable bonds, deposited as  
22 aforesaid, mature or are called, the State Treasurer, at the  
23 request of the owner thereof, shall convert such negotiable  
24 bonds into such other negotiable bonds of the classes herein  
25 specified as may be designated by the owner. Where notice of  
26 intent to terminate a letter of credit is given, the  
27 department shall give the operator 30 days' written notice to  
28 replace the letter of credit with other acceptable bond  
29 guarantees as provided herein and, if the owner or operator  
30 fails to replace the letter of credit within the 30-day

1 notification period, the department shall draw upon and  
2 convert such letter of credit into cash and hold it as a  
3 collateral bond guarantee.

4 \* \* \*

5 Section 601. Well plugging funds.

6 (a) All fines, civil penalties, permit and registration fees  
7 collected under this act are hereby appropriated to the  
8 Department of Environmental [Resources] Protection to carry out  
9 the purposes of this act.

10 \* \* \*

11 Section 602. Local ordinances.

12 Except with respect to ordinances adopted pursuant to the act  
13 of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania  
14 Municipalities Planning Code, and the act of October 4, 1978  
15 (P.L.851, No.166), known as the Flood Plain Management Act, all  
16 local ordinances and enactments purporting to regulate oil and  
17 gas well operations regulated by this act are hereby preempted  
18 and superseded to the extent the ordinances and enactments  
19 regulate the method of oil and gas well operations. No  
20 ordinances or enactments adopted pursuant to the aforementioned  
21 acts shall contain provisions which impose conditions,  
22 requirements or limitations on [the same features] the method of  
23 oil and gas well operations regulated by this act or that  
24 accomplish the same purposes as set forth in this act. The  
25 Commonwealth, by this enactment, hereby preempts and supersedes  
26 the regulation of oil and gas wells as herein defined to the  
27 extent the ordinances and enactments regulate the method of oil  
28 and gas well operations. Nothing in this act shall affect the  
29 traditional power of local government to regulate other aspects  
30 of oil and gas activities such as the time and the place of

1 operations through local ordinances and enactments.

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