

MATTHEW E. BAKER, MEMBER

PO BOX 202068
HARRISBURG, PA 17120-2068
PHONE: (717) 772-5371
FAX: (717) 705-1835

DISTRICT OFFICES:
74 MAIN STREET
WELLSBORO, PA 16901
PHONE: (570) 724-1390
FAX: (570) 724-2168

121 CANTON STREET
TROY, PA 16947
PHONE: (570) 297-3045
FAX: (570) 297-5551



House of Representatives

Commonwealth of Pennsylvania
Harrisburg

CHAIRMAN, HEALTH COMMITTEE
HUMAN SERVICES COMMITTEE
RULES COMMITTEE
POLICY COMMITTEE

CAUCUSES
FIREFIGHTERS & EMERGENCY SERVICES
LOCAL TAX REFORM
RURAL HEALTH CARE
SPORTSMEN
TIMBER
DIABETES
LUPUS

APPOINTMENTS
STATE SYSTEM OF HIGHER EDUCATION
BOARD OF GOVERNORS
HEALTH CAREERS LEADERSHIP COUNCIL
CAPITOL PRESERVATION COMMITTEE

MEMORANDUM

TO: All House Members

FROM: Representative Matt Baker

RE: Co-sponsorship of Legislation- Amending the PA Oil & Gas Act

DATE: July 22, 2011

In the near future, I plan to introduce legislation amending the Pennsylvania Oil and Gas Act. The legislation I am proposing will mirror many of the recommendations contained in the recently released report of the Marcellus Shale Advisory Commission. The Oil and Gas Act has not been substantially changed since its enactment in 1984. Since that time, as we all know, significant technology and other advancements have enabled the development of natural gas from within reservoirs which have previously been unavailable.

During the time the Oil and Gas Act was signed into law, accessing areas such as the Marcellus Shale formation were not necessarily contemplated and neither were the technologies we take as commonplace today. Consequently, in my view, it is now time to engage in legislation that updates the Oil and Gas Act.

Specifically, the proposed changes to the act which I envision offering as it relates to Marcellus Shale and other unconventional natural gas development would be as follows:

1. Extend the operator's presumptive liability from 1,000 to 2,500 feet and extend the timeframe for when the damage was to have occurred from 6 to 12 months. This presumption of liability would also be applied to well stimulating operations, in addition to the existing well drilling or altering operations.

2. Require operators to provide notice and a copy of the plat plan to property owners within 2,500 feet of the proposed well, as well as the host municipality or any municipality within 2,500 feet of the proposed well. This provision would also clarify that all surface owners, water purveyors, and municipalities are to receive notifications.
3. Increase the mandatory distance restriction between a private water well and a natural gas well from 200 feet to 500 feet, unless waived by the property owner; increase the setback distance from streams, ponds, and other bodies of water from 100 to 300 feet; restrict well drilling from within at least 1,000 feet of a public water supply, unless waived by the water supply operator; and add a provision that would restrict well sites in flood plains.
4. Require comprehensive manifesting of hydraulic fracturing waste water from water withdrawal to disposal at high-volume wells, which would be classified as wells utilizing more than 80,000 gallons.
5. Increase bonding amounts for well operations. The amounts would be based upon the length of the well bore and the number of wells being operated. In the case of well bores less than 6,000 feet, the increased amounts would range from \$4,000 per well (for operators with 50 wells or less) to operations with 250 or more wells where the requirement would be a total of \$100,000, plus a \$4,000 per well. Under this scenario an operator would not be required to provide a bond exceeding \$250,000.

In the case of well bores exceeding 6,000 feet, these amounts would also vary. Under this circumstance, the amounts would range from \$10,000 per well (for operators with up to 25 wells), not to exceed \$60,000, to, in the case of an operator with more than 150 wells, a total of \$180,000, plus \$10,000 per well in excess of 150 wells, not to exceed a maximum of \$250,000.

6. Create increased penalties for violations by well operators. This proposed provision would grant the Pennsylvania Department of Environmental Protection (DEP) the authority to revoke a well permit if the department finds that the operator has not complied with any of the provisions of the Oil and Gas Act or other applicable statutes administered by DEP.

Additionally, DEP would be granted authority to not issue a permit, or renew or amend any permit required under the Oil and Gas Act, if the department finds, after an investigation and informal hearing, that an applicant has failed to comply with the Oil and Gas Act or other applicable statutes administered by DEP, or the applicant has shown a lack of intention to comply. This provision would also apply to an applicant that has a related entity, such as a subsidiary corporation or subcontractor, which has engaged in unlawful conduct as currently defined in the Act, unless the permit application demonstrates the violation is being corrected to the satisfaction of the department.

7. Increase the civil and criminal penalties currently in the Oil and Gas Act. This would take the form of increasing the civil penalty to \$50,000, plus \$2,000 for each day of the continued violation, and remove the requirement that the Environmental Hearing Board (EHB) assess the penalty. This would essentially permit DEP to levy the penalty, but would provide for an appeal to the EHB.

Those charged with a violation would be required to pay within 30 days. If the operator wishes to contest the amount of the violation, the amount would be forwarded to an escrow account. In regard to criminal penalties, my proposal would establish that a negligent violation of the Act would be second degree misdemeanor and, upon conviction, the violator would be subject to a fine of \$2,500 up to a maximum of \$25,000 or imprisonment not to exceed two years, or both. In instances of intentional violation of the Act, this would constitute a third degree felony and, upon conviction, the violator would be subject to a fine of \$5,000 up to a maximum of \$50,000 or imprisonment up to five years, or both.

8. Require the operator to indicate on its plat plan the location of the well, well site and access roads. The legislation I propose would also clarify that a well permit authorizes the preparation and construction of the well, in addition to the operation of the well, and would permit DEP, by regulation, to place additional conditions on a well permit based on its assessment of the impact on public resources.
9. Provide DEP with the authority to enter into contracts with well control specialists to provide proper response in the event of a well control emergency.
10. Hold harmless well control specialists from damages arising from their emergency well control actions, unless proven that the action was due to negligence. Additionally, authorize DEP to seek cost recovery from well operators when it is necessary for DEP to employ well control specialists because the well operator has failed to take timely action.
11. Require DEP to post and provide regular updates of well inspection reports through an Internet based reporting system.

The members of the Marcellus Shale Advisory Commission spent countless hours researching and developing the recommendations contained in the final report to Governor Corbett. I believe these proposed changes represent common sense approaches to updating the Pennsylvania Oil and Gas Act and fairly reflect the hard work of the volunteers of the Commission.

If you would like to join me as a cosponsor of this legislation, please contact Gina Strine in my office at 772-5769 or via email at Gstrine@pahousegop.com

