

OIL AND GAS ACT - OMNIBUS AMENDMENTS
Act of Jul. 2, 1992, P.L. 365, No. 78

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HB 866

AN ACT

Amending the act of December 19, 1984 (P.L.1140, No.223), entitled "An act relating to the development of oil and gas and coal; imposing duties and powers on the Department of Environmental Resources; imposing notification requirements to protect landowners; and providing for definitions, for various requirements to regulate the drilling and operation of oil and gas wells, for gas storage reservoirs, for various reporting requirements, including certain requirements concerning the operation of coal mines, for well permits, for well registration, for distance requirements, for well casing requirements, for safety device requirements, for storage reservoir obligations, for well bonding requirements, for a Well Plugging Restricted Revenue Account to enforce oil and gas well plugging requirements, for the creation of an Oil and Gas Technical Advisory Board, for oil and gas well inspections, for enforcement and for penalties," further providing for definitions, well permits, well registration, inactive status, plugging requirements, well reporting requirements, bonding, the Oil and Gas Technical Advisory Board, public nuisances, civil penalties, determination of compliance, unlawful conduct and surcharges for new wells; exempting certain wells from bonding requirements; and further providing for local ordinances.

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

Section 1. The definitions of "alteration," "owner" and "well operator" or "operator" in section 103 of the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act, amended October 9, 1986 (P.L.1431, No.135), are amended and the section is amended by adding a definition to read:

Section 103. Definitions.

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

* * *

["Alteration." Any operation which changes the physical characteristics of the well bore, including stimulation or removing, repairing or changing the casing: Provided, however, That, for the purpose of this act only, the term shall not include:

- (1) repairing or replacing of casing with casing of the same diameter and length in noncoal areas;
- (2) repairing or replacing of production casing with casing of the same or smaller diameter and length: Provided, however, That this exclusion shall not apply to production casings in coal areas when said production casings are also the coal protection casings and shall not apply when the method of repairing or replacing the casing would affect the coal protection casing;
- (3) nor shall it include stimulation as a normal initial completion procedure nor stimulation used to enhance additional oil or gas zones within the same well bore.]

"Alteration." Any operation which changes the physical characteristics of the well bore, including stimulation or removing, repairing or changing the casing. For the purpose of this act only, the term shall not include:

(1) Repairing or replacing of 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 hereunder. However, this exclusion shall not apply to production casings in coal areas when the production casings are also the coal protection casings and shall not apply when the method of repairing or replacing the casing would affect the coal protection casing.

(2) Stimulation of a well.

* * *

"Orphan well." Any well abandoned prior to the effective date of this act that has not been affected or operated by the present owner or operator and from which the present owner, operator or lessee has received no economic benefit, except only as a landowner or recipient of a royalty interest from the well.

* * *

"Owner." Any person who owns, manages, leases, controls or possesses any well or coal property; except that for purposes of sections 203(a)(4) and (5) and 210, the term "owner" shall not include those owners or possessors of surface real property on which the abandoned well is located who did not participate or incur costs in the drilling or extraction operation of the abandoned well and had no right of control over the drilling or extraction operation of the abandoned well. **This term shall not apply to orphan wells except where the department determines a prior owner or operator benefited from the well as provided in section 210(a).**

* * *

"Well operator" or "operator." The person designated as the well operator or operator on the permit application or well registration. Where a permit or registration was not issued, the term shall mean any person who locates, drills, operates, **alters or plugs any well** or reconditions any well with the purpose of production therefrom. In cases where a well is used in connection with the underground storage of gas, the term also means a "storage operator."

* * *

Section 2. Section 201(a) and (k) of the act, amended October 9, 1986 (P.L.1431, No.135), are amended to read:

Section 201. Well permits.

(a) No person shall drill a well or alter any existing well, except for alterations which satisfy the requirements of subsection (j), without having first obtained a well permit pursuant to subsections (b), (c), (d) and (e). **A copy of the permit shall be kept at the well site during drilling or alteration of the well.** However, no person shall be required to obtain a permit to redrill a nonproducing well, if:

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

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

* * *

(k) No permit issued pursuant to this section or registration issued pursuant to section 203 may be transferred without prior

approval of the department. Requests for approval of such transfer shall be made on forms or in a manner prescribed by the department. **The department shall approve or deny the transfer request within 45 days of receipt of a complete and accurate application.** The department shall only have the authority to deny such request for the reasons set forth in subsection (e)(4) or (5). **Approval of the transfer request shall permanently transfer responsibility to plug the well under section 210 to the recipient of the transferred permit or registration.**

* * *

Section 3. The heading and subsection (a) of section 203 of the act are amended and the section is amended by adding subsections to read:

Section 203. Well registration **and identification.**

(a) [Within one year from the effective date of this act, every person owning or operating a well for which no drilling permit was issued by the department shall register such well on forms or in a manner prescribed by the department, which shall contain the following information:] **Within one year of the effective date of this amendatory act, every person who was the owner or operator of a well in existence prior to April 18, 1985, which well has not been registered with the department and for which no drilling permit has been issued by the department, shall register such well with the department. Any well owner or operator who registers a well pursuant to this subsection and any well owner or operator who has previously registered a well pursuant to this act shall, within one year of the effective date of this amendatory act, identify any abandoned well on property such well owner or operator owns or leases and request approval from the department for classification of the well as an orphan well. Information regarding wells to be registered or identified shall be provided on forms or in a manner prescribed by the department and shall include:**

(1) The name and address of the well operator and, if the well operator is a corporation, partnership or a person nonresident of the Commonwealth, there shall be designated on the well registration application the name and address of an agent for such operator upon whom notices, orders, process or other communications issued pursuant to this act may be served.

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

(3) The approximate date of the drilling, completion of said well and the approximate depth of said well, the producing horizons, well construction information and driller's logs, if available.

(4) An indemnity bond [or], an alternative fee in lieu of bonding [satisfying the requirements of section 215] **or such other evidence of financial security submitted by the well operator and deemed appropriate by the department and satisfying the requirements of section 215. No bond, alternative fee or other evidence of financial security shall be required for identification of an orphan well. For those wells drilled prior to the effective date of the act of November 30, 1955 (P.L.756, No.225), known as the Gas Operations Well-Drilling Petroleum and Coal Mining Act, which have not been bonded, the well operator shall have three years to comply.**

(5) A registration fee of \$15 per well[, except that the department may establish] **or a blanket registration fee [not to exceed \$250 where] of \$250 for multiple well registration applications which are submitted simultaneously [for wells that**

are part of the same development project. The blanket registration fee shall bear a reasonable relationship to the administrative costs associated with processing such multiple well registration applications]. **The registration fee shall be waived for a period of one year from the effective date of this amendatory act, and no fee shall be charged for identification of an orphan well.**

(a.1) After expiration of the one-year period provided in subsection (a), well owners or operators who discover abandoned wells on property purchased or leased by them shall identify such well to the department within 60 days of discovery and advise the department that they are seeking classification of such well as an orphan well. No fee shall be required for such identification.

(a.2) Persons who are not well owners or operators and who discover an abandoned well on property owned or leased by them shall identify such well to the department within 60 days of discovery and advise the department that they are seeking classification for such well as an orphan well. No fee shall be required for such identification.

* * *

Section 4. Sections 204, 210, 212(a) and 213 of the act are amended to read:

Section 204. Inactive status.

(a) Upon application, the department [may] **shall** grant inactive status **for a period of five years** for any permitted or registered well [which satisfies] **provided** the following requirements **are met**:

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

(2) the condition of the well is sufficient to stop the vertical flow of fluids or gas within the well bore and [which] is adequate to protect freshwater aquifers, [if] **unless** the department determines the well poses a threat to the health and safety of persons or property or to the environment;

(3) [the applicant certifies that the well is of future utility and presents a viable plan for utilizing the well within a reasonable time] **the operator anticipates future use of the well for primary or enhanced recovery, future gas storage, or the operator anticipates the construction of a pipeline, for approved disposal or other appropriate uses related to oil and gas well production; and**

(4) the applicant satisfies the bonding requirements of [section] **sections 203 and 215**, except that the department may require additional financial security for any well on which an alternative fee is being paid in lieu of bonding under section 215(d).

(b) The owner or operator of any well granted inactive status shall be responsible for monitoring the mechanical integrity of such well **to insure that the requirements of subsection (a)(1) and (2) are met** and shall report the same on an annual basis to the department in a manner and form as the department shall prescribe by regulation.

[(c) Approval of inactive status under this section shall be valid for a period of five years unless renewed pursuant to the requirements of this section. The department shall have the right to revoke such status and order the immediate plugging of said well if it is in violation of this act or any other statute, rule or regulation administered by the department or upon receipt by the department of notice of bankruptcy proceedings by the permittee.]

(d) **Any well granted inactive status pursuant to subsection (a) shall be plugged in accordance with section 210 or returned to active status within five years of the date inactive status was**

granted, unless the owner or operator applies for an extension of inactive status which may be granted on a year-to-year basis if the department determines that the owner or operator has demonstrated his ability to continue to meet the requirements of this section and the owner or operator certifies that the well will be of future use within a reasonable period of time. An owner or operator who has been granted inactive status for a well which is returned to active status prior to expiration of the five-year period set forth in subsection (a) shall notify the department that the well has been returned to active status and shall not be permitted to apply for another automatic five-year period of inactive status for such well. The owner or operator may make application to return the well to inactive status, and such application may be approved on a year-to-year basis if the department determines that the owner or operator has demonstrated an ability to continue to meet the requirements of this section and the owner or operator certifies that the well will be of future use within a reasonable period of time. The department shall approve or deny an application to extend a period of inactive status or to return a well to inactive status within 60 days of receipt of such application, and such application shall not be unreasonably denied. If the department has not completed its review of the application within 60 days, the inactive status shall continue until the department has made a determination on the request. If the department denies an application to extend the period of inactive status or to return a well to inactive status, a well owner or operator aggrieved thereby shall have the right to appeal such denial to the Environmental Hearing Board within 30 days of receipt of such denial. Upon cause shown by a well owner or operator, the board may grant a supersedeas pursuant to section 4 of the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, in order that the well in question may retain inactive status during the period of appeal.

(e) The department shall have the right to revoke inactive status and order the immediate plugging of a well if it is in violation of this act or rules or regulations promulgated thereunder or if the owner or operator demonstrates inability to perform his obligations under this act or becomes financially insolvent or upon receipt by the department of notice of bankruptcy proceedings by the permittee.

Section 210. Plugging requirements.

(a) Upon abandoning any well, the owner or operator thereof shall plug the well in a manner prescribed by regulation of the department in order to stop any vertical flow of fluids or gas within the well bore unless the department has granted inactive status for such well pursuant to section 204[.] or the well has been approved by the department as an orphan well pursuant to section 203. Where 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, subsequent to April 18, 1979, from an orphan well or from a well which has not been registered, such owner or operator shall be responsible for the plugging of the well. Where, in the case of gas wells penetrating workable coal seams which were drilled prior to the effective date of the act of November 30, 1955 (P.L.756, No.225), known as the Gas Operations Well-Drilling Petroleum and Coal Mining Act, or which were permitted after such date but not plugged in accordance with this act, the owner or operator of such a well or a coal operator or his agent proposes to plug such well for the purpose of allowing the mining through of it, the gas well shall be cleaned out to a depth of at least 200 feet below the coal seam

in which the mining through is proposed and, unless impracticable, to a point 200 feet below the deepest minable coal seam. Such gas well shall be plugged from that depth in accordance with the provisions of 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) Prior to the abandonment of any well in an area underlain by a workable coal seam, the well operator or owner shall notify the coal operator, lessee or owner and the department of his intention to plug and abandon any such well 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 at which the work of plugging will be commenced, which time shall be not less than [72 hours] **three working days** after the time when such notice is received, nor more than 30 days thereafter in order that their representatives may be present at the plugging of the well. Such notice may be waived by the department and said coal operator, lessee or owner, and any of them may likewise waive their right to be present, but such waiver by coal operator, lessee or owner shall be in writing and a copy thereof attached to the notice of abandonment, filed with the department under this section. Whether or not such representatives appear, the well operator may, if he has fully complied with the requirements of this section, proceed at the time fixed, to plug the well in the manner as prescribed by regulation of the department. When such plugging has been completed, a certificate shall be prepared and signed, on a form to be furnished by the department, by two experienced and qualified people who participated in the work setting forth the time and manner in which the well has been plugged. One copy of this certificate shall be mailed to each coal operator, lessee or owner to whom notice was given by certified mail and another copy shall be mailed to the department.

(c) Prior to the abandonment of any well, except an uncompleted bore hole plugged immediately upon suspension of drilling in an area not underlain by a workable coal seam, the well operator shall notify the department of his intention to plug and abandon any such well 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 at which the work of plugging will be commenced, which time shall not be less than [72 hours] **three working days** nor more than 30 days after the time [of mailing] **when such notice is received**, in order that the department representative may be present at the plugging of the well. Such notice or waiting period may be verbally waived by the department. In noncoal areas where more than one well has been drilled as part of the same development project and these wells are now to be plugged, it is required that the department be given [72 hours'] **three working days'** notice prior to plugging the first well of such project subject to waiver of notice described herein. In the plugging of subsequent wells, no additional notice shall be required if the plugging on the project is continuous. If the plugging of subsequent wells is delayed for any reason, notice shall be given to the department of the continuation of such project. Whether or not such department representative appears, the well operator may, if he has fully complied with the requirements of this section, proceed at the time fixed to plug the well in the manner as prescribed by regulation of the department. When such plugging has been completed, a certificate shall be prepared, on a form to be furnished by the department, by two experienced and qualified people who participated in the work, setting forth the time and manner in which the well was plugged. A copy of this certificate shall be mailed to the department.

(d) Whenever any well is to be abandoned immediately after completion of drilling, the well operator shall give at least 24 hours' notice by telephone, confirmed by certified mail, to the department and to the coal operator, lessee or owner, if any, fixing the date and time at which the work of plugging will be commenced. Such notice may be waived by the department and said coal operator, lessee or owner, and any of them may likewise waive their right to be present. Whether or not any representative of the department or of the coal operator, lessee or owner, if any, appear, the well operator may, if he has fully complied with the requirements of this section, proceed at the time fixed, to plug the well in the manner provided by regulation prescribed by the department. The well operator shall prepare the certificate of plugging and mail copies of the same as provided in subsections (b) and (c).

(e) If a well is **an orphan well or** abandoned without plugging **or if a well is in operation but is not registered pursuant to section 203,** the department shall have the right to enter upon the well site and plug the [abandoned] well and to sell such equipment, casing and pipe **at the abandoned well or unregistered well site** as may have been used in the production of the well in order to recover the costs of plugging. **In the case of a well which is in operation but has not been registered, the department shall make an effort to determine ownership of such well and provide written notice to such owner of pending action which may be taken pursuant to this subsection. If the department cannot determine ownership of the well within 30 days, it may proceed pursuant to this subsection.** [Said costs] **Costs** of plugging shall have priority over all liens on said equipment, casing and pipe, and said sale shall be free and clear of any such liens to the extent the costs of plugging exceed the sale price. If the equipment price obtained for casing and pipe salvaged at the abandoned well **or unregistered well site** is inadequate to pay for the cost of plugging the **abandoned or unregistered** well, the owner or operator of the **abandoned or unregistered** well shall be legally liable for the additional costs of plugging the well.

Section 212. Well reporting requirements.

(a) Every well operator shall file with the department, on a form provided by the department, an annual report specifying the amount of production [from each well on an individual well basis. Where said data is not available on a well basis, it may be reported] on the most well-specific basis available. Annual reports shall also specify the status of each well; however, in subsequent years, only changes in the status need be reported. [All such reports shall be kept confidential for one year after the date the information is required to be filed hereunder. Upon request of the well operator, the department shall extend the period of confidentiality for four years. The total period of confidentiality shall not exceed] **The department shall keep all such reports confidential for five years:** Provided, however, That the [department] **Commonwealth** shall have the right to utilize such 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.

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Section 213. Notification **and effect** of well transfer.

The owner or operator of any well shall notify the department, in writing, in such form as the department may direct by regulation, of the sale, assignment, transfer, conveyance or exchange by the owner or to the owner of such well within 30 days after such sale, assignment, conveyance or exchange. No such transfer shall relieve the well owner or operator of any [liability] **obligation** accrued

under this act, nor shall it relieve him of the obligation to plug said well until the requirements of section 215 have been met, **after which time the transferring owner or operator shall be relieved from any obligation under this act, including the obligation to plug said well.**

Section 5. Section 215 of the act, amended October 9, 1986 (P.L.1431, No.135), is amended to read:
Section 215. Bonding.

(a) (1) Except as provided in [subsections (d) and (d.1)] **subsection (d)** hereof, upon filing an application for a well permit and before continuing to operate any oil or gas well, the owner or operator thereof shall file with the department a bond for the well and the well site on a form to be prescribed and furnished by the department. Any such bond filed with an application for a well permit shall be payable to the Commonwealth and conditioned that the operator shall faithfully perform all of the drilling, water supply replacement, restoration and plugging requirements of this act. Any such bond filed with the department for a well in existence on the effective date of this act shall be payable to the Commonwealth and conditioned that the operator shall faithfully perform all of the water supply replacement, restoration and plugging requirements of this act. The amount of the bond required shall be in the amount of \$2,500 per well for at least two years following the effective date of this act, after which time the bond amount may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of performing well plugging.

(2) In lieu of individual bonds for each well, an owner or operator may file a blanket bond, on a form prepared by the department, covering all of its wells in Pennsylvania as enumerated on the bond form. A blanket bond shall be in the amount of \$25,000 for at least two years following the effective date of this act, after which time the bond amount may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of performing well plugging.

(3) Liability under such bond shall continue until the well has been properly plugged in accordance with this act and for a period of one year after filing of the certificate of plugging with the department. Each bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth and approved by the secretary. The operator may elect to deposit cash, [bank] certificates of deposit[,] **or automatically renewable irrevocable [bank] letters of credit from financial institutions chartered or authorized to do business in Pennsylvania and regulated and examined by the Commonwealth or a Federal agency** which may be terminated [by the bank] at the end of a term only upon the [bank] **financial institution** giving 90 days prior written notice to the permittee and the department or negotiable bonds of the United States Government or the Commonwealth, the Pennsylvania Turnpike Commission, the General State Authority, the State Public School Building Authority or any municipality within the Commonwealth, **or United States Treasury Bonds issued at a discount without a regular schedule of interest payments to maturity, otherwise known as Zero Coupon Bonds, having a maturity date of not more than ten years after the date of purchase and at such maturity date having a value of not less than \$25,000,** with the department in lieu of a corporate surety. The cash deposit, [bank] certificate of deposit, amount of such irrevocable letter of credit or market value of such securities shall be equal at least to the sum of the bond. The secretary shall, upon receipt

of any such deposit of cash, letters of credit or negotiable bonds, immediately place the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the Commonwealth, in trust, for the purpose for which such deposit is made. The State Treasurer shall at all times be responsible for the custody and safekeeping of such deposits. The operator making deposit shall be entitled from time to time to demand and receive from the State Treasurer, on the written order of the secretary, the whole or any portion of any collateral so deposited, upon depositing with him, in lieu thereof, other collateral of the classes herein specified having a market value at least equal to the sum of the bond, and also to demand, receive and recover the interest and income from said negotiable bonds as the same becomes due and payable. Where negotiable bonds, deposited as aforesaid, mature or are called, the State Treasurer, at the request of the owner thereof, shall convert such negotiable bonds into such other negotiable bonds of the classes herein specified as may be designated by the owner. Where notice of intent to terminate a letter of credit is given, the department shall give the operator 30 days' written notice to replace the letter of credit with other acceptable bond guarantees as provided herein and, if the owner or operator fails to replace the letter of credit within the 30-day notification period, the department shall draw upon and convert such letter of credit into cash and hold it as a collateral bond guarantee.

(b) No bond shall be fully released until all requirements of this act identified in subsection (a) **or section 213** are fully met. Upon release of all of the bonds and collateral as herein provided, the State Treasurer shall immediately return to the owner the amount of cash or securities specified therein.

(c) If the well owner or operator fails or refuses to comply with the applicable requirements of this act identified in subsection (a), the regulations promulgated hereunder or the conditions of the permit relating thereto, the department may declare the bond forfeited and shall certify the same to the Attorney General, who shall proceed to enforce and collect the full amount of the bond and, where the owner or operator has deposited cash or securities as collateral in lieu of a corporate surety, the department shall declare said collateral forfeited and shall direct the State Treasurer to pay the full amount of said funds into the Well Plugging Restricted Revenue Account or to proceed to sell said security to the extent forfeited and pay the proceeds thereof into the Well Plugging Restricted Revenue Account. Should any corporate surety or [bank] **financial institution** fail to promptly pay, in full, a forfeited bond, it shall be disqualified from writing any further bonds under the act or any other environmental act administered by the department. Any person aggrieved by reason of forfeiting the bond or converting collateral, as herein provided, shall have a right to appeal to the Environmental Hearing Board in the manner provided by law. Upon forfeiture of a blanket bond for a violation occurring at one or more well sites, the person whose bond is forfeited shall submit a replacement bond to cover all other wells of which he is owner or operator within ten days of said forfeiture. Failure to submit said replacement bond constitutes a violation of this section as to each of the wells owned or operated by said person.

(d) **(1)** Any [well] operator **of not more than 200 wells** who cannot obtain a bond for a well drilled prior to [the effective date of this act] **April 18, 1985**, as required under subsection (a), due to an inability to demonstrate sufficient financial resources [shall submit to the department letters of rejection from three separate bonding companies licensed to do business in the

Commonwealth. Such letters shall state that the operator has been denied a bond and state the grounds for denial of the bond. In] may, in lieu of the bond[, the operator shall submit]:

(i) **Submit** to the department a fee in the amount of \$50 per well, or a blanket fee of \$500 for ten to 20 wells, or a blanket fee of \$1,000 for more than 20 wells, which shall be a nonrefundable fee paid each year that the operator has not filed a bond with the department. [The operator must demonstrate every three years a continued inability to obtain a bond as prescribed above.] All fees collected in lieu of a bond under this subsection shall be [paid into the Well Plugging Restricted Revenue Account and shall be] used for the purposes authorized by this act. The Environmental Quality Board shall have the power, by regulation, to increase the amount of the fees established under this subsection [if it is found that the total moneys collected hereunder are insufficient to reimburse the Commonwealth for costs incurred in correcting violations on wells covered under this subsection].

(ii) (A) **Make phased deposits of collateral to fully collateralize the bond.** Such payment shall be based on the number of wells the operator owns or operates. The operator shall make an initial deposit and shall, thereafter, make annual deposits in accordance with the schedule in clause (B). Interest accumulated by the collateral shall become a part of the bond until such time as the collateral plus accumulated interest equals the amount of the required bond. The collateral shall be deposited, in trust, with the State Treasurer as provided in this subsection, or with a bank selected by the department which shall act as trustee for the benefit of the Commonwealth to guarantee the operator's compliance with the drilling, water supply replacement, restoration and plugging requirements of this act. The operator shall be required to pay all costs of the trust.

(B) An operator of up to ten existing wells who does not intend to operate additional wells shall deposit \$250 per well and shall, thereafter, annually deposit \$50 per well until the obligations of this section are fully met. An operator of 11 to 25 wells or an operator of up to ten wells who applies for one or more permits for additional wells shall deposit \$2,000 and shall, thereafter, annually deposit \$1,150 plus \$150 for each additional well to be permitted that year until the obligations of this section are fully met. An operator of 26 to 50 wells shall deposit \$3,000 and shall, thereafter, annually deposit \$1,300 plus \$400 for each additional well to be permitted that year until the obligations of this section are fully met. An operator of 51 to 100 wells shall deposit \$4,000 and shall, thereafter, annually deposit \$1,500 plus \$400 for each additional well to be permitted that year until the obligations of this section are fully met. Operators of 101 to 200 wells shall deposit \$8,000 and shall, thereafter, annually deposit \$1,600 plus \$1,000 for each additional well to be permitted that year until the obligations of this section are fully met. Operators of more than 200 wells shall fully bond their wells immediately. The department shall reduce the amount of phased collateral payments or the period of time over which phased collateral payments shall be made on behalf of owners or operators who, prior to

the effective date of this amendatory act, have paid a fee in lieu of bond pursuant to subparagraph (i), and who, within one year of the effective date of this amendatory act, choose to enter the phased collateral program pursuant to this subparagraph rather than to continue to make payments in lieu of bond. Payments made in lieu of bond prior to the effective date of this amendatory act shall not be credited in any other manner, nor shall the department be required to refund such fees at any time. The Environmental Quality Board shall have the power, by regulation, to change the annual deposits established under this clause if it is found to be necessary to accommodate a change in the amount of the bond required under this section.

(2) An operator may continue to pay a fee in lieu of bond or make phased deposits of collateral to fully collateralize the bond so long as the operator does not miss any payments for wells as provided under this subsection and so long as the operator remains in compliance with the provisions of this act and regulations and permits issued thereunder. If an operator has missed any payments for wells as provided under this subsection, the operator shall:

- (i) immediately submit the appropriate bond amount in full; or
- (ii) cease all operations and plug the wells in accordance with section 210.

(d.1) (1) An individual who cannot obtain a bond to drill new wells due to an inability to demonstrate financial resources[, as evidenced by letters of rejection as required under subsection (d),] may meet the collateral bond requirements of subsection (a) by making phased deposits of collateral to fully collateralize the bond. Such individuals shall be limited to drilling [two] **ten** new wells per calendar year. The individual shall, for each well to be drilled, deposit \$500 and shall, thereafter, annually deposit 10% of the remaining bond amount for a period of ten years. Interest accumulated by the collateral shall become a part of the bond until such time as the collateral, plus accumulated interest, equals the amount of the required bond. The collateral shall be deposited, in trust, with the State Treasurer as provided in subsection (a) or with a bank selected by the department which shall act as trustee for the benefit of the Commonwealth, to guarantee the individual's compliance with the drilling, water supply replacement, restoration and plugging requirements of this act. The individual shall be required to pay all costs of the trust.

(2) Individuals may continue to use phased collateral to obtain permits so long as they have not missed any payments for wells drilled under this provision and so long as they remain in compliance with this act[, and regulations and permits issued thereunder. **If an individual has missed any payments for wells under this subsection, the operator shall:**

- (i) immediately submit the appropriate bond amount in full; or
- (ii) cease all operations and plug the wells in accordance with section 210.

For the purposes of this subsection an "individual" is defined as an applicant who is a natural person doing business under his own name.

(e) All remedies for violation of this act, the regulations adopted hereunder or the conditions of permits are expressly preserved. Nothing in [subsections (a), (b) and (c)] **this section** shall be construed as an exclusive penalty or remedy for such

violations of law. No action taken pursuant to [subsection (c)] **this section** shall waive or impair any other remedy or penalty provided in law.

(f) Owners or operators who have failed to meet the requirements of this section prior to the effective date of this amendatory act shall not be required to make payments pursuant to this section on a retroactive basis as a condition of obtaining a permit under this act nor shall such failure be deemed a violation of this act.

Section 6. Section 508 of the act is amended by adding a subsection to read:

Section 508. Production of materials; witnesses; depositions; rights of entry.

* * *

(f) Any purchaser of oil or gas shall, upon request, provide to the department information as may be necessary for the department to determine ownership of facilities from which the oil or gas was obtained. The information shall be kept confidential for a period of five years. The department shall have the right to utilize such information in enforcement proceedings. The department may only request information under this section when a well does not meet the requirements of section 201(h).

Section 7. Sections 509, 601 and 602 of the act are amended to read:

Section 509. Unlawful conduct.

It shall be unlawful for any person to:

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

(2) Conduct any activities related to drilling for, or production of, oil and gas, contrary to the rules or regulations adopted under this act, or orders of the department, or any term or any condition of any permit, or in any manner as to create a public nuisance or to adversely affect the public health, safety, welfare or the environment.

(3) Refuse, obstruct, delay or threaten any agent or employee of the department in the course of **lawful** performance of any duty under this act, including, but not limited to, entry and inspection [under any circumstances].

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

(5) Cause the abandonment of a well by removal of casing or equipment necessary for production without plugging the well in a manner prescribed pursuant to section 210. The owner or operator of a well may only temporarily remove casing or equipment necessary for production if it is part of the normal course of production activities.

Section 601. [Well Plugging Restricted Revenue Account.] **Well plugging funds.**

(a) All fines, civil penalties, permit and registration fees collected under this act [shall be paid into the State Treasury into a restricted revenue account to be known as the Well Plugging Restricted Revenue Account, hereby established, which shall be administered by the department for the plugging and sealing of abandoned wells and to cover the purposes of administering this act. All the moneys from time to time paid into the Well Plugging Restricted Revenue Account are specifically appropriated, upon annual approval by the Governor,] are hereby appropriated to the Department of Environmental Resources to carry out the purposes of this act.

(b) To aid in the indemnification of the Commonwealth for the cost of plugging abandoned wells, there shall be added to the permit fee established by the department under section 201 for new wells a \$50 surcharge. All moneys [deposited in this restricted revenue account from the surcharge] **collected as a result of this surcharge shall be paid into the State Treasury into a restricted revenue account to be known as the Abandoned Well Plugging Fund, hereby established, and** shall be expended by the department to plug abandoned wells which threaten the health and safety of persons or property or pollution of the waters of the Commonwealth.

(c) (1) **There is hereby created a restricted revenue account to be known as the Orphan Well Plugging Fund. There shall be added to the permit fee established by the department under section 201 for new wells a \$100 surcharge for wells to be drilled for oil production and a \$200 surcharge for wells to be drilled for gas production, which surcharges shall be placed in the Orphan Well Plugging Fund and shall be expended by the department to plug orphan wells. If an operator rehabilitates a well abandoned by another operator or an orphan well, the permit fee and the surcharge for such well shall be waived.**

(2) The department shall conduct a study of its experience in implementing this section and shall report its findings to the Governor and the General Assembly within five years of the effective date of this amendatory act. The report shall contain information relating to the balance of the fund, the number of wells plugged, the number of identified wells eligible for plugging and any recommendations on alternative funding mechanisms.

(3) Expenditures by the department for the plugging of orphan wells shall be limited to fees collected under this act and in no event shall moneys from the General Fund be expended for this purpose.

Section 602. Local ordinances.

Except with respect to ordinances adopted pursuant to the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, and the act of October 4, 1978 (P.L.851, No.166), known as the Flood Plain Management Act, all local ordinances and enactments purporting to regulate oil and gas well operations regulated by this act are hereby superseded. **No ordinances or enactments adopted pursuant to the aforementioned acts shall contain provisions which impose conditions, requirements or limitations on the same features of oil and gas well operations regulated by this act or that accomplish the same purposes as set forth in this act.** The Commonwealth, by this enactment, hereby preempts and supersedes the regulation of oil and gas wells as herein defined.

Section 8. Section 603.1 of the act, added October 9, 1986 (P.L.1431, No.135), is amended to read:

Section 603.1. Relationship to solid waste **and surface mining.**

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

(1) the well is permitted pursuant to the requirements of section 201 or registered pursuant to the requirements of section 203;

(2) the owner or operator satisfies the financial security requirements of section 215 by obtaining a surety or collateral bond for the well and well site; and

(3) the owner or operator maintains compliance with [the] **this** act and any applicable regulations promulgated by the Environmental Quality Board.

(b) Obligations under the act of December 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining Conservation and Reclamation Act, or any rule or regulation promulgated thereunder, for any borrow area where minerals are extracted solely for the purpose of oil and gas well development, including access road construction, shall be satisfied if the owner or operator of the well meets the conditions imposed under subsection (a)(1) and (2) and the owner or operator maintains compliance with this act and any applicable regulations promulgated by the Environmental Quality Board.

[(b)] **(c)** Nothing in this section shall diminish any other duties or obligations that an owner or operator may have under the Solid Waste Management Act. The provisions of this section shall not apply to any waste which is classified as a hazardous waste pursuant to the Solid Waste Management Act, or the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq.).

[(c)] **(d)** As used in this section and sections 206 and 215, the term "well site" means the areas occupied by all equipment or facilities necessary for or incidental to the drilling, production or plugging of a well.

Section 9. This act shall take effect in 30 days.

APPROVED--The 2nd day of July, A. D. 1992.

ROBERT P. CASEY