

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1950 Session of 2011

INTRODUCED BY ELLIS, S. H. SMITH, TURZAI, SAYLOR, REED, ADOLPH, MAJOR, STEVENSON, VEREB, ROSS, GROVE, MARSHALL, HELM, VULAKOVICH, P. COSTA, GERGELY, OBERLANDER, READSHAW, MOUL, CHRISTIANA, TALLMAN AND EVERETT, NOVEMBER 1, 2011

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 1, 2011

AN ACT

1 Amending Titles 27 (Environmental Resources) and 58 (Oil and
2 Gas) of the Pennsylvania Consolidated Statutes, requiring
3 rents and royalties from oil and gas leases of Commonwealth
4 land to be placed in a special fund to be used for
5 conservation, recreation, dams, flood control and certain
6 interfund transfers; authorizing the Secretary of
7 Conservation and Natural Resources to determine the need for
8 and location of such projects and to acquire the necessary
9 land; providing for interfund transfers; authorizing counties
10 to impose and collect an unconventional gas well impact fee;
11 providing for distribution of fees and for the Oil and Gas
12 Lease Fund; consolidating the Oil and Gas Act; and repealing
13 an act relating to the establishment of the Oil and Gas Lease
14 Fund and the Oil and Gas Act.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

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

19 CHAPTER 33

20 OIL AND GAS

21 Subchapter

22 A. (Reserved)

23 B. Oil and Gas Lease Fund

1 SUBCHAPTER A

2 (RESERVED)

3 SUBCHAPTER B

4 OIL AND GAS LEASE FUND

5 Sec.

6 3301. Definitions.

7 3302. Oil and Gas Lease Fund.

8 3303. Powers and duties of secretary.

9 3304. Appropriation of moneys.

10 3305. Interfund transfers.

11 § 3301. Definitions.

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

15 "Department." The Department of Conservation and Natural
16 Resources of the Commonwealth.

17 "Fund." The Oil and Gas Lease Fund established by this
18 subchapter.

19 "Secretary." The Secretary of Conservation and Natural
20 Resources of the Commonwealth.

21 § 3302. Oil and Gas Lease Fund.

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

24 (b) Deposits.--All rents and royalties from oil and gas
25 leases of any land owned by the Commonwealth, except rents and
26 royalties received from game and fish lands, shall be placed in
27 the fund to be used exclusively:

28 (1) for conservation, recreation, dams or flood control;

29 (2) to match any Federal grants which may be made for

30 any of the purposes enumerated in this subchapter; and

1 (3) for interfund transfers as provided in section 3305
2 (relating to interfund transfers).

3 \$ 3303. Powers and duties of secretary.

4 The secretary shall have the following powers and duties:

5 (1) To determine, in the secretary's discretion, the
6 need for and the location of any project authorized by this
7 chapter.

8 (2) To acquire in the name of the Commonwealth by
9 purchase, condemnation or otherwise such lands as may be
10 needed.

11 \$ 3304. Appropriation of moneys.

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

15 \$ 3305. Interfund transfers.

16 Transfers shall be made between funds in the State Treasury
17 as follows:

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

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

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

1 (A) the sum of the amount transferred under
2 subparagraph (i) during the prior fiscal year; and
3 (B) an amount equal to the percentage change in
4 the Consumer Price Index for All Urban Consumers from
5 the prior fiscal year, multiplied by the amount in
6 clause (A),
7 shall be transferred from the fund to the Hazardous Sites
8 Cleanup Fund for the purpose specified in subparagraph
9 (i).

10 (3) On July 1, 2013, and each July 1 thereafter, an
11 amount equal to 5% of the total moneys received from the
12 prior fiscal year, but not to exceed \$5,000,000, shall be
13 transferred from the fund to the several counties, school
14 districts and townships entitled to receive payment from the
15 Commonwealth in lieu of taxes under the act of May 17, 1929
16 (P.L.1798, No.591), referred to as the Forest Reserves
17 Municipal Financial Relief Law. The moneys transferred under
18 this paragraph shall be allocated to each county, school
19 district and township based on the number of acres of land in
20 the county, school district or township to which the payment
21 under that act applies in proportion to the aggregate number
22 of acres of all such lands of the counties, school districts
23 and townships in this Commonwealth.

24 (4) On July 1, 2013, and each July 1 thereafter, a total
25 of \$15,000,000 shall be transferred from the fund to the
26 Conservation District Fund. These funds shall be distributed
27 in a manner consistent with the act of May 15, 1945 (P.L.547,
28 No.217), known as the Conservation District Law, and the
29 provisions of the State Conservation Commission's
30 Conservation District Fund Allocation Program—Statement of

Policy under 25 Pa. Code Ch. 83 Subch. B (relating to
Conservation District Fund Allocation Program—Statement of
Policy).

CHAPTER 35

WELLS

Subchapter

A. Unconventional Gas Wells

B. (Reserved)

SUBCHAPTER A

UNCONVENTIONAL GAS WELLS

Sec.

3501. Short title.

3502. Definitions.

3503. Unconventional gas well impact fee.

3504. (Reserved).

3505. (Reserved).

3506. Administration.

3506.1. Well information.

3506.2. Payment confirmation.

3506.3. County authority.

3506.4. Enforcement.

3506.5. Examinations.

3507. Deposit of fees.

3508. Allocation and distribution of fees.

3509. Calculation of payments.

3510. Recordkeeping and State reporting.

3511. Expiration.

§ 3501. Short title.

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

1 § 3502. Definitions.

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

5 "Association." A partnership, limited partnership or any
6 other form of unincorporated enterprise owned or conducted by
7 two or more persons.

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

10 "Corporation." A corporation, joint stock association,
11 limited liability company, business trust or any other
12 incorporated enterprise organized under the laws of the United
13 States, this Commonwealth or any other state, territory or
14 foreign country or dependency.

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

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

22 "Municipality." A city, borough, incorporated town or
23 township.

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

1 methane.

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

5 "Operator." A person or its subsidiary, affiliate or holding
6 company that holds a permit or other authorization to engage in
7 the business of severing natural gas for sale, profit or
8 commercial use from an unconventional well in this Commonwealth.
9 The term does not include a person who severs natural gas from a
10 storage field.

11 "Person." A natural person or a corporation, fiduciary,
12 association or other entity, including the Commonwealth and any
13 of its political subdivisions, instrumentalities and
14 authorities. When the term is used in a provision prescribing
15 and imposing a penalty or imposing a fine or both, the term
16 shall include a member of an association and an officer of a
17 corporation.

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

20 "Reporting period." The fiscal year in which a well impact
21 fee is assessed.

22 "Unconventional gas well." A bore hole drilled or being
23 drilled for the purpose of or to be used for producing oil or
24 gas from a geologic shale formation existing below the base of
25 the Elk Sandstone or its geologic equivalent stratigraphic
26 interval where oil or gas generally cannot be produced at
27 economic flow rates or in economic volumes except by wells
28 stimulated by hydraulic fracture treatments, a horizontal well
29 bore or by using multilateral well bores or other techniques to
30 expose more of the formation of the well bore.

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

5 § 3503. Unconventional gas well impact fee.

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

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

13 (1) nonproducing wells; or

14 (2) unconventional gas wells in which the natural gas is
15 used directly by a consumer.

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

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

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

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

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

29 (d) Fee for new unconventional wells.--The fee for an
30 unconventional well producing natural gas drilled after the

effective date of the ordinance under subsection (a) shall be as follows:

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

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

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

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

(e) Vertical unconventional well fee.--

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

(2) For purposes of this subsection, an unconventional vertical well shall be defined as an unconventional well producing oil or gas from a geologic shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval and utilizes hydraulic fracture treatment through a single vertical well bore.

(f) Prohibition.--

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

(2) An agreement between an operator and a landowner, leaseholder or other person in possession of real property upon which removal or extraction of natural gas occurs that

violates paragraph (1) shall be null and void.

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

§ 3504. (Reserved).

§ 3505. (Reserved).

§ 3506. Administration.

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

(1) The number of unconventional wells of a producer in each municipality within the county.

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

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

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

§ 3506.1. Well information.

(a) List.--Upon request, the department shall provide a county with a list of all unconventional wells that have

1 received a well permit from the department issued under this
2 chapter. The list shall be updated on a monthly basis. In lieu
3 of providing the list to each county, the department may
4 maintain a list on its publicly accessible Internet website if
5 the list is updated on a monthly basis.

6 (b) Updates.--A producer shall notify the county within 30
7 days from the date the unconventional well began or ceased the
8 production of natural gas.

9 § 3506.2. Payment confirmation.

10 Prior to issuing a permit to drill an unconventional well in
11 this Commonwealth, the department shall require the permit
12 applicant to certify in its well permit application that the
13 producer has paid all fees that may be owed under this chapter.
14 The department may deny a well permit application if it finds
15 that the producer falsified this certification.

16 § 3506.3. County authority.

17 (a) Powers.--A county may make all inquiries and
18 determinations necessary to calculate and collect a fee imposed
19 under this chapter, including, if applicable, interest and
20 penalties.

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

25 (c) Address.--Notice of failure to pay the correct fee shall
26 be sent to the producer at its registered address via certified
27 mail.

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

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

4 § 3506.4. Enforcement.

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

9 (b) Penalty.--In addition to the interest under subsection
10 (a), if a producer fails to make timely payment of the fee, a
11 penalty shall be added to the amount of the fee due. The amount
12 of the penalty shall be 5% for each month, or fraction of a
13 month, during which the failure continues, not to exceed 25% in
14 the aggregate.

15 (c) Timely payment.--If a county determines that a producer
16 has not made a timely payment of the fee, the county shall send
17 a written notice of the amount of the deficiency to the producer
18 within 30 days from the date of determining the deficiency. If
19 the producer has not provided a complete and accurate statement
20 of the volume of natural gas extracted for the payment period,
21 the county may estimate the volume in its deficiency notice.

22 (d) Remedies.--The remedies provided under this chapter
23 shall be in addition to any other remedies provided at law or in
24 equity.

25 (e) Lien.--Fines, fees, interest and penalties shall be
26 collectible in the manner provided by law for the collection of
27 debts. If the producer liable to pay any amount neglects or
28 refuses to pay the amount after demand, the amount, together
29 with costs that may accrue, shall be a judgment in favor of the
30 county upon the property of the producer, if the judgment has

1 been entered and docketed of record by the prothonotary of the
2 county where the property is situated.

3 § 3506.5. Examinations.

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

6 (1) Have access to the books, papers and records of any
7 producer in order to verify the accuracy and completeness of
8 a report filed or fee paid under this chapter.

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

13 (3) Examine any employee of a producer concerning the
14 severing of natural gas subject to a fee or any matter
15 relating to the enforcement of this chapter.

16 (b) Unauthorized disclosure.--

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

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

29 § 3507. Deposit of fees.

30 (a) Establishment.--Each county imposing a fee under this

chapter shall establish an interest-bearing account designed solely for fees.

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

§ 3508. Allocation and distribution of fees.

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

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

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

(b) Distribution of fees to county and municipalities.--The fees allocated to the county and its municipalities under subsection (a)(1) shall be distributed as follows:

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

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

(3) Twenty-seven percent of the fees shall be

1 distributed to all municipalities in the county where
2 producing unconventional wells are located as follows:

3 (i) Fifty percent shall be distributed to all
4 municipalities using a formula that divides the
5 population of the municipality within the county by the
6 total population of the county and multiplies the
7 resulting percentage by the amount available for
8 distribution to the county under this subparagraph.

9 (ii) Fifty percent shall be distributed to each
10 municipality using a formula that divides the highway
11 mileage of the municipality within the county by the
12 total highway mileage of the county and multiplies the
13 resulting percentage by the amount available for
14 distribution to the county under this subparagraph.

15 (c) Distribution of fees to Commonwealth.--The fees
16 allocated to the Commonwealth under subsection (a)(2) shall be
17 remitted to the Commonwealth for deposit into a restricted
18 account in the General Fund of the Commonwealth dedicated solely
19 for fees. The funds are hereby appropriated and shall be
20 distributed as follows and as set forth under subsection (e):

21 (1) Seventy percent to the Department of Transportation
22 for road, bridge, rail and other transportation
23 infrastructure improvements to address impacts from
24 unconventional natural gas development.

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

29 (3) Seven and one-half percent to the Public Utility
30 Commission, not to exceed \$2,000,000 annually, for the

1 enhancement, inspection and enforcement of pipeline safety
2 standards as required by law related to the safe transport of
3 gas and hazardous liquids.

4 (4) Four and one-half percent to the Pennsylvania
5 Emergency Management Agency, not to exceed \$2,000,000
6 annually, for emergency response planning, training and
7 coordination associated with unconventional natural gas
8 production activity within the Commonwealth.

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

16 (6) Three and three-quarters percent to the Office of
17 State Fire Commissioner, not to exceed \$2,000,000 annually,
18 for the development, delivery and sustainment of training
19 programs for first responders and acquisition of specialized
20 equipment necessary for emergency response.

21 (d) Additional distribution of fees to Department of
22 Transportation.--In addition to the distribution of fees to the
23 Department of Transportation under subsection (c)(1), any funds
24 remaining in the restricted account after distribution of fees
25 under subsection (c)(2), (3), (4), (5) and (6) are hereby
26 appropriated shall be distributed to the Department of
27 Transportation.

28 (e) Continuing nature.--

29 (1) The distributions under subsections (c) and (d)
30 shall be executive authorizations.

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

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

7 (g) Use of funds by counties and municipalities.--A county
8 or municipality receiving fees under this section shall make use
9 of the fees received only for the following purposes associated
10 with unconventional natural gas production within the county or
11 municipality:

12 (1) Construction, reconstruction, maintenance and repair
13 of roadways, bridges and public infrastructure.

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

16 (3) Emergency preparedness and response, including
17 police, fire, hazardous material response, 911, equipment
18 acquisition, responder recruitment and other services.

19 (4) Preservation and reclamation of surface and
20 subsurface waters and water supplies, including drinking
21 water monitoring and testing.

22 (5) Records management, geographic information systems
23 and information technology.

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

27 (7) Delivery of social services, including domestic
28 relations, drug and alcohol treatment, job training and
29 counseling.

30 (8) Assistance to the county conservation district for

inspection, oversight and enforcement of unconventional
natural gas development.

(9) County or municipal planning.

(10) Local tax reduction.

§ 3509. Calculation of payments.

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

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

§ 3510. Recordkeeping and State reporting.

(a) General rule.--Commencing in calendar year 2012 and each
year thereafter, before December 1, each county that imposes and
collects the unconventional gas well impact fee authorized by
this subchapter shall prepare and deliver a report to the
Secretary of the Senate and the Chief Clerk of the House of
Representatives detailing the expenditure of the funds collected
under this subchapter.

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

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

(d) Time.--Reports shall be prepared no later than June 30

of the year following the initial receipt of any fees
distributed under this section and each June 30 thereafter.

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

§ 3511. Expiration.

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

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

SUBCHAPTER B

(RESERVED)

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

1 (RESERVED)

2 CHAPTER 32

3 DEVELOPMENT

4 Subchapter

5 A. Preliminary Provisions

6 B. General Requirements

7 C. Underground Gas Storage

8 D. Eminent Domain

9 E. Enforcement and Remedies

10 F. Miscellaneous Provisions

11 SUBCHAPTER A

12 PRELIMINARY PROVISIONS

13 Sec.

14 3201. Scope of chapter.

15 3202. Declaration of purpose.

16 3203. Definitions.

17 § 3201. Scope of chapter.

18 This chapter relates to oil and gas.

19 § 3202. Declaration of purpose.

20 The purposes of this chapter are to:

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

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

28 (3) Protect the safety and property rights of persons
29 residing in areas where mining, exploration, development,
30 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

1 casing would affect the coal protection casing.

2 (2) Stimulation of a well.

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

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

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

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

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

10 (1) Hydraulic cement properly mixed with water only.

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

14 "Coal mine." Any of the following:

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

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

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

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

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

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

1 "Environmental law." Any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (xviii) The act of May 19, 1995 (P.L.4, No.2), known
23 as the Land Recycling and Environmental Remediation
24 Standards Act.

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

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

30 (xxi) The provisions of 27 Pa.C.S. Ch. 41 (relating

1 to environmental laboratory accreditation).

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

4 (xxiii) The provisions of 30 Pa.C.S. (relating to
5 fish).

6 (xxiv) The provisions of 34 Pa.C.S. (relating to
7 game).

8 (5) A regulation, rule, administrative order or agency
9 interpretation or guidance of a Commonwealth agency
10 pertaining to oil and gas operations, public health, safety,
11 natural resources or the environment.

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

15 "Fresh groundwater." Water in that portion of the generally
16 recognized hydrologic cycle which occupies the pore spaces and
17 fractures of saturated subsurface materials.

18 "Gas." Any of the following:

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

23 (2) Any manufactured gas, byproduct gas or mixture of
24 gases.

25 "Inactivate." To shut off the vertical movement of gas in a
26 gas storage well by means of a temporary plug or other suitable
27 device or by injecting bentonitic mud or other equally nonporous
28 material into the well.

29 "Linear foot." A unit or measurement in a straight line on a
30 horizontal plane.

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

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

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

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

8 (3) Drilling, stimulation and completion of oil and gas
9 wells.

10 (4) Generation, processing, treatment, storage,
11 transportation and disposal of fresh water, wastewater,
12 wastes, chemicals and other materials directly associated
13 with drilling, stimulation and completion of oil and gas
14 wells.

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

16 (6) Compression, transmission, measurement and storage
17 of oil or gas.

18 (7) Reclamation activities.

19 (8) Construction and use of drilling rigs and pipelines.
20 This paragraph includes equipment directly related to the
21 activities set forth in this paragraph.

22 (9) Construction and use of access roads, well sites,
23 drilling pads, impoundments, compression stations, processing
24 stations, meter stations and storage tanks. This paragraph
25 includes buildings, facilities or structures, which are
26 directly related to the activities set forth in this
27 paragraph. This paragraph does not include ancillary support,
28 supply and service facilities, the location of which is not
29 dependent on the location of specific wells or pipelines.

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

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

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

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

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

14 "Outside coal boundaries." When used in conjunction with the
15 term "operating coal mine," the boundaries of the coal acreage
16 assigned to the coal mine under an underground mine permit
17 issued by the Department of Environmental Protection.

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

24 "Person." An individual, association, partnership,
25 corporation, political subdivision or agency of the Federal
26 Government, State government or other legal entity.

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

30 "Pillar." A solid block of coal surrounded by either active

1 mine workings or a mined-out area.

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

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

11 "Retreat mining." Removal of coal pillars, ribs and stumps
12 remaining after development mining has been completed in that
13 section of a coal mine.

14 "Secretary." The Secretary of Environmental Protection of
15 the Commonwealth.

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

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

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

27 (1) Vertical or horizontal well bores stimulated by
28 hydraulic fracture treatments.

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

1 "Water management plan." A plan associated with drilling or
2 completing a well in an unconventional formation that
3 demonstrates that the withdrawal and use of water sources
4 protects those sources as required by law and protects public
5 health, safety and welfare.

6 "Water purveyor." Any of the following:

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

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

12 "Water source."

13 (1) Any of the following:

14 (i) Waters of this Commonwealth.

15 (ii) A source of water supply used by a water
16 purveyor.

17 (iii) Mine pools and discharges.

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

20 (2) The term does not include flowback or production
21 waters or other fluids:

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

24 (ii) which do not discharge into waters of this
25 Commonwealth.

26 "Well." A bore hole drilled or being drilled for the purpose
27 of, or to be used for, producing, extracting or injecting gas,
28 petroleum or another liquid related to oil or gas production or
29 storage, including brine disposal, but excluding a bore hole
30 drilled to produce potable water. The term does not include a

bore hole drilled or being drilled for the purpose of, or to be used for:

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

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

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

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

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

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

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

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

3 (2) If a permit or well registration was not issued, a
4 person who locates, drills, operates, alters or plugs a well
5 or reconditions a well with the purpose of production from
6 the well.

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

9 "Wetland." Areas inundated or saturated by surface or
10 groundwater at a frequency and duration sufficient to support,
11 and which normally support, a prevalence of vegetation typically
12 adapted for life in saturated soil conditions, including swamps,
13 marshes, bogs and similar areas.

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

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

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

20 SUBCHAPTER B

21 GENERAL REQUIREMENTS

22 Sec.

23 3211. Well permits.

24 3212. Permit objections.

25 3212.1. Comments by municipalities.

26 3213. Well registration and identification.

27 3214. Inactive status.

28 3215. Well location restrictions.

29 3215.1. General restrictions.

30 3216. Well site restoration.

1 3217. Protection of fresh groundwater and casing requirements.

2 3218. Protection of water supplies.

3 3219. Use of safety devices.

4 3219.1. Well control emergency response.

5 3220. Plugging requirements.

6 3221. Alternative methods.

7 3222. Well reporting requirements.

8 3223. Notification and effect of well transfer.

9 3224. Coal operator responsibilities.

10 3225. Bonding.

11 3226. Oil and Gas Technical Advisory Board.

12 § 3211. Well permits.

13 (a) Permit required.--No person shall drill or alter a well,
14 except for alterations which satisfy the requirements of
15 subsection (j), without having first obtained a well permit
16 under subsections (b), (c), (d) and (e), or operate an abandoned
17 or orphan well unless in compliance with subsection (l). A copy
18 of the permit shall be kept at the well site during drilling or
19 alteration of the well. No person shall be required to obtain a
20 permit to redrill a nonproducing well if the redrilling:

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

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

28 (b) Plat.--

29 (1) The permit application shall be accompanied by a
30 plat prepared by a competent engineer or a competent

1 surveyor, on forms furnished by the department, showing the
2 political subdivision and county in which the tract of land
3 upon which the well to be drilled is located; a list of
4 municipalities adjacent to the well site; the name of the
5 surface landowner of record and lessor; the name of all
6 surface landowners and water purveyors whose water supplies
7 are within 1,000 feet of the proposed well location or, in
8 the case of an unconventional well, within 2,500 feet of the
9 proposed well location; the name of the owner of record or
10 operator of all known underlying workable coal seams; the
11 acreage in the tract to be drilled; the proposed location of
12 the well determined by survey, courses and distances of the
13 location from two or more permanent identifiable points or
14 landmarks on the tract boundary corners; the proposed angle
15 and direction of the well if the well is to be deviated
16 substantially from a vertical course; the number or other
17 identification to be given the well; the workable coal seams
18 underlying the tract of land upon which the well is to be
19 drilled or altered and which shall be cased off under section
20 3217 (relating to protection of fresh groundwater and casing
21 requirements); and any other information needed by the
22 department to administer this chapter.

23 (2) The applicant shall forward by certified mail a copy
24 of the plat to the surface landowner; the municipality in
25 which the tract of land upon which the well to be drilled is
26 located; the municipalities adjacent to the well; all surface
27 landowners and water purveyors, whose water supplies are
28 within 1,000 feet of the proposed well location or, in the
29 case of an unconventional well, within 2,500 feet of the
30 proposed well location; the owner and lessee of any coal

1 seams; and each coal operator required to be identified on
2 the well permit application.

3 (b.1) Notification.--The applicant shall submit proof of
4 notification with the well permit application. Notification of
5 surface owners shall be performed by sending notice to those
6 persons to whom the tax notices for the surface property are
7 sent, as indicated in the assessment books in the county in
8 which the property is located. Notification of surface
9 landowners or water purveyors whose water supplies are within
10 1,000 feet of the proposed well location shall be on forms, and
11 in a manner prescribed by the department, sufficient to identify
12 the rights afforded those persons under section 3218 (relating
13 to protection of water supplies) and to advise them of the
14 advantages of taking their own predrilling or prealteration
15 survey.

16 (b.2) Approval.--If the applicant submits to the department
17 written approval of the proposed well location by the surface
18 landowner and the coal operator, lessee or owner of any coal
19 underlying the proposed well location and no objections are
20 raised by the department within 15 days of filing, or if no
21 approval has been submitted and no objections are made to the
22 proposed well location within 15 days from receipt of notice by
23 the department, the surface landowner or any coal operator,
24 lessee or owner, the written approval shall be filed and become
25 a permanent record of the well location, subject to inspection
26 at any time by any interested person.

27 (c) Applicants.--If the applicant for a well permit is a
28 corporation, partnership or person that is not a resident of
29 this Commonwealth, the applicant shall designate the name and
30 address of an agent for the operator who shall be the attorney-

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

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

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

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

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

27 (2) The permit application is incomplete.

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

30 (4) The requirements of section 3225 (relating to

1 bonding) have not been met.

2 (5) (i) Either:

3 (A) the department finds that the applicant, or
4 any parent or subsidiary corporation of the
5 applicant, is in continuing violation of this
6 subchapter, any other statute administered by the
7 department, any rule or regulation promulgated under
8 this subchapter or a statute administered by the
9 department or any plan approval, permit or order of
10 the department, unless the violation is being
11 corrected to the satisfaction of the department; or

12 (B) the applicant, or any parent or subsidiary
13 corporation of the applicant, has shown a lack of
14 intention or ability to comply with the laws, rules,
15 regulations, approvals, permits or orders referred to
16 under clause (A).

17 (ii) The right of the department to deny a permit
18 under subparagraph (i) shall not take effect until:

19 (A) the department has taken a final action on
20 the violations;

21 (B) (I) the applicant has not appealed the
22 final action in accordance with the act of July
23 13, 1988 (P.L.530, No.94), known as the
24 Environmental Hearing Board Act; or

25 (II) if an appeal has been filed, no
26 supersedeas has been issued.

27 (e.2) Expedited review of applications.--

28 (1) The department may provide expedited reviews of
29 applications within time frames specified by the department
30 to applicants for permits and other approvals if the

1 applicant pays an additional fee determined by the department
2 based upon any incremental costs to the department associated
3 with the review. The reviews may be performed by persons
4 selected by the department who are not Commonwealth employees
5 if the department is the entity that takes action on the
6 application or by county conservation districts under an
7 agreement with the department.

8 (2) The permits and approvals may be those issued by the
9 department under this act and for activities associated with
10 oil and gas activities under the following:

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

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

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

17 (iv) The act of July 7, 1980 (P.L.380, No.97), known
18 as the Solid Waste Management Act.

19 (v) The act of May 1, 1984 (P.L.206, No.43), known
20 as the Pennsylvania Safe Drinking Water Act.

21 (vi) The act of July 10, 1984 (P.L.688, No.147),
22 known as the Radiation Protection Act.

23 (vii) The act of December 19, 1984 (P.L.1093,
24 No.219), known as the Noncoal Surface Mining Conservation
25 and Reclamation Act.

26 (viii) The act of October 18, 1988 (P.L.756,
27 No.108), known as the Hazardous Sites Cleanup Act.

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

30 (3) The department may implement this subsection by

1 policy or by regulation promulgated by the Environmental
2 Quality Board.

3 (4) The department shall consider relevant factors in
4 administering this section, including:

5 (i) Legal requirements under applicable Federal and
6 State laws and regulations, including requirements for
7 public comment, and review by the Environmental
8 Protection Agency.

9 (ii) Administrative completeness of applications.

10 (iii) Adjustment of fees over time based on changes
11 in program costs.

12 (iv) Applications submitted under seal by a
13 professional engineer, professional geologist or other
14 person licensed by the Department of State.

15 (v) Actual or potential impacts to Federal and State
16 threatened and endangered species.

17 (5) This subsection shall not apply to permits or
18 approvals for activities that may impact:

19 (i) A water that is classified as high quality or
20 exceptional value under 25 Pa. Code Ch. 93 (relating to
21 water quality standards).

22 (ii) Exceptional value wetlands as determined under
23 25 Pa. Code Ch. 105 (relating to dam safety and waterway
24 management).

25 (iii) Public water supplies.

26 (6) Fees collected under this subsection shall be
27 deposited into the fund for which fees are otherwise
28 deposited for the applicable permit or approval.

29 (f) Drilling.--

30 (1) Upon issuance of a permit, the well operator may

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

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

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

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

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

1 location complies with existing laws, regulations and spacing
2 orders and the new bore hole is at least 330 feet from the
3 nearest lease boundary.

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

9 (7) The well operator shall forward a copy of the
10 amended plat to the surface landowner identified on the well
11 permit application within ten days of commencement of the new
12 well bore.

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

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

19 (i) Expiration.--Well permits issued for drilling wells
20 under this chapter shall expire one year after issuance unless
21 operations for drilling the well are commenced within the period
22 and pursued with due diligence or unless the permit is renewed
23 in accordance with regulations of the department. If drilling is
24 commenced during the one-year period, the well permit shall
25 remain in force until the well is plugged in accordance with
26 section 3220 (relating to plugging requirements) or the permit
27 is revoked. A drilling permit issued prior to April 18, 1985,
28 for a well which is an operating well on April 18, 1985, shall
29 remain in force as a well permit until the well is plugged in
30 accordance with section 3220. Nothing in this subsection shall

1 be construed to rescind the provisions pertaining to drilling
2 permits contained in Chapter 34.

3 (j) Exceptions.--The Environmental Quality Board may
4 establish by regulation certain categories of alterations of
5 permitted or registered wells for which permitting requirements
6 of this section shall not apply. A well operator or owner who
7 proposes to conduct the alteration activity shall first obtain a
8 permit or registration modification from the department. The
9 Environmental Quality Board shall promulgate regulations as to
10 the requirements for modifications.

11 (k) No transfer permitted.--No permit issued under this
12 section or registration issued under section 3213 (relating to
13 well registration and identification) may be transferred without
14 prior approval of the department. A request for approval of a
15 transfer shall be on the forms, and in the manner, prescribed by
16 the department. The department shall approve or deny a transfer
17 request within 45 days of receipt of a complete and accurate
18 application. The department may deny a request only for reasons
19 set forth in subsection (e.1)(4) and (5). Approval of a transfer
20 request shall permanently transfer responsibility to plug the
21 well under section 3220 to the recipient of the transferred
22 permit or registration.

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

28 (m) Water management.--The following shall apply to water
29 management:

30 (1) No person may withdraw or use water from water

1 sources within this Commonwealth for the drilling or
2 hydraulic fracture stimulation of any natural gas well
3 completed in an unconventional gas formation, whether on or
4 off of the land where the gas well is located, except in
5 accordance with a water management plan approved by the
6 department.

7 (2) The department shall review and approve water
8 management plans based upon a determination that the proposed
9 withdrawal, when operated in accordance with the proposed
10 withdrawal operating conditions set forth in the plan,
11 including conditions relating to quantity, withdrawal rate
12 and timing and any passby flow conditions, will:

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

15 (ii) protect and maintain the designated and
16 existing uses of water sources; and

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

19 (3) (i) The criteria under paragraph (2) shall be
20 presumed to be achieved if the proposed water withdrawal
21 has been approved by and is operated in accordance with
22 conditions established by the Susquehanna River Basin
23 Commission, the Delaware River Basin Commission or the
24 Great Lakes Commission, as applicable.

25 (ii) Notwithstanding subparagraph (i), the
26 department may establish additional requirements as
27 necessary to comply with the laws of this Commonwealth.

28 (4) In addition to the requirements under paragraphs
29 (1), (2) and (3), compliance with a department-approved water
30 management plan shall be a condition of any permit issued

1 under this chapter for the drilling or hydraulic fracture
2 stimulation of any natural gas well completed in an
3 unconventional formation and shall be deemed to satisfy the
4 laws of this Commonwealth.

5 § 3212. Permit objections.

6 (a) General rule.--If a well referred to in section 3211(b)
7 (relating to well permits) will be located on a tract whose
8 surface is owned by a person other than the well operator, the
9 surface landowner affected shall be notified of the intent to
10 drill and may file objections, in accordance with section 3251
11 (relating to conferences), based on the assertion that the well
12 location violates section 3215 (relating to well location
13 restrictions) or that information in the application is untrue
14 in any material respect, within 15 days of the receipt by the
15 surface owner of the plat under section 3211(b). Receipt of
16 notice by the surface owner shall be presumed to have occurred
17 15 days from the date of the certified mailing when the well
18 operator submits a copy of the certified mail receipt sent to
19 the surface owner and an affidavit certifying that the address
20 of the surface owner to which notice was sent is the same as the
21 address listed in the assessment books in the county where the
22 property is located. If no objection is filed or none is raised
23 by the department within 15 days after receipt of the plat by
24 the surface landowner, or, if written approval by the surface
25 landowner is filed with the department and no objection is
26 raised by the department within 15 days of filing, the
27 department shall proceed to issue or deny the permit.

28 (b) Special circumstances.--If a well referred to in section
29 3211(b) will penetrate within the outside coal boundaries of an
30 operating coal mine or a coal mine already projected and platted

1 but not yet being operated, or within 1,000 linear feet beyond
2 those boundaries, and, in the opinion of the coal owner or
3 operator, the well or a pillar of coal about the well will
4 unduly interfere with or endanger the mine, the coal owner or
5 operator affected may file objections under section 3251 to the
6 proposed location within 15 days of the receipt by the coal
7 operator of the plat under section 3211(b). If possible, an
8 alternative location at which the proposed well could be drilled
9 to overcome the objections shall be indicated. If no objection
10 to the proposed location is filed or if none is raised by the
11 department within 15 days after receipt of the plat by the coal
12 operator or owner, or, if written approval by the coal operator
13 or owner of the location is filed with the department and no
14 objection is raised by the department within 15 days of filing,
15 the department shall proceed to issue or deny the permit.

16 (c) Procedure upon objection.--If an objection is filed by a
17 coal operator or owner or made by the department, the department
18 shall fix a time and place for a conference under section 3251
19 not more than ten days from the date of service of the objection
20 to allow the parties to consider the objection and attempt to
21 agree on a location. If they fail to agree, the department, by
22 an appropriate order, shall determine a location on the tract of
23 land as near to the original location as possible where, in the
24 judgment of the department, the well can be safely drilled
25 without unduly interfering with or endangering the mine as
26 defined in subsection (b). The new location agreed upon by the
27 parties or determined by the department shall be indicated on
28 the plat on file with the department and become a permanent
29 record upon which the department shall proceed to issue or deny
30 the permit.

1 (d) Survey.--Within 120 days after commencement of drilling
2 operations, the coal operator shall accurately locate the well
3 by a closed survey on the same datum as the mine workings or
4 coal boundaries are mapped, file the results of the survey with
5 the department and forward a copy by certified mail to the well
6 operator.

7 § 3212.1. Comments by municipalities.

8 (a) General rule.--The municipality where the tract of land
9 upon which the unconventional well to be drilled is located may
10 submit written comments to the department describing local
11 conditions or circumstances which the municipality has
12 determined should be considered by the department in rendering
13 its determination on the unconventional well permit. A comment
14 under this subsection must be submitted to the department within
15 15 days of the receipt of the plat under section 3211(b)
16 (relating to well permits). The municipality shall
17 simultaneously forward a copy of its comments to the permit
18 applicant and all other parties entitled to a copy of the plat
19 under section 3211(b), who may submit a written response. A
20 written response must be submitted to the department within ten
21 days of receipt of the comments of the municipality.

22 (b) Consideration by department.--Comments and responses
23 under subsection (a) may be considered by the department in
24 accordance with section 3215(d) (relating to well location
25 restrictions).

26 (c) No extension of time period.--The process outlined in
27 this section shall not extend the time period for the issuance
28 or denial of a permit beyond the time period set forth in this
29 chapter.

30 § 3213. Well registration and identification.

1 (a) General rule.--On or before July 5, 1996, each person
2 who owned or operated a well in existence prior to April 18,
3 1985, which has not been registered with the department and for
4 which no drilling permit has been issued by the department,
5 shall register the well with the department. A well owner or
6 operator who registers under this subsection and a well owner or
7 operator who has previously registered a well under this chapter
8 shall, on or before July 5, 1996, identify any abandoned well on
9 property which the well owner or operator owns or leases and
10 request approval from the department for classification of the
11 well as an orphan well. Information regarding wells to be
12 registered or identified shall be provided on a form, or in a
13 manner, prescribed by the department, and shall include:

14 (1) The name and address of the well operator and, if
15 the well operator is a corporation, partnership or person
16 nonresident of this Commonwealth, the name and address of an
17 agent for the operator upon whom notices, orders, process or
18 other communications issued under this chapter may be served.

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

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

26 (4) An indemnity bond, an alternative fee in lieu of
27 bonding or other evidence of financial security submitted by
28 the well operator and deemed appropriate by the department
29 and satisfying the requirements of section 3225 (relating to
30 bonding). No bond, alternative fee or other evidence of

1 financial security shall be required for identification of an
2 orphan well. For wells drilled prior to January 30, 1956,
3 which have not been bonded, the well operator shall have five
4 years to comply with the provisions of this paragraph.

5 (5) A registration fee of \$15 per well or blanket
6 registration fee of \$250 for multiple well registration
7 applications submitted simultaneously. The registration fee
8 shall be waived until July 5, 1996, and no fee shall be
9 charged for identification of an orphan well.

10 (a.1) Orphan wells.--After July 5, 1996, a well owner, well
11 operator or other person discovering an abandoned well on
12 property purchased or leased by the well owner, well operator or
13 other person shall identify it to the department within 60 days
14 of discovery and advise the department that he is seeking
15 classification of the well as an orphan well. No fee shall be
16 required for identification.

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

24 (c) Installation of registration number.--The well operator
25 shall install the registration number issued by the department
26 in a legible, conspicuous and permanent manner on the well
27 within 60 days of issuance.

28 (d) Definition.--For purposes of subsection (a) (4) and (5),
29 the term "owner" does not include an owner or possessor of
30 surface real property, on which an abandoned well is located,

1 who did not participate or incur costs in, and had no right of
2 control over, the drilling or extraction operation of the
3 abandoned well.

4 § 3214. Inactive status.

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

8 (1) the condition of the well is sufficient to prevent
9 damage to the producing zone or contamination of fresh water
10 or other natural resources or surface leakage of any
11 substance;

12 (2) the condition of the well is sufficient to stop the
13 vertical flow of fluids or gas within the well bore and is
14 adequate to protect freshwater aquifers, unless the
15 department determines the well poses a threat to the health
16 and safety of persons or property or to the environment;

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

21 (4) the applicant satisfies the bonding requirements of
22 sections 3213 (relating to well registration and
23 identification) and 3225 (relating to bonding), except that
24 the department may require additional financial security for
25 a well on which an alternative fee is being paid in lieu of
26 bonding under section 3225(d).

27 (b) Monitoring.--The owner or operator of a well granted
28 inactive status shall be responsible for monitoring the
29 mechanical integrity of the well to ensure that the requirements
30 of subsection (a) (1) and (2) are met and shall report the same

1 on an annual basis to the department in the manner and form
2 prescribed by departmental regulations.

3 (c) (Reserved).

4 (d) Return to active status.--A well granted inactive status
5 under subsection (a) shall be plugged in accordance with section
6 3220 (relating to plugging requirements) or returned to active
7 status within five years of the date inactive status was
8 granted, unless the owner or operator applies for an extension
9 of inactive status which may be granted on a year-to-year basis
10 if the department determines that the owner or operator has
11 demonstrated ability to continue meeting the requirements of
12 this section and the owner or operator certifies that the well
13 will be of future use within a reasonable period of time. An
14 owner or operator who has been granted inactive status for a
15 well which is returned to active status prior to expiration of
16 the five-year period set forth in subsection (a) shall notify
17 the department that the well has been returned to active status
18 and shall not be permitted to apply for another automatic five-
19 year period of inactive status for the well. The owner or
20 operator may make application to return the well to inactive
21 status, and the application may be approved on a year-to-year
22 basis if the department determines that the owner or operator
23 has demonstrated an ability to continue meeting the requirements
24 of this section and the owner or operator certifies that the
25 well will be of future use within a reasonable period of time.
26 The department shall approve or deny an application to extend a
27 period of inactive status or to return a well to inactive status
28 within 60 days of receipt of the application, and the
29 application shall not be unreasonably denied. If the department
30 has not completed its review of the application within 60 days,

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

12 (e) Revocation of inactive status.--The department may
13 revoke inactive status and order immediate plugging of a well if
14 the well is in violation of this chapter or rules or regulations
15 promulgated under this chapter or if the owner or operator
16 demonstrates inability to perform obligations under this chapter
17 or becomes financially insolvent, or upon receipt by the
18 department of notice of bankruptcy proceedings by the permittee.
19 § 3215. Well location restrictions.

20 (a) General rule.--Wells may not be drilled within 200 feet,
21 or, in the case of an unconventional well, 500 feet measured
22 horizontally from any existing building or existing water well
23 without written consent of the owner of the building or water
24 well. Unconventional wells may not be drilled within 1,000 feet
25 measured horizontally from any existing water well, surface
26 water intake, reservoir or other source used by a water
27 purveyor. If the distance restriction would deprive the owner of
28 the oil and gas rights of the right to produce or share in the
29 oil or gas underlying the surface tract, the well operator may
30 be granted a variance from the distance restriction upon

1 submission of a plan identifying the additional measures,
2 facilities or practices to be employed during well site
3 construction, drilling and operations. The variance, if granted,
4 shall include additional terms and conditions required by the
5 department to ensure safety and protection of affected persons
6 and property, including insurance, bonding, indemnification and
7 technical requirements.

8 (b) Limitation.--No well site may be prepared or well
9 drilled within 100 feet, or, in the case of an unconventional
10 well, 300 feet measured horizontally from a stream, spring or
11 body of water as identified on the most current 7 1/2 minute
12 topographic quadrangle map of the United States Geological
13 Survey or within 100 feet, or, in the case of an unconventional
14 well, 300 feet of any wetlands greater than one acre in size.
15 The department may waive the distance restrictions upon
16 submission of a plan identifying additional measures, facilities
17 or practices to be employed during well site construction,
18 drilling and operations. The waiver, if granted, shall impose
19 permit conditions necessary to protect the waters of the
20 Commonwealth.

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

24 (1) Publicly owned parks, forests, game lands and
25 wildlife areas.

26 (2) National or State scenic rivers.

27 (3) National natural landmarks.

28 (4) Habitats of rare and endangered flora and fauna and
29 other critical communities.

30 (5) Historical and archaeological sites listed on the

Federal or State list of historic places.

(d) Consideration of municipality comments.--The department may consider the comments submitted under section 3212.1 (relating to comments by municipalities) in making a determination on a well permit. Notwithstanding any other law, no municipality shall have a right of appeal or other form of review from the department's decision.

(e) Public resources impact criteria.--The Environmental Quality Board may develop by regulation criteria for the department to utilize for conditioning a well permit based on its impact to the public resources identified under subsection (c).

(f) Floodplains.--

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

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

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

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

(3) The department may waive restrictions upon submission of a plan that shall identify the additional measures, facilities or practices to be employed during well

1 site construction, drilling and operations. The waiver, if
2 granted, shall impose permit conditions necessary to protect
3 the waters of this Commonwealth.

4 (4) Best practices to ensure the protection of the
5 waters of this Commonwealth must be utilized for the storage
6 and handling of all water, chemicals, fuels, hazardous
7 materials or solid waste on a well site located in a
8 floodplain. The department may request that the well site
9 operator submit a plan for the storage and handling of
10 materials for approval by the department and may impose
11 conditions or amend permits to include permit conditions as
12 are necessary to protect the environment, public health and
13 safety.

14 (5) Unless otherwise specified by the department, the
15 boundary of the floodplain shall be as indicated on maps and
16 flood insurance studies provided by the Federal Emergency
17 Management Agency. In an area where no Federal Emergency
18 Management Agency maps or studies have defined the boundary
19 of the 100-year frequency floodplain, absent evidence to the
20 contrary, the floodplain shall extend from:

- 21 (i) any perennial stream up to 100 feet horizontally
22 from the top of the bank of the perennial stream; or
23 (ii) from any intermittent stream up to 50 feet
24 horizontally from the top of the bank of the intermittent
25 stream.

26 § 3215.1. General restrictions.

27 (a) Security fencing.--Security fencing shall be installed
28 at the oil or gas well site to secure all permanent buildings,
29 facilities, structures and equipment at the site and to protect
30 the public. Warning signs shall be placed on the security

fencing providing notice of potential dangers and providing
contact information in case of an emergency.

(b) Temporary operations.--The following shall apply to
temporary operations:

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

(2) In lieu of security fencing under paragraph (1), a
well owner or operator may establish a guard station with 24
hour staffing at the entrance of the site to prevent
unauthorized access.

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

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

(e) Atmospheric discharge.--Well owners and operators shall
comply with each applicable environmental law governing the

discharge of gases, vapors and odors into the atmosphere. The
discharge of gases, vapors and odors during oil and gas
operations may not unreasonably interfere with the comfortable
enjoyment of life or property.

§ 3216. Well site restoration.

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

(b) Plan.--During and after earthmoving or soil disturbing
activities, including, but not limited to, activities related to
siting, drilling, completing, producing and plugging the well,
erosion and sedimentation control measures shall be implemented
in accordance with an erosion and sedimentation control plan
prepared in accordance with the act of June 22, 1937 (P.L.1987,
No.394), known as The Clean Streams Law.

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

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

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

1 Streams Law.

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

5 (g) Extension.--

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

9 (i) the extension will result in less earth
10 disturbance, increased water reuse or more efficient
11 development of the resources; or

12 (ii) site restoration cannot be achieved due to
13 adverse weather conditions or a lack of essential fuel,
14 equipment or labor.

15 (2) The demonstration under paragraph (1) shall do all
16 of the following:

17 (i) Include a site restoration plan that shall
18 provide for:

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

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

23 (C) the stabilization of the well site that
24 shall include interim postconstruction storm water
25 management best management practices; or

26 (D) other measures to be employed to minimize
27 accelerated erosion and sedimentation in accordance
28 with The Clean Streams Law.

29 (ii) Provide for returning the portions of the site
30 not occupied by production facilities or equipment to

1 approximate original contours and making them capable of
2 supporting the uses that existed prior to drilling the
3 well.

4 (3) The department may condition an extension under this
5 subsection as is necessary in accordance with The Clean
6 Streams Law.

7 § 3217. Protection of fresh groundwater and casing
8 requirements.

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

15 (b) Casing.--To prevent migration of gas or fluids into
16 sources of fresh groundwater and pollution or diminution of
17 fresh groundwater, a string or strings of casing shall be run
18 and permanently cemented in each well drilled through the fresh
19 water-bearing strata to a depth and in a manner prescribed by
20 regulation by the department.

21 (c) Procedure when coal has been removed.--If a well is
22 drilled at a location where coal has been removed from one or
23 more coal seams, the well shall be drilled and cased to prevent
24 migration of gas or fluids into the seam from which coal has
25 been removed in a manner prescribed by regulation of the
26 department. The department and the coal operator, owner or
27 lessee shall be given at least 72 hours' notice prior to
28 commencement of work protecting the mine.

29 (d) Procedure when coal has not been removed.--If a well is
30 drilled at a location where the coal seam has not been removed,

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

7 § 3218. Protection of water supplies.

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

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

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

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

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

4 (ii) the pollution occurred within six months after
5 completion of drilling or alteration of the oil or gas
6 well; or

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

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

10 (ii) the pollution occurred within 12 months of the
11 later of completion, drilling or alteration of the
12 unconventional well.

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

16 (1) The pollution existed prior to the drilling or
17 alteration activity as determined by a predrilling or
18 prealteration survey.

19 (2) The landowner or water purveyor refused to allow the
20 operator access to conduct a predrilling or prealteration
21 survey.

22 (3) The water supply is not within 1,000 feet of the
23 well.

24 (4) The pollution occurred more than six months after
25 completion of drilling or alteration activities.

26 (5) The pollution occurred as the result of a cause
27 other than the drilling or alteration activity.

28 (e) Independent certified laboratory.--An operator electing
29 to preserve a defense under subsection (d) (1) or (2) shall
30 retain an independent certified laboratory to conduct a

1 predrilling or prealteration survey of the water supply. A copy
2 of survey results shall be submitted to the department and the
3 landowner or water purveyor in the manner prescribed by the
4 department.

5 (f) Other remedies preserved.--Nothing in this section shall
6 prevent a landowner or water purveyor claiming pollution or
7 diminution of a water supply from seeking any other remedy at
8 law or in equity.

9 § 3219. Use of safety devices.

10 Any person engaged in drilling an oil or gas well shall equip
11 it with casings of sufficient strength, and other safety devices
12 as are necessary, in the manner prescribed by regulation of the
13 department, and shall use every effort and endeavor effectively
14 to prevent blowouts, explosions and fires.

15 § 3219.1. Well control emergency response.

16 (a) Contracts.--The department may enter into contracts with
17 well control specialists in order to provide adequate emergency
18 response services in the event of a well control emergency.

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

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

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

27 (2) An intentional tort.

28 (3) Gross negligence.

29 § 3220. Plugging requirements.

30 (a) General rule.--Upon abandoning a well, the owner or

operator shall plug it in the manner prescribed by regulation of the department to stop vertical flow of fluids or gas within the well bore, unless the department has granted inactive status for the well or it has been approved by the department as an orphan well. If the department determines that a prior owner or operator received economic benefit, other than economic benefit derived only as a landowner or from a royalty interest, after April 18, 1979, from an orphan well or an unregistered well, the owner or operator shall be responsible for plugging the well. In the case of a gas well penetrating a workable coal seam which was drilled prior to January 30, 1956, or which was permitted after that date but not plugged in accordance with this chapter, if the owner or operator or a coal operator or an agent proposes to plug the well to allow mining through it, the gas well shall be cleaned to a depth of at least 200 feet below the coal seam through which mining is proposed and, unless impracticable, to a point 200 feet below the deepest mineable coal seam. The gas well shall be plugged from that depth in accordance with section 13 of the act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act, and the regulations of the department.

(b) Areas underlain by coal.--Prior to the plugging and abandonment of a well in an area underlain by a workable coal seam, the well operator or owner shall notify the department and the coal operator, lessee or owner and submit a plat, on a form to be furnished by the department, showing the location of the well and fixing the date and time plugging will commence, which shall be not less than three working days, nor more than 30 days, after the notice is received, to permit representatives of the persons notified to be present at the plugging. Notice and

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

16 (c) Abandoned wells.--Prior to abandonment of a well, except
17 an uncompleted bore hole plugged immediately upon suspension of
18 drilling in an area not underlain by a workable coal seam, the
19 well operator shall notify the department of the intention to
20 plug and abandon the well and submit a plat, on a form to be
21 furnished by the department, showing the location of the well
22 and fixing the date and time at which plugging will commence,
23 which shall be not less than three working days, nor more than
24 30 days, after the notice is received, to permit a department
25 representative to be present at the plugging. The notice or
26 waiting period may be verbally waived by the department. In
27 noncoal areas where more than one well has been drilled as part
28 of the same development project and the wells are now to be
29 plugged, the department shall be given three working days'
30 notice prior to plugging the first well of the project, subject

1 to waiver of notice described in subsection (b). In the plugging
2 of subsequent wells, no additional notice shall be required if
3 plugging on the project is continuous. If plugging of subsequent
4 wells is delayed for any reason, notice shall be given to the
5 department of continuation of the project. Whether or not a
6 representative attends, if the well operator has fully complied
7 with this section, the well operator may proceed, at the time
8 fixed, to plug the well in the manner prescribed by regulation
9 of the department. When plugging has been completed, a
10 certificate shall be prepared, on a form to be furnished by the
11 department, by two experienced and qualified people who
12 participated in the work setting forth the time and manner in
13 which the well was plugged. A copy of the certificate shall be
14 mailed to the department.

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

30 (e) Orphan wells.--If a well is an orphan well or abandoned

1 without plugging, or if a well is in operation but not
2 registered under section 3213 (relating to well registration and
3 identification), the department may enter upon the well site and
4 plug the well and to sell equipment, casing and pipe at the site
5 which may have been used in production of the well in order to
6 recover the costs of plugging. The department shall make an
7 effort to determine ownership of a well which is in operation
8 but has not been registered and provide written notice to the
9 owner of pending action under this subsection. If the department
10 cannot determine ownership within 30 days, it may proceed under
11 this subsection. Costs of plugging shall have priority over all
12 liens on equipment, casing and pipe, and the sale shall be free
13 and clear of those liens to the extent that the cost of plugging
14 exceeds the sale price. If the amount obtained for casing and
15 pipe salvaged at the site is inadequate to pay for plugging, the
16 owner or operator of the abandoned or unregistered well shall be
17 liable for the additional costs.

18 (f) Definition.--For purposes of this section, the term
19 "owner" does not include the owner or possessor of surface real
20 property, on which an abandoned well is located, who did not
21 participate or incur costs in and had no right of control over
22 the drilling or extraction operation of the abandoned well.

23 § 3221. Alternative methods.

24 A well operator may request permission to use a method or
25 material other than those required by this chapter for casing,
26 plugging or equipping a well in an application to the department
27 which describes the proposed alternative in reasonable detail
28 and indicates the manner in which it will accomplish the goals
29 of this chapter. Notice of filing of the application shall be
30 given by the well operator by certified mail to any affected

coal operators, who may, within 15 days after the notice, file objections to the proposed alternative method or material. If no timely objections are filed or raised by the department, the department shall determine whether to allow use of the proposed alternative method or material.

§ 3222. Well reporting requirements.

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

(a.1) Marcellus Shale formation wells.--Each operator of an unconventional well shall file with the department, on a form provided by the department, a semiannual report specifying the amount of production on the most well-specific basis available. The initial report under this subsection shall be filed on or before August 15, 2010, and shall include production data from the preceding calendar year and specify the status of each well. In subsequent reports, only changes in status must be reported. Subsequent semiannual reports shall be filed with the department on or before February 15 and August 15 of each year and shall include production data from the preceding reporting period. The Commonwealth may utilize reported information in enforcement proceedings, in making designations or determinations under

section 1927-A of The Administrative Code of 1929 or in
aggregate form for statistical purposes. Beginning November 1,
2010, the department shall make the reports available on its
publicly accessible Internet website. Costs incurred by the
department to comply with the requirements of this subsection
shall be paid out of the fees collected under section 3211(d)
(relating to well permits).

(b) Collection of data.--

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

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

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

(4) (i) The completion report shall include a
stimulation record. At a minimum, the stimulation record
shall contain pump rates, pressures, total volume used to
stimulate the well, a list of hazardous and other
chemicals used to stimulate the well, volume of water
used, identification of water sources used under a
department-approved water management plan and depth at
which potable aquifers are encountered during drilling.
The well operator may designate specific portions of the
stimulation record as containing a trade secret or
confidential proprietary information. The department
shall prevent disclosure of designated confidential
information to the extent permitted under the act of

1 February 14, 2008 (P.L.6, No.3), known as the Right-to-
2 Know Law.

3 (ii) The completion report shall identify:

4 (A) whether methane was encountered in other
5 than a target formation; and

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

8 (iii) The completion report shall be kept on file by
9 the department and posted on the department's publicly
10 accessible Internet website.

11 (5) Upon request of the department, the well operator
12 shall, within 90 days of completion or recompletion of
13 drilling, submit a copy of any electrical, radioactive or
14 other standard industry logs which have been run. No
15 information under this paragraph shall be required unless the
16 well operator has compiled the information in the ordinary
17 course of business.

18 (6) Upon request by the department within one year, the
19 well operator shall file a copy of drill stem test charts,
20 formation water analysis, porosity, permeability or fluid
21 saturation measurements, core analysis and lithologic log or
22 sample description or other similar data as compiled. No
23 information under this paragraph shall be required unless the
24 well operator had it compiled in the ordinary course of
25 business, and interpretation of data under this paragraph is
26 not required to be filed.

27 (c) Drill cuttings and core samples.--Upon notification by
28 the department prior to commencement of drilling, the well
29 operator shall collect any additional data specified by the
30 department, including representative drill cuttings and samples

1 from cores taken and any other geological information that the
2 operator reasonably can compile. Interpretation of the data is
3 not required to be filed.

4 (d) Retention and filing of data.--Data required under
5 subsection (b) and drill cuttings required under subsection (c)
6 shall be retained by the well operator and filed with the
7 department no more than three years after completion of the
8 well. Upon request, the department shall extend the deadline up
9 to five years from the date of completion of the well. The
10 department shall be entitled to utilize information collected
11 under this subsection in enforcement proceedings, in making
12 designations or determinations under section 1927-A of The
13 Administrative Code of 1929 and in aggregate form for
14 statistical purposes.

15 § 3223. Notification and effect of well transfer.

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

26 § 3224. Coal operator responsibilities.

27 (a) General rule.--At any time prior to removing coal or
28 other underground materials from, or extending the workings in,
29 a coal mine within 500 feet of an oil or gas well of which the
30 coal operator has knowledge, or within 500 feet of an approved

well location of which the coal operator has knowledge, the coal operator, by certified mail, shall forward to or file with the well operator and the department a copy of the relevant part of all maps and plans which it is presently required by law to prepare and file with the department, showing the pillar which the coal operator proposes to leave in place around each oil or gas well in the projected workings. Thereafter, the coal operator may proceed with mining operations in the manner projected on the maps and plans, but the operator may not remove coal or cut a passageway within 150 feet of the well or approved well location without written approval under this section. If, in the opinion of the well operator or the department, the plan indicates that the proposed pillar is inadequate to protect either the integrity of the well or public health and safety, the affected well operator shall attempt to reach an agreement with the coal operator on a suitable pillar, subject to approval of the department. Upon failure to agree, the well operator may, within ten days after receipt of the proposed plan under this section, file objections under section 3251 (relating to conferences), indicating the size of the pillar to be left as to each well. If objections are not timely filed and the department has none, the department shall grant approval, reciting that maps and plans have been filed, no objections have been made thereto and the pillar proposed to be left for each well is approved in the manner as projected.

(b) Objections.--If an objection is filed by the well operator or raised by the department, the department shall order that a conference be held under section 3251 within ten days of the filing of objections. At the conference, the coal operator and the person who has objected shall attempt to agree on a

proposed plan, showing the pillar to be left around each well,
which will satisfy the objections and receive department
approval. If an agreement is reached, the department shall grant
approval to the coal operator, reciting that a plan has been
filed and the pillar to be left for each well is approved
pursuant to the agreement. If an agreement is not reached on a
plan showing the pillar to be left with respect to a well, the
department, by appropriate order, shall determine the pillar to
be left with respect to the well. In a proceeding under this
section, the department shall follow as nearly as is possible
the original plan filed by the coal operator. The department
shall not require the coal operator to leave a pillar in excess
of 100 feet in radius, except that the department may require a
pillar of up to 150 feet in radius if the existence of unusual
conditions is established. Pillars determined by the department
shall be shown on maps or plans on file with the department as
provided in subsection (a), and the department shall approve the
pillar to be left for each well.

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

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

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

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

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

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

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

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

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

16 (f) Mining through plugged wells.--A coal operator who
17 intends to mine through a plugged oil or gas well or otherwise
18 completely remove any pillar from around that well shall file a
19 plan under subsection (a) which shall be subject to all of the
20 provisions of this section. No coal operator may mine through a
21 plugged oil or gas well of which he has knowledge until written
22 approval has been granted by the department in accordance with
23 this section. The Bureau of Deep Mine Safety in the department
24 shall have the authority to establish conditions under which the
25 department may approve a coal operator's plan to mine through a
26 plugged oil or gas well.

27 § 3225. Bonding.

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

29 (1) Except as provided in subsection (d), upon filing an
30 application for a well permit, and before continuing to

1 operate an oil or gas well, the owner or operator of the well
2 shall file with the department a bond covering the well and
3 well site on a form to be prescribed and furnished by the
4 department. A bond filed with an application for a well
5 permit shall be payable to the Commonwealth and conditioned
6 upon the operator's faithful performance of all drilling,
7 water supply replacement, restoration and plugging
8 requirements of this chapter. A bond for a well in existence
9 on April 18, 1985, shall be payable to the Commonwealth and
10 conditioned upon the operator's faithful performance of all
11 water supply replacement, restoration and plugging
12 requirements of this chapter. The amount of the bond required
13 shall be in the following amounts and may be adjusted by the
14 Environmental Quality Board every two years to reflect the
15 projected costs to the Commonwealth of plugging the well:

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

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

21 (B) For operating 51 to 150 wells, \$35,000 plus
22 \$4,000 per well for each well in excess of 50 wells;
23 but no bond may be required under this clause in
24 excess of \$60,000.

25 (C) For operating 151 to 250 wells, \$60,000 plus
26 \$4,000 per well for each well in excess of 150 wells;
27 but no bond may be required under this clause in
28 excess of \$100,000.

29 (D) For operating more than 250 wells, \$100,000
30 plus \$4,000 per well for each well in excess of 250

1 wells; but no bond may be required under this clause
2 in excess of \$250,000.

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

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

8 (B) For operating 26 to 50 wells, \$60,000 plus
9 \$10,000 per well for each well in excess of 25 wells;
10 but no bond may be required under this clause in
11 excess of \$120,000.

12 (C) For operating 51 to 150 wells, \$120,000 plus
13 \$10,000 per well for each well in excess of 50 wells;
14 but no bond may be required under this clause in
15 excess of \$180,000.

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

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

25 (3) Liability under the bond shall continue until the
26 well has been properly plugged in accordance with this
27 chapter and for a period of one year after filing of the
28 certificate of plugging with the department. Each bond shall
29 be executed by the operator and a corporate surety licensed
30 to do business in this Commonwealth and approved by the

1 secretary. In lieu of a corporate surety, the operator may
2 deposit with the department:

3 (i) cash;

4 (ii) certificates of deposit or automatically
5 renewable irrevocable letters of credit, from financial
6 institutions chartered or authorized to do business in
7 this Commonwealth and regulated and examined by the
8 Commonwealth or a Federal agency, which may be terminated
9 at the end of a term only upon 90 days' prior written
10 notice by the financial institution to the permittee and
11 the department;

12 (iii) negotiable bonds of the United States
13 Government or the Commonwealth, the Pennsylvania Turnpike
14 Commission, the General State Authority, the State Public
15 School Building Authority or any municipality within the
16 Commonwealth; or

17 (iv) United States Treasury Bonds issued at a
18 discount without a regular schedule of interest payments
19 to maturity, otherwise known as Zero Coupon Bonds, having
20 a maturity date of not more than ten years after the date
21 of purchase and at the maturity date having a value of
22 not less than the applicable amount under paragraph (1).
23 The cash deposit, certificate of deposit, amount of the
24 irrevocable letter of credit or market value of the
25 securities shall be equal at least to the sum of the
26 bond.

27 (4) The secretary shall, upon receipt of a deposit of
28 cash, letters of credit or negotiable bonds, immediately
29 place the same with the State Treasurer, whose duty it shall
30 be to receive and hold the same in the name of the

1 Commonwealth, in trust, for the purpose for which the deposit
2 is made.

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

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

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

27 (b) Release.--No bond shall be fully released until the
28 requirements of subsection (a) and section 3223 (relating to
29 notification and effect of well transfer) have been fully met.
30 Upon release of bonds and collateral under this section, the

1 State Treasurer shall immediately return to the owner the
2 specified amount of cash or securities.

3 (c) Noncompliance.--If a well owner or operator fails or
4 refuses to comply with subsection (a), regulations promulgated
5 under this chapter or conditions of a permit relating to this
6 chapter, the department may declare the bond forfeited and shall
7 certify the same to the Attorney General, who shall proceed to
8 enforce and collect the full amount of the bond and, if the well
9 owner or operator has deposited cash or securities as collateral
10 in lieu of a corporate surety, the department shall declare the
11 collateral forfeited and direct the State Treasurer to pay the
12 full amount of the funds into the Well Plugging Restricted
13 Revenue Account or to sell the security to the extent forfeited
14 and pay the proceeds into the Well Plugging Restricted Revenue
15 Account. If a corporate surety or financial institution fails to
16 pay a forfeited bond promptly and in full, the corporate surety
17 or financial institution shall be disqualified from writing
18 further bonds under this chapter or any other environmental law
19 administered by the department. A person aggrieved by reason of
20 forfeiting the bond or converting collateral, as provided in
21 this section, shall have a right to appeal to the Environmental
22 Hearing Board in the manner provided by law. Upon forfeiture of
23 a blanket bond for a violation occurring at one or more well
24 sites, the person whose bond is forfeited shall, within ten days
25 of the forfeiture, submit a replacement bond to cover all other
26 wells of which the person is an owner or operator. Failure to
27 submit the replacement bond constitutes a violation of this
28 section as to each of the wells owned or operated by the person.

29 (d) Alternatives to certain bonds.--The following shall
30 apply:

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

6 (i) Submit to the department a fee in the amount of
7 \$50 per well, a blanket fee of \$500 for ten to 20 wells
8 or a blanket fee of \$1,000 for more than 20 wells, which
9 shall be a nonrefundable fee paid each year that the
10 operator has not filed a bond with the department. All
11 fees collected in lieu of a bond under this subsection
12 shall be used for the purposes authorized by this
13 chapter. The Environmental Quality Board shall have the
14 power, by regulation, to increase the amount of the fees
15 established under this subsection.

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

18 (A) Payment shall be based on the number of
19 wells owned or operated. The operator shall make an
20 initial deposit and make annual deposits in
21 accordance with the schedule in clause (B). Interest
22 accumulated by the collateral shall become a part of
23 the bond until the collateral plus accumulated
24 interest equals the amount of the required bond. The
25 collateral shall be deposited, in trust, with the
26 State Treasurer as provided in this subsection or
27 with a bank selected by the department which shall
28 act as trustee for the benefit of the Commonwealth to
29 guarantee the operator's compliance with the
30 drilling, water supply replacement, restoration and

1 plugging requirements of this chapter. The operator
2 shall be required to pay all costs of the trust.

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

27 (C) The department shall reduce the amount of
28 phased collateral payments or the period of time over
29 which phased collateral payments shall be made on
30 behalf of owners or operators who, prior to August 1,

1 1992, have paid a fee in lieu of bond under
2 subparagraph (i), and who, by August 1, 1993, choose
3 to enter the phased collateral program under this
4 subparagraph rather than continue to make payments in
5 lieu of bond. Payments made prior to August 1, 1992,
6 in lieu of bond shall not be credited in any other
7 manner, and the department shall not be required to
8 refund the fees. The Environmental Quality Board, by
9 regulation, may change the annual deposits
10 established under clause (B) if necessary to
11 accommodate a change in the amount of the bond
12 required under this section.

13 (2) An operator may continue to pay a fee in lieu of
14 bond or make phased deposits of collateral to fully
15 collateralize the bond so long as the operator does not miss
16 a payment under this subsection and remains in compliance
17 with this chapter. If an operator misses a payment under this
18 subsection, the operator shall immediately:

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

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

22 (1) An individual who is unable to obtain a bond to
23 drill new wells due to inability to demonstrate financial
24 resources may meet the collateral bond requirements of
25 subsection (a) by making phased deposits of collateral to
26 fully collateralize the bond. The individual shall be limited
27 to drilling ten new wells per calendar year and, for each
28 well to be drilled, deposit \$500 and make an annual deposit
29 of 10% of the remaining bond amount for a period of ten
30 years. Interest accumulated shall become a part of the bond

1 until the collateral plus accumulated interest equals the
2 amount of the required bond. The collateral shall be
3 deposited in trust with the State Treasurer under subsection
4 (a) or with a bank selected by the department which shall act
5 as trustee for the benefit of the Commonwealth to guarantee
6 the individual's compliance with the drilling, water supply
7 replacement, restoration and plugging requirements of this
8 chapter. The individual shall pay all costs of the trust.

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

14 (i) immediately submit the appropriate bond amount
15 in full; or

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

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

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

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

1 § 3226. Oil and Gas Technical Advisory Board.

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

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

7 (i) a petroleum engineer;

8 (ii) a petroleum geologist; or

9 (iii) an experienced driller representative of the
10 oil and gas industry with three years of experience in
11 this Commonwealth.

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

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

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

22 (c) Majority vote.--All actions of the board shall be by
23 majority vote. The board shall meet as called by the secretary,
24 but not less than semiannually, to carry out its duties under
25 this chapter. The board shall select a chairman and other
26 officers deemed appropriate.

27 (d) Consultation.--The department shall consult with the
28 board in the formulation, drafting and presentation stages of
29 all regulations of a technical nature promulgated under this
30 chapter. The board shall be given a reasonable opportunity to

review and comment on all regulations of a technical nature
prior to submission to the Environmental Quality Board for
initial consideration. The written report of the board shall be
presented to the Environmental Quality Board with any regulatory
proposal. The chairman of the board shall be invited to
participate in the presentation of all regulations of a
technical nature before the Environmental Quality Board to the
extent allowed by procedures of the Environmental Quality Board.
Nothing herein shall preclude any member of the board from
filing a petition for rulemaking with the Environmental Quality
Board in accordance with procedures established by the
Environmental Quality Board.

SUBCHAPTER C

UNDERGROUND GAS STORAGE

Sec.

3231. Reporting requirements for gas storage operations.

3232. Reporting requirements for coal mining operations.

3233. General gas storage reservoir operations.

3234. Gas storage reservoir operations in coal areas.

3235. Inspection of facilities and records.

3236. Reliance on maps and burden of proof.

3237. Exemptions and prohibitions.

§ 3231. Reporting requirements for gas storage operations.

(a) General rules.--The following shall apply:

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

1 otherwise prescribed by regulation of the department.

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

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

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

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

18 (ii) the geographic location of the outside
19 boundaries of the storage reservoir and reservoir
20 protective area;

21 (iii) the location of all known oil or gas wells in
22 the reservoir or within 3,000 linear feet thereof which
23 have been drilled into or through the storage stratum,
24 indicating which have been or are to be cleaned out and
25 plugged or reconditioned for storage along with the
26 proposed location of all additional wells which are to be
27 drilled within the storage reservoir or within 3,000
28 linear feet thereof.

29 (5) The following, if available, shall be furnished for
30 all known oil or gas wells which have been drilled into or

1 through the storage stratum within the storage reservoir or
2 within 3,000 linear feet thereof: name of the operator, date
3 drilled, total depth, depth of production if the well was
4 productive of oil or gas, the initial rock pressure and
5 volume, the depths at which all coal seams were encountered
6 and a copy of the driller's log or other similar information.
7 At the time of the filing of the maps and data, a statement
8 shall be filed:

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

11 (ii) affirming that the wells shown represent, to
12 the best of the operator's knowledge, all oil or gas
13 wells which have ever been drilled into or below the
14 storage stratum within the proposed storage reservoir or
15 within the reservoir protective area;

16 (iii) stating whether the initial injection is for
17 testing purposes;

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

20 (v) providing a detailed explanation of the methods
21 to be used or which previously have been used in
22 drilling, cleaning out, reconditioning and plugging wells
23 in the storage reservoir or within the reservoir
24 protective area.

25 (6) The map and data required to be filed under
26 paragraph (5) shall be amended or supplemented semiannually
27 if material changes occur. The department may require a
28 storage operator to amend or supplement the map or data at
29 more frequent intervals if material changes have occurred
30 justifying the earlier filing.

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

7 (1) A person who, after April 18, 1985, proposes to
8 inject or store gas in a storage reservoir in an area not
9 covered by subsection (a) by a process other than that of
10 secondary recovery or gas recycling shall file the required
11 map and data with the department not less than six months
12 prior to the starting of actual injection or storage.

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

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

17 (ii) the geographic location of the outside
18 boundaries of the storage reservoir; and

19 (iii) the location of all known oil or gas wells
20 within the reservoir, or within 3,000 linear feet
21 thereof, which have been drilled into or through the
22 storage stratum, indicating which have been or are to be
23 cleaned out and plugged or reconditioned for storage and
24 the proposed location of all additional wells which are
25 to be drilled within the storage reservoir or within
26 3,000 linear feet thereof.

27 (3) The following, if available, shall be furnished for
28 all known oil or gas wells which have been drilled into or
29 through the storage stratum within the storage reservoir or
30 within 3,000 linear feet thereof: name of the operator, date

1 drilled, total depth, depth of production if the well was
2 productive of oil or gas, the initial rock pressure and
3 volume and a copy of the driller's log or other similar
4 information. At the time of the filing of the maps and data,
5 a statement shall be filed:

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

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

12 (iii) stating whether the initial injection is for
13 testing purposes;

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

16 (v) providing a detailed explanation of the methods
17 to be used or which previously have been used in
18 drilling, cleaning out, reconditioning and plugging wells
19 in the storage reservoir.

20 (4) The map and data required to be filed under
21 paragraph (3) shall be amended or supplemented semiannually
22 if material changes occur. The department may require a
23 storage operator to amend or supplement the map or data at
24 more frequent intervals if material changes have occurred
25 justifying the earlier filing.

26 (c) Political subdivisions.--Storage operators shall give
27 notice to the department of the name of each political
28 subdivision and county in which the operator maintains and
29 operates a gas storage reservoir.

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

(b) Mines near certain reservoirs.--A person owning or

operating any coal mine which is or which comes within 10,000
linear feet of a storage reservoir and where the coal seam being
operated extends over the storage reservoir or reservoir
protective area shall, within 45 days after receiving notice
from the storage operator of that fact, file with the department
and furnish to the person operating the storage reservoir a map
in the form required by subsection (a) showing, in addition to
the requirements of subsection (a), existing and projected
excavations and workings of the operating coal mine for the
ensuing 18-month period and the location of oil or gas wells of
which the coal operator has knowledge. The person owning or
operating the coal mine shall, each six months thereafter, file
with the department and furnish to the person operating the
storage reservoir a revised map showing any additional
excavations and workings, together with the projected
excavations and workings for the then ensuing 18-month period,
which may be within 10,000 linear feet of the storage reservoir.
The department may require a coal operator to file revised maps
at more frequent intervals if material changes have occurred
justifying earlier filing. The person owning or operating the
coal mine shall also file with the department and furnish the
person operating the reservoir prompt notice of any wells which
have been cut into, together with all available pertinent
information.

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

(d) Mines projected to be near storage reservoirs.--When a

1 person owning or operating a coal mine expects that, within the
2 ensuing nine-month period, the coal mine will be extended to a
3 point which will be within 2,000 linear feet of any storage
4 reservoir, the person shall notify the department and storage
5 operator in writing of that fact.

6 (e) New mines.--A person intending to establish or
7 reestablish an operating coal mine which will be over a storage
8 reservoir or within 2,000 linear feet of a storage reservoir or
9 may, within nine months thereafter, be expected to be within
10 2,000 linear feet of a storage reservoir shall immediately
11 notify the department and storage operator in writing. Notice
12 shall include the date on which the person intends to establish
13 or reestablish the operating coal mine.

14 (f) Misdemeanor.--A person who serves notice as required by
15 this subsection of an intention to establish or reestablish an
16 operating coal mine, without intending in good faith to
17 establish or reestablish the mine, is liable for continuing
18 damages to a storage operator injured by the improper notice and
19 commits a misdemeanor subject to the penalties of section 3255
20 (relating to penalties).

21 § 3233. General gas storage reservoir operations.

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

25 (1) Use every known method which is reasonable under the
26 circumstances for discovering and locating all wells which
27 have or may have been drilled into or through the storage
28 reservoir.

29 (2) Plug or recondition, as provided in departmental
30 regulations, all known wells drilled into or through the

1 storage reservoir, except to the extent otherwise provided in
2 subsections (b) and (c).

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

6 (b.1) Wells plugged prior to enactment of section.--If a
7 well located in the storage reservoir area has been plugged
8 prior to April 18, 1985, and on the basis of data, information
9 and other evidence submitted to the department, it is determined
10 that the plugging was done in the manner required by section
11 3220 or approved as an alternative method under section 3221
12 (relating to alternative methods) and the plugging is still
13 sufficiently effective to meet the requirements of this chapter,
14 the obligations under subsection (a) with regard to plugging the
15 well shall be considered to have been fully satisfied.

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

17 (1) To comply with subsection (a), wells which are to be
18 reconditioned shall, unless the department by regulation
19 specifies a different procedure, be cleaned out from the
20 surface through the storage horizon, and the producing casing
21 and casing strings determined not to be in good physical
22 condition shall be replaced with new casing, using the same
23 procedure as is applicable to drilling a new well under this
24 chapter. In the case of wells to be used for gas storage, the
25 annular space between each string of casing and the annular
26 space behind the largest diameter casing to the extent
27 possible shall be filled to the surface with cement or
28 bentonitic mud or a nonporous material approved by the
29 department under section 3221. At least 15 days prior to
30 reconditioning, the storage operator shall give notice to the

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

1 to the department, it is determined that:

2 (i) The conditioning or previous drilling and
3 equipping was done in the manner required in this
4 subsection, in regulations promulgated under this chapter
5 or in a manner approved as an alternative method in
6 accordance with section 3221.

7 (ii) The reconditioning or previous drilling and
8 equipping is still sufficiently effective to meet the
9 requirements of this chapter.

10 (2) If a well requires emergency repairs, this chapter
11 shall not be construed to require the storage operator to
12 give any notice required by this subsection before making the
13 repairs.

14 (d) Exception.--The requirements of subsection (a) shall not
15 apply to injection of gas into a stratum when the sole purpose
16 of injection, referred to in this subsection as testing, is to
17 determine whether the stratum is suitable for storage purposes.
18 Testing shall be conducted only in compliance with the following
19 requirements:

20 (1) The person testing or proposing to test shall comply
21 with section 3231 (relating to reporting requirements for gas
22 storage operations) and verify the statement required to be
23 filed by that section.

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

27 (3) If the department has objections, the department
28 shall fix a time and place for a conference under section
29 3251, not more than ten days from the date of notice to the
30 storage operator, at which time the storage operator and

department shall attempt to resolve the issues presented. If an agreement cannot be reached, the department may issue an appropriate order.

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

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

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

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

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

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

(ii) Operate and maintain the reservoir and its facilities as prescribed by departmental regulations and at a pressure which will prevent gas from escaping, but the pressure shall not exceed the highest rock pressure found to have existed during the production history of the reservoir or another high pressure limit approved by the department after holding a conference under section

1 3251 based on geological and production knowledge of the
2 reservoir, its character, permeability distribution and
3 operating experience.

4 (2) The duty under paragraph (1) shall not be construed
5 to include inability to prevent the escape of gas when gas
6 escapes as a result of an act of God or a person not under
7 the control of the storage operator. In that instance, the
8 storage operator shall have a duty to take action reasonably
9 necessary to prevent further escape of gas. This paragraph
10 does not apply to a well which the storage operator failed to
11 locate and make known to the department.

12 § 3234. Gas storage reservoir operations in coal areas.

13 (a) General rule.--A person operating a storage reservoir
14 which underlies or is within 2,000 linear feet of a coal mine
15 operating in a coal seam that extends over the storage reservoir
16 or the reservoir protective area shall:

17 (1) Use every known reasonable method for discovering
18 and locating all wells which have or may have been drilled
19 into or through the storage stratum in the acreage lying
20 within the outside coal boundaries of the operating coal mine
21 overlying the storage reservoir or the reservoir protective
22 area.

23 (2) Plug or recondition, as provided by section 3220
24 (relating to plugging requirements) and subsection (e), all
25 known wells, except to the extent provided in subsections
26 (e), (f), (g) and (h), drilled into or through the storage
27 stratum and located within the portion of the acreage of the
28 operating coal mine overlying the storage reservoir or the
29 reservoir protective area. If an objection is raised as to
30 use of a well as a storage well and after a conference under

1 section 3251 (relating to conferences), it is determined by
2 the department, taking into account all circumstances and
3 conditions, that the well should not be used as a storage
4 well, the well shall be plugged unless, in the opinion of the
5 storage operator, the well may be used as a storage well in
6 the future, in which case, upon approval of the department
7 after taking into account all circumstances and conditions,
8 the storage operator may recondition and inactivate the well
9 rather than plug it.

10 (3) The requirements of paragraph (2) shall be deemed to
11 have been fully complied with if, as the operating coal mine
12 is extended, all wells which from time to time come within
13 the acreage described in paragraph (2) are reconditioned or
14 plugged as provided in section 3220 and subsection (e) or (f)
15 so that, by the time the coal mine has reached a point within
16 2,000 linear feet of the wells, they will have been
17 reconditioned or plugged in accordance with section 3220 and
18 subsection (e) or (f).

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

23 (1) That the map and any supplemental maps required by
24 section 3231(a) (relating to reporting requirements for gas
25 storage operations) have been prepared and filed in
26 accordance with section 3231.

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

30 (3) Such additional efforts, if any, as the storage

1 operator is making and intends to make to locate all wells.

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

4 (b.1) Order of department.--If the statement required under
5 subsection (b) is not filed by the storage reservoir operator
6 within the time specified by this chapter or the regulations of
7 the department, the department may order the operator to file
8 the statement.

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

29 (d) Notification.--If, in complying with subsection (a), a
30 storage operator, after filing the statement provided for in

1 subsection (b), plugs or reconditions a well, the storage
2 operator shall notify the department and the coal operator
3 affected, in writing, setting forth facts indicating the manner
4 in which the plugging or reconditioning was done. Upon receipt
5 of the notification, the coal operator or department may request
6 a conference under section 3251.

7 (e) Plugging wells.--In order to meet the requirements of
8 subsection (a), wells which are to be plugged shall be plugged
9 in the manner specified in regulations promulgated under section
10 3211 (relating to well permits). When a well located within the
11 storage reservoir or the reservoir protective area has been
12 plugged prior to April 18, 1985, and, on the basis of the data
13 information and other evidence submitted to the department, it
14 is determined that the plugging was done in the manner required
15 by section 3220, or in a manner approved as an alternative
16 method in accordance with section 3221 (relating to alternative
17 methods), and the plugging is still sufficiently effective to
18 meet the requirements of this chapter, the requirements of
19 subsection (a) as to plugging the well shall be considered to
20 have been fully satisfied.

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

22 (1) In order to comply with subsection (a), unless the
23 department by regulation specifies a different procedure,
24 wells which are to be reconditioned shall be cleaned out from
25 the surface through the storage horizon, and the following
26 casing strings shall be pulled and replaced with new casing,
27 using the procedure applicable to drilling a new well under
28 this chapter:

29 (i) the producing casing;

30 (ii) the largest diameter casing passing through the

1 lowest workable coal seam unless it extends at least 25
2 feet below the bottom of the coal seam and is determined
3 to be in good physical condition, but the storage
4 operator may, instead of replacing the largest diameter
5 casing, replace the next largest casing string if the
6 casing string extends at least 25 feet below the lowest
7 workable coal seam; and

8 (iii) casing strings determined not to be in good
9 physical condition.

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

16 (3) At least 15 days before a well is to be
17 reconditioned, the storage operator shall give notice to the
18 department and the coal operator, lessee or owner, setting
19 forth the manner in which reconditioning is planned and
20 pertinent data known to the storage operator which will
21 indicate the current condition of the well, along with at
22 least 72 hours' notice of the date and time when
23 reconditioning will begin. The coal operator, lessee or owner
24 shall have the right to file, within ten days after receipt
25 of the notice, objections to the plan of reconditioning as
26 submitted by the storage operator. If no objections are filed
27 and none are raised by the department within ten days, the
28 storage operator may proceed with reconditioning in
29 accordance with the plan as submitted. If an objection is
30 filed or made by the department, the department shall fix a

1 time and place for a conference under section 3251, at which
2 conference the storage operator and the person having
3 objections shall attempt to agree on a plan of reconditioning
4 that meets the requirements of this section. If no agreement
5 is reached, the department shall, by an appropriate order,
6 determine whether the plan as submitted meets the
7 requirements of this section or what changes should be made
8 to meet the requirements. If, in reconditioning the well in
9 accordance with the plan, physical conditions are encountered
10 which justify or necessitate a change in the plan, the
11 storage operator or coal operator may request that the plan
12 be changed. If the parties cannot agree on a change, the
13 department shall arrange for a conference to determine the
14 matter in the same manner as set forth in connection with
15 original objections to the plan.

16 (4) Application may be made to the department in the
17 manner prescribed in section 3221 for approval of an
18 alternative method of reconditioning a well. When a well
19 located within the storage reservoir or the reservoir
20 protective area has been reconditioned or drilled and
21 equipped prior to April 18, 1985, and, on the basis of the
22 data, information and other evidence submitted to the
23 department, the obligations imposed by subsection (a) as to
24 reconditioning the well shall be considered to be fully
25 satisfied if it is determined that reconditioning or previous
26 drilling and equipping:

27 (i) was done in the manner required in this
28 subsection, or in regulations promulgated hereunder, or
29 in a manner approved as an alternative method in
30 accordance with section 3221; or

1 (ii) is still sufficiently effective to meet the
2 requirements of this chapter.

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

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

11 (h) Certain other wells.--If a well within a storage
12 reservoir or reservoir protective area penetrates the storage
13 stratum but does not penetrate the coal seam being mined by an
14 operating coal mine, the department may, upon application of the
15 operator of the storage reservoir, exempt the well from the
16 requirements of this section. Either party affected may request
17 a conference under section 3251 with respect to exemption of a
18 well covered by this subsection.

19 (i) Plugging limitation.--In fulfilling the requirements of
20 subsection (a)(2) with respect to a well within the reservoir
21 protective area, the storage operator shall not be required to
22 plug or recondition the well until the storage operator has
23 received from the coal operator written notice that the mine
24 workings will, within the period stated in the notice, be within
25 2,000 linear feet of the well. Upon the receipt of the notice,
26 the storage operator shall use due diligence to complete the
27 plugging or reconditioning of the well in accordance with the
28 requirements of this section and section 3220. If the mine
29 workings do not, within a period of three years after the well
30 has been plugged, come within 2,000 linear feet of the well, the

coal operator shall reimburse the storage operator for the cost of plugging, provided that the well is still within the reservoir protective area as of that time.

(j) Retreat mining.--If retreat mining approaches a point where, within 90 days, it is expected that the retreat work will be at the location of the pillar surrounding an active storage well, the coal operator shall give written notice to the storage operator, and by agreement, the parties shall determine whether it is necessary or advisable to effectively and temporarily inactivate the well. The well shall not be reactivated until a reasonable period, determined by the parties, has elapsed. If the parties cannot agree as required by this subsection, the matter shall be submitted to the department for resolution. The number of wells required to be temporarily inactivated during the retreat period shall not be of a number that materially affects efficient operation of the storage pool, except that this provision shall not preclude temporary inactivation of a particular well if the practical effect of inactivating it is to render the pool temporarily inoperative.

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

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

(2) If any part of the proposed storage reservoir is under or within 2,000 linear feet of an operating coal mine

1 which is operating in a coal seam that extends over the
2 proposed storage reservoir or the reservoir protective area,
3 the storage operator shall give at least six months' written
4 notice to the department and coal operator of the fact that
5 injection of gas for testing purposes is proposed.

6 (3) The coal operator affected may at any time file
7 objections with the department, whereupon the department
8 shall fix a time and place for a conference under section
9 3251, not more than ten days from the date of the notice to
10 the storage operator. At the conference, the storage operator
11 and the objecting party shall attempt to agree, subject to
12 approval of the department, on the questions involved. If an
13 agreement cannot be reached, the department may issue an
14 appropriate order.

15 (4) If at any time a proposed storage reservoir being
16 tested comes under or within 2,000 linear feet of an
17 operating coal mine because of extension of the storage
18 reservoir being tested or because of extension or
19 establishment or reestablishment of the operating coal mine,
20 the requirements of this subsection shall immediately become
21 applicable to the testing.

22 (1) Storage reservoirs near operating coal mines.--A person
23 who proposes to establish a storage reservoir under or within
24 2,000 linear feet of a coal mine operating in a coal seam that
25 extends over the storage reservoir or the reservoir protective
26 area shall, prior to establishing the reservoir, and in addition
27 to complying with section 3231 and subsection (a), file the
28 verified statement required by subsection (b) and fully comply
29 with any order of the department in the manner provided under
30 subsection (b) or (c) before commencing operation of the storage

1 reservoir. After the person proposing to operate the storage
2 reservoir complies with the requirements of this subsection and
3 commences operations, the person shall continue to be subject to
4 all provisions of this chapter.

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

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

18 (2) the coal operator shall give notice of the delay to
19 the department;

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

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

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

1 (n) Failure to comply with order.--If, in any proceeding
2 under this chapter, the department determines that an operator
3 of a storage reservoir has failed to comply with a lawful order
4 issued under this chapter, the department may require the
5 storage operator to suspend operation of the reservoir and
6 withdraw the gas from it until the violation is remedied, in
7 which case the storage operator, limited by due diligence
8 insofar as existing facilities utilized to remove gas from the
9 reservoir will permit, shall:

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

12 (2) in any event, remove the maximum amount which can be
13 withdrawn in accordance with recognized engineering and
14 operating procedures.

15 (o) Prevention of escape of gas.--In addition to initial
16 compliance with other provisions of this chapter and lawful
17 orders issued under this chapter, it shall be the duty, at all
18 times, of a person owning or operating a storage reservoir
19 subject to this chapter to keep all wells drilled into or
20 through the storage stratum in a condition, and operate the
21 wells in a manner, which is designed to prevent the escape of
22 gas out of the storage reservoir and its facilities, and to
23 operate and maintain the storage reservoir and its facilities in
24 the manner prescribed by regulation of the department and at a
25 pressure that will prevent gas from escaping from the reservoir
26 or its facilities. This duty shall not be construed to include
27 inability to prevent the escape of gas when escape results from
28 an act of God or a person not under the control of the storage
29 operator, except that this exception does not apply to a well
30 which the storage operator has failed to locate and make known

1 to the department. If an escape of gas results from an act of
2 God or a person not under the control of the storage operator,
3 the storage operator shall be under the duty to take any action
4 reasonably necessary to prevent further escape of gas out of the
5 storage reservoir and its facilities.

6 § 3235. Inspection of facilities and records.

7 (a) General rule.--The person operating a storage reservoir
8 affected by this chapter shall, at all reasonable times, be
9 permitted to inspect applicable records and facilities of a coal
10 mine overlying the storage reservoir or reservoir protective
11 area. The person operating a coal mine affected by this chapter
12 shall, at all reasonable times, be permitted to inspect
13 applicable records and facilities of a storage reservoir
14 underlying the coal mine.

15 (b) Order.--If a storage operator or coal operator subject
16 to subsection (a) refuses to permit inspection of records or
17 facilities, the department may, on its own motion or on
18 application of the party seeking inspection, after reasonable
19 written notice and a hearing if requested by an affected party,
20 order inspection.

21 § 3236. Reliance on maps and burden of proof.

22 (a) General rule.--In determining whether a coal mine or
23 operating coal mine is or will be within a particular distance
24 from a storage reservoir which is material under this chapter,
25 the owner or operator of the coal mine and the storage operator
26 may rely on the most recent map of the storage reservoir or coal
27 mine filed by the other party with the department.

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

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

5 (2) have the burden of proving accuracy of the map or
6 data.

7 § 3237. Exemptions and prohibitions.

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

10 (1) Strip mines and auger mines operating from the
11 surface.

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

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

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

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

29 (c) Certain rock formations.--Nothing in this chapter
30 applies to storage of gas or liquids in storage reservoirs

1 excavated in rock formations specifically for storage purposes.

2 SUBCHAPTER D

3 EMINENT DOMAIN

4 Sec.

5 3241. Appropriation of interest in real property.

6 § 3241. Appropriation of interest in real property.

7 (a) General rule.--Except as provided in this subsection, a
8 corporation empowered to transport, sell or store natural gas or
9 manufactured gas in this Commonwealth may appropriate an
10 interest in real property located in a storage reservoir or
11 reservoir protective area for injection, storage and removal
12 from storage of natural gas or manufactured gas in a stratum
13 which is or previously has been commercially productive of
14 natural gas. The right granted by this subsection shall not be
15 exercised to acquire any of the following for the purpose of gas
16 storage:

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

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

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

26 (2) An interest in a geological stratum within the area
27 of a proposed storage reservoir or reservoir protective area
28 owned directly or indirectly by a gas company or other person
29 engaged in local distribution of natural gas, if the interest
30 to be acquired is presently being used by the gas company or

other person for storage of gas in performance of service to customers in its service area.

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

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

(i) a stratum to be used for storage;

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

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

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

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

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

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

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

(c) Activities through appropriated strata.--A person

1 drilling, operating, using or plugging a well through a stratum
2 appropriated under this chapter shall drill, case, equip,
3 operate or plug it in a manner designed to prevent avoidable
4 escape of gas that may be stored in the storage stratum. Upon
5 violation of this subsection, the court of common pleas of the
6 county where the land in question is situated may compel
7 compliance by injunction or grant other appropriate relief in an
8 action brought by the person storing gas in the storage stratum.

9 (d) Prerequisites to appropriation.--Before appropriating
10 under this chapter, a person shall attempt to agree with owners
11 of interests in the real property involved as to damages payable
12 for rights and interests to be appropriated, if the owners can
13 be found and are sui juris. If the parties fail to agree, the
14 person shall tender a surety bond to the owners to secure them
15 in the payment of damages. If the owners refuse to accept the
16 bond, cannot be found or are not sui juris, and after reasonable
17 notice to the owners by advertisement or otherwise, the bond
18 shall be presented for approval to the court of common pleas of
19 the county in which the tract of land is situated. Upon the
20 approval of the bond by the court, the right of the person to
21 appropriate in accordance with the provisions of this chapter
22 shall be complete.

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

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

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

30 (3) provide notice to the parties; and

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

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

6 (g) Requirements.--Nothing in this section shall relieve a
7 person operating a storage reservoir from the requirements of
8 this chapter.

9 SUBCHAPTER E

10 ENFORCEMENT AND REMEDIES

11 Sec.

12 3251. Conferences.

13 3252. Public nuisances.

14 3253. Enforcement orders.

15 3254. Restraining violations.

16 3254.1. Well control emergency response cost recovery.

17 3255. Penalties.

18 3256. Civil penalties.

19 3257. Existing rights and remedies preserved and cumulative
20 remedies authorized.

21 3258. Inspection and production of materials, witnesses,
22 depositions and rights of entry.

23 3259. Unlawful conduct.

24 3260. Collection of fines and penalties.

25 3261. Third party liability.

26 3262. Inspection reports.

27 § 3251. Conferences.

28 (a) General rule.--The department or any person having a
29 direct interest in a matter subject to this chapter may, at any
30 time, request that a conference be held to discuss and attempt

1 to resolve by mutual agreement a matter arising under this
2 chapter. Unless otherwise provided, conferences shall be held
3 within 90 days after a request is received by the department,
4 and notice shall be given by the department to all interested
5 parties. A representative of the department shall attend the
6 conference and the department may make recommendations. An
7 agreement reached at a conference shall be consistent with this
8 chapter and, if approved by the department, it shall be reduced
9 to writing and shall be effective, unless reviewed and rejected
10 by the department within ten days after the conference. The
11 record of an agreement approved by the department shall be kept
12 on file by the department and copies shall be furnished to the
13 parties. The scheduling of a conference shall have no effect on
14 the department's authority to issue orders to compel compliance
15 with this chapter.

16 (b) Notification.--When a coal operator is to be notified of
17 a proceeding under this section, the department simultaneously
18 shall send a copy of the notice to the collective bargaining
19 representative of employees of the coal operator.

20 § 3252. Public nuisances.

21 A violation of section 3215.1 (relating to general
22 restrictions), 3216 (relating to well site restoration), 3217
23 (relating to protection of fresh groundwater and casing
24 requirements), 3218 (relating to protection of water supplies),
25 3219 (relating to use of safety devices) or 3220 (relating to
26 plugging requirements), or a rule, regulation, order, term or
27 condition of a permit relating to any of those sections
28 constitutes a public nuisance.

29 § 3253. Enforcement orders.

30 (a) General rule.--Except as modified by subsections (b),

1 (c) and (d), the department may issue orders necessary to aid in
2 enforcement of this chapter. An order issued under this chapter
3 shall take effect upon notice, unless the order specifies
4 otherwise. The power of the department to issue an order under
5 this chapter is in addition to any other remedy available to the
6 department under this chapter or under any other law.

7 (b) Suspension and revocation.--The department may suspend
8 or revoke a well permit or well registration for any well in
9 continuing violation of this chapter, the act of June 22, 1937
10 (P.L.1987, No.394), known as The Clean Streams Law; the act of
11 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
12 Management Act; any other statute administered by the
13 department; or a rule or regulation. A suspension order of the
14 department shall automatically terminate if the violation upon
15 which it is based is corrected by the operator to the
16 satisfaction of the department in order to bring the well into
17 compliance with this chapter.

18 (c) Written notice.--Prior to suspension or revocation of a
19 well permit or registration, the department shall serve written
20 notice on the well operator or its agent, stating specifically
21 the statutory provision, rule, regulation or other reason relied
22 upon, along with factual circumstances surrounding the alleged
23 violation.

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

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

1 § 3254. Restraining violations.

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

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

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

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

1 § 3254.1. Well control emergency response cost recovery.

2 A person liable for a well control emergency is responsible
3 for all response costs incurred by the department to respond to
4 the well control emergency. In an action before a court of
5 competent jurisdiction, the department may recover all its
6 response costs, including the cost of regaining control of the
7 well, controlling the perimeter of the well site, preparing
8 water sprays, establishing trenches or dikes to capture runoff
9 fluids and providing the resources and equipment needs for the
10 incident.

11 § 3255. Penalties.

12 (a) General violation.--A person violating a provision of
13 this chapter commits a summary offense and, upon conviction,
14 shall be sentenced to pay a fine of not more than \$300 or to
15 imprisonment of not more than 90 days, or both. Each day during
16 which the violation continues is a separate and distinct
17 offense.

18 (b) Willful violation.--A person willfully violating a
19 provision of this chapter or an order of the department issued
20 under this chapter commits a misdemeanor and, upon conviction,
21 shall be sentenced to pay a fine of not more than \$5,000 or to
22 imprisonment of not more than one year, or both. Each day during
23 which the violation continues is a separate and distinct
24 offense.

25 (c) Authority.--The department may institute a prosecution
26 against any person or municipality for a violation of this
27 chapter.

28 § 3256. Civil penalties.

29 In addition to other remedies available at law or in equity
30 for a violation of this chapter, a rule or regulation of the

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

1 § 3257. Existing rights and remedies preserved and cumulative
2 remedies authorized.

3 Nothing in this chapter estops the Commonwealth or a district
4 attorney from proceeding in a court of law or in equity to abate
5 pollution forbidden under this chapter or a nuisance under
6 existing law. It is hereby declared to be the purpose of this
7 chapter to provide additional and cumulative remedies to control
8 activities related to drilling for, or production of, oil and
9 gas in this Commonwealth, and nothing contained in this chapter
10 abridges or alters rights of action or remedies existing, or
11 which existed previously, in equity or under common or statutory
12 law, criminal or civil. Neither this chapter, the grant of a
13 permit under this chapter nor an act done by virtue of this
14 chapter estops the Commonwealth, in exercising rights under
15 common or decisional law or in equity, from suppressing a
16 nuisance, abating pollution or enforcing common law or statutory
17 rights. No court of this Commonwealth with jurisdiction to abate
18 public or private nuisances shall be deprived of jurisdiction in
19 an action to abate a private or public nuisance instituted by
20 any person on grounds that the nuisance constitutes air or water
21 pollution.

22 § 3258. Inspection and production of materials, witnesses,
23 depositions and rights of entry.

24 (a) General rule.--The department may make inspections,
25 conduct tests or sampling or examine books, papers and records
26 pertinent to a matter under investigation under this chapter to
27 determine compliance with this chapter. For this purpose, the
28 duly authorized agents and employees of the department may at
29 all reasonable times enter and examine any involved property,
30 facility, operation or activity.

1 (a.1) Preoperation inspections.--The operator may not
2 commence drilling activities until the department has conducted
3 an inspection of the unconventional well site after the
4 installation of erosion and sediment control measures. The
5 department may conduct follow-up inspections of well sites and
6 related activities to determine compliance with the act.

7 (b) Access.--The owner, operator or other person in charge
8 of a property, facility, operation or activity under this
9 chapter, upon presentation of proper identification and purpose
10 either for inspection or to remediate or otherwise respond to a
11 well control emergency, by agents or employees of the
12 department, shall provide free and unrestricted entry and
13 access. Upon refusal, the agent or employee may obtain a search
14 warrant or other suitable order authorizing entry and inspection
15 remediation or response. It shall be sufficient to justify
16 issuance of a search warrant authorizing examination and
17 inspection if:

18 (1) there is probable cause to believe that the object
19 of the investigation is subject to regulation under this
20 chapter; and

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

23 (c) Witnesses.--In any part of this Commonwealth, the
24 department may subpoena witnesses, administer oaths, examine
25 witnesses, take testimony and compel production of books,
26 records, maps, plats, papers, documents and other writings
27 pertinent to proceedings or investigations conducted by the
28 department under this chapter. Upon refusal to obey a subpoena
29 by any person and on application of the department, a court may
30 enforce a subpoena in contempt proceedings. Fees for serving a

1 subpoena shall be the same as those paid to sheriffs for similar
2 services.

3 (d) Deposition.--The department or a party to a proceeding
4 before the department may cause the deposition of a witness who
5 resides in or outside of this Commonwealth to be taken in the
6 manner prescribed by law for taking depositions in civil
7 actions.

8 (e) Witness fee.--Witnesses summoned before the department
9 shall be paid the same fees as are paid to witnesses in courts
10 of record of general jurisdiction. Witnesses whose depositions
11 are taken under this chapter, and the officers taking those
12 depositions, shall be entitled to the same fees as those paid
13 for like services in court.

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

22 § 3259. Unlawful conduct.

23 It shall be unlawful for any person to:

24 (1) Drill, alter, operate or utilize an oil or gas well
25 without a permit or registration from the department as
26 required by this chapter or in violation of rules or
27 regulations adopted under this chapter, orders of the
28 department or a term or condition of a permit issued by the
29 department.

30 (2) Conduct an activity related to drilling for, or

1 production of, oil and gas:

2 (i) contrary to this chapter, rules or regulations
3 adopted under this chapter, an order of the department or
4 a term or condition of a permit issued by the department;
5 or

6 (ii) in any manner as to create a public nuisance or
7 adversely affect public health, safety, welfare or the
8 environment.

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

13 (4) Attempt to obtain a permit or identify a well as an
14 orphan well by misrepresentation or failure to disclose all
15 relevant facts.

16 (5) Cause abandonment of a well by removal of casing or
17 equipment necessary for production without plugging the well
18 in the manner prescribed under section 3220 (relating to
19 plugging requirements), except that the owner or operator of
20 a well may temporarily remove casing or equipment necessary
21 for production, but only if it is part of the normal course
22 of production activities.

23 § 3260. Collection of fines and penalties.

24 Fines and penalties shall be collectible in a manner provided
25 by law for collection of debts. If a person liable to pay a
26 penalty neglects or refuses to pay after demand, the amount,
27 together with interest and costs that may accrue, shall be a
28 judgment in favor of the Commonwealth on the person's property,
29 but only after the judgment has been entered and docketed of
30 record by the prothonotary of the county where the property is

1 situated. The department may transmit to prothonotaries of the
2 various counties certified copies of all judgments, and it shall
3 be the duty of each prothonotary to enter and docket them of
4 record in the prothonotary's office and index them as judgments
5 are indexed, without requiring payment of costs as a condition
6 precedent to entry.

7 § 3261. Third party liability.

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

13 § 3262. Inspection reports.

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

17 (1) The nature and description of violations.

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

20 (3) The status of the violation.

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

23 SUBCHAPTER F

24 MISCELLANEOUS PROVISIONS

25 Sec.

26 3271. Well plugging funds.

27 3272. Local ordinances.

28 3273. Effect on department authority.

29 3273.1. Relationship to solid waste and surface mining.

30 3274. Regulatory authority.

1 § 3271. Well plugging funds.

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

5 (b) Surcharge.--To aid in indemnifying the Commonwealth for
6 the cost of plugging abandoned wells, a \$50 surcharge is added
7 to the permit fee established by the department under section
8 3211 (relating to well permits) for new wells. Money collected
9 as a result of the surcharge shall be paid into a restricted
10 revenue account in the State Treasury to be known as the
11 Abandoned Well Plugging Fund and expended by the department to
12 plug abandoned wells threatening the health and safety of
13 persons or property or pollution of waters of this Commonwealth.

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

15 (1) A restricted revenue account to be known as the
16 Orphan Well Plugging Fund is created. A \$100 surcharge for
17 wells to be drilled for oil production and a \$200 surcharge
18 for wells to be drilled for gas production are added to the
19 permit fee established by the department under section 3211
20 for new wells. The surcharges shall be placed in the Orphan
21 Well Plugging Fund and expended by the department to plug
22 orphan wells. If an operator rehabilitates a well abandoned
23 by another operator or an orphan well, the permit fee and the
24 surcharge for the well shall be waived.

25 (2) The department shall study its experience in
26 implementing this section and shall report its findings to
27 the Governor and the General Assembly by August 1, 1992. The
28 report shall contain information relating to the balance of
29 the fund, number of wells plugged, number of identified wells
30 eligible for plugging and recommendations as to alternative

1 funding mechanisms.

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

6 § 3272. Local ordinances.

7 (a) General rule.--Except as provided under subsection (b),
8 this chapter and any other environmental law are of Statewide
9 concern and occupy the entire field of regulation regarding oil
10 and gas operations, to the exclusion of all local rules,
11 regulations, codes, agreements, resolutions, ordinances and
12 other local enactments. No local rule, regulation, code,
13 agreement, resolution, ordinance or other local enactment of any
14 municipality may regulate oil and gas operations. All local
15 rules, regulations, codes, agreements, resolutions, ordinances
16 and other local enactments that regulate oil and gas operations
17 are hereby superseded and preempted.

18 (b) Exception.--Subsection (a) shall not apply to ordinances
19 adopted under the act of October 4, 1978 (P.L.851, No.166),
20 known as the Flood Plain Management Act.

21 § 3273. Effect on department authority.

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

30 § 3273.1. Relationship to solid waste and surface mining.

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

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

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

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

23 (b) Noncoal surface mining.--Obligations under the act of
24 December 19, 1984 (P.L.1093, No.219), known as the Noncoal
25 Surface Mining Conservation and Reclamation Act, or a rule or
26 regulation promulgated thereunder, for any borrow area where
27 minerals are extracted solely for the purpose of oil and gas
28 well development, including access road construction, shall be
29 considered to have been satisfied if the owner or operator of
30 the well meets the conditions imposed under subsection (a)(1)

1 and (2) and maintains compliance with this chapter and
2 applicable regulations of the Environmental Quality Board.

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

10 (d) Definition.--As used in this section and sections 3216
11 (relating to well site restoration) and 3225 (relating to
12 bonding), the term "well site" means areas occupied by all
13 equipment or facilities necessary for or incidental to drilling,
14 production or plugging a well.
15 § 3274. Regulatory authority.

16 The Environmental Quality Board shall adopt regulations to
17 implement this chapter.

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

26 (1) Except as otherwise provided in 27 Pa.C.S. Ch. 33
27 Subch. B, all activities initiated under the former act of
28 December 15, 1955 (P.L.865, No.256) shall continue and remain
29 in full force and effect and may be completed under 27
30 Pa.C.S. Ch. 33 Subch. B. Resolutions, orders, regulations,

1 rules and decisions which were made under the former act of
2 December 15, 1955 (P.L.865, No.256) and which are in effect
3 on the effective date of this section shall remain in full
4 force and effect until revoked, vacated or modified under 27
5 Pa.C.S. Ch. 33 Subch. B. Contracts, obligations and
6 agreements entered into under the former act of December 15,
7 1955 (P.L.865, No.256) are not affected nor impaired by the
8 repeal of the former act of December 15, 1955 (P.L.865,
9 No.256).

10 (2) Except as set forth in paragraph (3), any difference
11 in language between 27 Pa.C.S. Ch. 33 Subch. B and the former
12 act of December 15, 1955 (P.L.865, No.256) is intended only
13 to conform to the style of the Pennsylvania Consolidated
14 Statutes and is not intended to change or affect the
15 legislative intent, judicial construction or administrative
16 interpretation and implementation of the former act of
17 December 15, 1955 (P.L.865, No.256).

18 (3) Paragraph (2) does not apply to 27 Pa.C.S. §§ 3301,
19 3302(b)(3), 3305 and 3306.

20 Section 4. Repeals are as follows:

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

24 (2) The act of December 15, 1955 (P.L.865, No.256),
25 entitled "An act requiring rents and royalties from oil and
26 gas leases of Commonwealth land to be placed in a special
27 fund to be used for conservation, recreation, dams, and flood
28 control; authorizing the Secretary of Forests and Waters to
29 determine the need for and location of such projects and to
30 acquire the necessary land," is repealed.

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

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

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

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

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

26 (3) Paragraph (2) does not apply to the addition of 58
27 Pa.C.S. §§ 3203, 3211, 3212.1, 3215, 3215.1, 3216, 3218,
28 3219.1, 3222, 3225, 3252, 3253, 3254.1, 3256, 3258, 3262 and
29 3272.

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