

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 232 Session of 2011

INTRODUCED BY MUNDY, BRIGGS, CALTAGIRONE, CARROLL, COHEN,
FRANKEL, FREEMAN, GOODMAN, JOSEPHS, MULLERY, MURPHY,
M. O'BRIEN, PASHINSKI, PRESTON, STURLA, WAGNER AND
SANTARSIERO, JANUARY 26, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 26, 2011

AN ACT

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

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

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

1 Section 103. Definitions.

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

5 * * *

6 "Best management practices." Activities, facilities,
7 measures, planning or procedures used to minimize accelerated
8 erosion and sedimentation and manage stormwater to protect,
9 maintain, reclaim and restore the quality of waters and the
10 existing and designated uses of waters of this Commonwealth
11 before, during and after earth disturbance activities.

12 * * *

13 "Erosion and sediment control permit." A permit issued by
14 the Department of Environmental Protection and required for
15 earth disturbance activities associated with oil and gas
16 activities.

17 "Erosion and sediment control plan." A site-specific plan
18 consisting of both drawings and narrative that identifies best
19 management practices to minimize accelerated erosion and
20 sedimentation before, during and after earth disturbance
21 activities.

22 "Floodplain." The lands adjoining a river or stream that
23 have been or may be expected to be inundated by flood waters in
24 a 100-year frequency flood. Unless otherwise specified, the
25 boundary of the floodplain is as indicated on maps and flood
26 insurance studies provided by the Federal Emergency Management
27 Agency or equivalent floodplain maps and studies. In an area
28 where no such maps or studies have defined the boundary of the
29 100-year floodplain, absent evidence to the contrary, the
30 floodplain extends from the river or stream to 100 feet from the

1 top of streambank.

2 * * *

3 "Postconstruction stormwater management plan." A site-
4 specific plan identifying best management practices to manage
5 changes in stormwater runoff volume, rate and water quality
6 after earth disturbance activities have ended and the project
7 site is permanently stabilized.

8 * * *

9 "Stripper well." A well site that is not capable of
10 producing more than 90,000 cubic feet of natural gas per day.

11 "Top of streambank." The first substantial break in slope
12 between the edge of the bed of the stream and the surrounding
13 terrain.

14 "Unconventional shale formations." Any of the following:

15 (1) Formations that typically produce gas through high
16 volume hydraulic fracturing and horizontal wellbores such as
17 the Rhinestreet, Burket, Marcellus, Mandata and Utica Shale
18 formations.

19 (2) Formations identified by the Department of
20 Environmental Protection.

21 * * *

22 Section 2. Section 201(a) of the act, amended July 2, 1992
23 (P.L.365, No.78), is amended and the section is amended by
24 adding a subsection to read:

25 Section 201. Well permits.

26 (a) No person shall drill a well or alter any existing well,
27 except for alterations which satisfy the requirements of
28 subsection (j), without having first obtained a well permit
29 pursuant to subsections (b), (c), (d) [and], (e) and (e.1). A
30 copy of the permit shall be kept at the well site during

drilling or alteration of the well. However, no person shall be required to obtain a permit to redrill a nonproducing well, if:

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

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

* * *

(e.1) The department shall require an erosion and sediment control permit for all earth disturbance associated with oil and gas activities targeting unconventional shale formations. The department shall not approve any permit application for any erosion and sediment control permit unless the application affirmatively demonstrates and the department finds on the basis of the department's review of the information in the application and a site visit that the following conditions are met:

(1) The permit application is complete and accurate.

(2) The permit application contains an erosion and sediment control plan and a postconstruction stormwater management plan and the plans and designs are complete and technically sufficient to meet the requirements of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and 25 Pa. Code Chs. 93 (relating to water quality standards) and 102 (relating to erosion and sediment control).

(3) The permit application contains a detailed survey

1 conducted by a certified professional wetland scientist of
2 all waters of this Commonwealth, including wetlands, seeps
3 and intermittent and ephemeral streams, located in or
4 adjacent to the proposed earth disturbance and all such
5 waters are clearly marked on the plans.

6 (4) The requirements of The Clean Streams Law and 25 Pa.
7 Code Chs. 93, 102 and 105 (relating to dam safety and
8 waterway management).

9 (5) The assessment of the probable cumulative impacts of
10 all anticipated oil or gas drilling activities within the
11 same 12-digit hydrologic unit code watershed on waters of
12 this Commonwealth has been made by the department in
13 consultation with the Department of Conservation and Natural
14 Resources and the Pennsylvania Fish and Boat Commission and
15 the activities proposed under the application have been
16 designed to prevent adverse cumulative impacts to waters of
17 this Commonwealth.

18 (6) The proposed activities are protective of existing
19 and designated uses of waters of this Commonwealth and would
20 not cause or contribute to a violation of water quality
21 standards.

22 (7) The applicant has provided a complete copy of the
23 permit application to the applicable municipality, county,
24 county conservation district, the Pennsylvania Fish and Boat
25 Commission, community water system as defined in section 3 of
26 the act of May 1, 1984 (P.L.206, No.43), known as the
27 Pennsylvania Safe Drinking Water Act, and provided them with
28 the opportunity to comment.

29 (8) Notice of the department's receipt of the
30 application has been published in the *Pennsylvania Bulletin*

1 and a newspaper of general circulation in the area of the
2 proposed activities and the public has been given at least 30
3 days from the date of publication to comment.

4 * * *

5 Section 3. Section 205 of the act is amended by adding a
6 subsection to read:

7 Section 205. Well location restrictions.

8 * * *

9 (b.1) No well site may be prepared or well drilled within a
10 floodplain.

11 * * *

12 Section 4. The act is amended by adding sections to read:

13 Section 208.1 Disposal of wastewater from oil and gas
14 activities targeting unconventional shale formations.

15 (a) Notwithstanding any other provision of law, a moratorium
16 is established during which no new discharges of wastewater from
17 oil and gas activities targeting unconventional shale formations
18 to surface waters of this Commonwealth may be permitted. This
19 moratorium shall expire when the department completes the
20 evaluation required in subsection (b).

21 (b) Within three years of the effective date of this
22 section, the department shall complete an evaluation of
23 nondischarge alternatives to surface water discharge of such
24 wastewater, including deep well injection. The department shall
25 provide public notice and opportunity for comment as it develops
26 the evaluation. If as a result of this evaluation the department
27 determines that nondischarge alternatives are environmentally
28 sound, protective of water quality and cost effective, the
29 department shall prohibit the discharge of wastewater from oil
30 and gas activities targeting unconventional shale formations and

1 require disposal by nondischarge alternatives, provided the
2 disposal is authorized by permit.

3 (c) Within 180 days of the effective date of this section,
4 the department shall establish an online electronic tracking
5 system for the reporting and tracking of storage, transportation
6 and disposal of wastewater from oil and gas activities targeting
7 unconventional shale formations. The tracking system shall be
8 readily accessible online by the department and the public and
9 allow for the tracking of the amount, type and location of all
10 such wastewater on a daily basis through the use of tracking
11 numbers unique to each transport unit. The tracking system shall
12 require all persons who generate, store, transport or dispose
13 such wastewater to record and provide information to the
14 tracking system necessary to track the amount, type and location
15 of all such wastewater on a daily basis, from generation to
16 ultimate disposal.

17 Section 603.2 Cumulative impacts study.

18 By May 1, 2012, the department, the Department of
19 Conservation and Natural Resources, the Pennsylvania Fish and
20 Boat Commission and the Pennsylvania Game Commission shall
21 jointly complete a comprehensive study of the probable
22 cumulative impacts of all anticipated oil and gas activities in
23 this Commonwealth. The study shall analyze impacts to the
24 Commonwealth's land, air and water, including, but not limited
25 to, local, regional and Statewide air quality, surface and
26 ground water quality and quantity, streams, wetlands, vernal
27 pools and other waters of this Commonwealth, publicly and
28 privately owned forests and other natural habitat, wildlife and
29 aquatic life and recreational economies, and shall provide
30 recommendations for avoiding, minimizing and mitigating any such

1 impacts.

2 Section 5. This act shall take effect immediately.