

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 402

Session of
1983

INTRODUCED BY WILT, LINCOLN, KUSSE, RHOADES, ROMANELLI, EARLY,
HOPPER, MELLOW, BRIGHTBILL, LYNCH, STAPLETON, ANDREZESKI,
STOUT, PECORA AND KELLEY, FEBRUARY 24, 1983

SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,
MAY 10, 1983

AN ACT

1 Relating to the development of oil and gas and coal; imposing
2 duties and powers on the Department of Environmental
3 Resources; imposing notification requirements to protect
4 landowners; and providing for definitions, for various
5 requirements to regulate the drilling and operation of oil
6 and gas wells, for gas storage reservoirs, for various
7 reporting requirements, including certain requirements
8 concerning the operation of coal mines, for well permits, for
9 distance requirements, for well casing requirements, for
10 safety device requirements, for storage reservoir
11 obligations, for well bonding requirements, for a Well
12 Plugging Restricted Revenue Fund to enforce oil and gas well
13 plugging requirements, for the creation of an Oil and Gas
14 Technical Advisory Board, for oil and gas well inspections,
15 for enforcement and for penalties.

16 TABLE OF CONTENTS

17 Chapter 1. Preliminary Provisions
18 Section 101. Short title.
19 Section 102. Declaration of purpose.
20 Section 103. Definitions.
21 Chapter 2. General Requirements
22 Section 201. Well permits.
23 Section 202. Permit objections.

1 Section 203. Permit ~~suspension~~; revocation; cease and desist <—
2 orders.
3 Section 204. Inactive status.
4 Section 205. Well location restrictions.
5 Section 206. Well site restoration.
6 Section 207. Casing requirements.
7 Section 208. Protection of water supplies. ~~rebuttable~~ <—
8 ~~presumption~~.
9 Section 209. Use of safety devices.
10 Section 210. Plugging requirements.
11 Section 211. Alternative methods.
12 Section 212. Well reporting requirements.
13 Section 213. Notification of transfer.
14 Section 214. Coal operator responsibilities, coal pillar
15 permits.
16 Section 215. Bonding.
17 Section 216. Oil and Gas Technical Advisory Board.
18 Chapter 3. Underground Gas Storage
19 Section 301. Reporting requirements for gas storage operations.
20 Section 302. Reporting requirements for coal mining operations.
21 Section 303. General gas storage reservoir operations.
22 Section 304. Gas storage reservoir operation in coal areas.
23 Section 305. Inspection of facilities and records.
24 Section 306. Reliance on maps, burden of proof.
25 Section 307. Exemptions.
26 Chapter 4. Eminent Domain
27 Section 401. Appropriation of interests in real property.
28 Chapter 5. Enforcement and Remedies
29 Section 501. Conferences.
30 Section 502. Public nuisances.

1 Section 503. Enforcement orders.
2 Section 504. Restraining violations.
3 Section 505. Penalties.
4 Section 506. Civil penalties.
5 Section 507. Rights and remedies preserved; cumulative remedies
6 authorized.
7 Section 508. Production of materials, witnesses, depositions,
8 rights of entry.
9 Section 509. Unlawful conduct.
10 Section 510. Collection of fines and penalties.
11 Section 511. Third party liability.
12 Chapter 6. Miscellaneous Provisions
13 Section 601. Well plugging restricted revenue account.
14 Section 602. Local ordinances.
15 Section 603. Effect on department authority.
16 Section 604. ~~Repeals~~ REGULATORY AUTHORITY. <—
17 Section 605. ~~Effective date~~ SEVERABILITY. <—
18 SECTION 606. REPEALS.
19 SECTION 607. EFFECTIVE DATE.

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

22 CHAPTER 1
23 PRELIMINARY PROVISIONS

24 Section 101. Short title.

25 This act shall be known and may be cited as the Oil and Gas
26 Act.

27 Section 102. Declaration of purpose.

28 The purposes of this act are to:

29 (1) Permit the optimal development of the oil and gas
30 resources of Pennsylvania consistent with the protection of

1 the health, safety, environment and property of the citizens
2 of the Commonwealth.

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

6 (3) Protect the safety and property rights of persons
7 residing in areas where such exploration, development,
8 storage or production occurs.

9 (4) Protect the natural resources, environmental rights
10 and values secured by the Pennsylvania Constitution.

11 Section 103. Definitions.

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

15 "Abandoned well." Any well that has not been used to
16 produce, extract or inject any gas, petroleum or other liquid
17 within the preceding 12 months, or any well for which the
18 equipment necessary for production, extraction or injection has
19 been removed, OR ANY WELL, CONSIDERED DRY, NOT EQUIPPED FOR <—
20 PRODUCTION WITHIN 60 DAYS AFTER DRILLING, REDRILLING OR
21 DEEPENING, except that it shall not include any well granted
22 inactive status.

23 "Alteration." Any operation which changes the physical
24 characteristics of the well bore, including stimulation or
25 removing, repairing or changing the casing. The CASING: <—
26 PROVIDED, HOWEVER, THAT, FOR THE PURPOSE OF THIS ACT ONLY, THE
27 term shall not ~~include repairing of casing or replacing of~~ <—
28 ~~casing with casing of the same size and length in noncoal areas,~~
29 ~~nor shall it include stimulation as a normal initial completion~~
30 ~~procedure.~~ INCLUDE: <—

1 (1) REPAIRING OR REPLACING OF CASING WITH CASING OF THE
2 SAME DIAMETER SIZE AND LENGTH IN NONCOAL AREAS.

3 (2) REPAIRING OR REPLACING OF PRODUCTION CASING WITH
4 CASING OF THE SAME OR SMALLER DIAMETER AND LENGTH IN NONCOAL
5 AREAS.

6 (3) NOR SHALL IT INCLUDE STIMULATION AS A NORMAL INITIAL
7 COMPLETION PROCEDURE.

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

9 "Bridge." An obstruction placed in a well at any specified
10 depth.

11 "Building." An occupied structure with walls and roof within
12 which persons live or CUSTOMARILY work. <—

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

15 "Cement" or "cement grout." Hydraulic cement properly mixed
16 with water only or any mixture of materials adequate for bonding
17 or sealing of well bores as approved by regulations promulgated
18 hereunder.

19 "Coal mine." Those operations in a coal seam which include
20 the excavated and abandoned portions as well as the places
21 actually being worked, also all underground workings and shafts,
22 slopes, tunnels and other ways and openings and all such shafts,
23 slopes, tunnels and other openings in the course of being sunk
24 or driven, together with all roads and facilities connected with
25 them below the surface.

26 "Coal operator." Any person as herein defined who proposes
27 to or does operate a coal mine either as owner or lessee.

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

1 "Department." The Department of Environmental Resources.

2 "Drilling." The drilling or redrilling of any well or the
3 deepening of any existing well.

4 "Fresh groundwater." Water in that portion of the generally
5 recognized hydrologic cycle which occupies the pore spaces and
6 fractures of saturated subsurface materials.

7 "Gas." Any fluid, either combustible or noncombustible,
8 which is produced in a natural state from the earth and which
9 maintains a gaseous or rarified state at standard temperature of
10 60 degrees Fahrenheit and pressure 14.7 PSIA, any manufactured
11 gas, any by-product gas or any mixture of gases.

12 "Inactivate." To shut off all flow of gas from a well by
13 means of a temporary plug or other suitable device or by
14 injecting bentonitic mud or other such equally nonporous
15 material into the well.

16 "Linear foot." A unit of measurement in a straight line on a
17 horizontal plane.

18 "Oil" or "petroleum." Hydrocarbons in liquid form at
19 standard temperature of 60 degrees Fahrenheit and pressure 14.7
20 PSIA.

21 "Operating coal mine."

22 (1) An underground coal mine which is producing coal or
23 has been in production of coal at any time during the 12
24 months immediately preceding the date its status is put in
25 question under this act and any worked-out or abandoned coal
26 mine connected underground with or contiguous to such
27 operating coal mine as herein defined.

28 (2) Any underground coal mine to be established or
29 reestablished as an operating coal mine in the future
30 pursuant to this act.

1 "Operating well." Any well not plugged and abandoned.

2 "Outside coal boundaries." When used in conjunction with the
3 term "operating coal mine," means the boundaries of the coal
4 acreage assigned to such coal mine and which can be practicably
5 and reasonably expected to be mined through such coal mine.

6 "Owner." Any person who owns, manages, leases, controls or
7 possesses any well or coal property, except that for purposes of
8 section 210, the term "owner" shall not include those owners or
9 possessors of surface real property who did not participate or
10 incur costs in the drilling or extraction operation of the
11 abandoned well, had no right of control over the drilling or
12 extraction operation of the abandoned well and had no right of
13 possession over the oil or gas extracted from the abandoned
14 well.

15 "Pillar." A solid block of coal surrounded by either active
16 mine workings or a mined-out area.

17 "Plat." A map, drawing or print accurately drawn to scale
18 showing the proposed or existing location of a well or wells as
19 herein defined.

20 "Person." Any individual, association, partnership,
21 corporation, political subdivision or agency of the State or
22 Federal government.

23 "Reservoir protective area." All of that area outside of and
24 surrounding the storage reservoir boundary but within 2,000
25 linear feet thereof.

26 "Retreat mining." The removal of such coal pillars, ribs and
27 stumps as remain after the development mining has been completed
28 in that section of a coal mine.

29 "Storage operator." Any person who proposes to or does
30 operate a storage reservoir either as owner or lessee.

1 "Storage reservoir." That portion of any subterranean sand
2 or rock stratum or strata into which gas is or may be injected
3 for the purpose of storage or for the purpose of testing whether
4 said stratum is suitable for storage.

5 "Well." A bore hole drilled or being drilled for the purpose
6 of or to be used for producing, extracting or injecting any gas,
7 petroleum or other liquid related to oil or gas production or
8 storage, including brine disposal, but excluding bore holes
9 drilled to produce potable water to be used as such.

10 "Well operator." Any person who locates, drills, operates,
11 plugs or reconditions any well with the purpose of commercial
12 production therefrom. In cases where a well is used in
13 connection with the underground storage of gas, the term also
14 means a "storage operator."

15 "Wetland." Those areas of greater than one acre in size that
16 are inundated or saturated by surface or groundwater at a
17 frequency and duration sufficient to support and that under
18 normal circumstances do support a prevalence of vegetation
19 typically adapted for life in saturated soil conditions,
20 including swamps, marshes, bogs and similar areas.

21 "Workable coal seams."

22 (1) A coal seam in fact being mined in the area in
23 question under this act by underground methods.

24 (2) A coal seam, which in the judgment of the
25 department, can be and that is reasonable to be expected,
26 will be mined by underground methods.

27 CHAPTER 2

28 GENERAL REQUIREMENTS

29 Section 201. Well permits.

30 (a) No person shall drill a well or alter any existing well,

1 except for alterations which satisfy the requirements of
2 subsection (k), without having first obtained a well permit
3 pursuant to subsections (b), (c), (d) and (e). Any person
4 operating an unpermitted well drilled prior to the effective
5 date of this act shall have one year from that date to obtain a
6 permit pursuant to subsection (j).

7 (b) The permit application shall be accompanied by a plat
8 ~~prepared by a competent engineer or a competent surveyor, on~~ <—
9 PREPARED BY AND THERETO AFFIXED WITH THE SEAL OF AN INDIVIDUAL <—
10 LICENSED AND REGISTERED AS A PROFESSIONAL ENGINEER OR
11 PROFESSIONAL LAND SURVEYOR PURSUANT TO THE PROVISIONS OF THE ACT
12 OF MAY 23, 1945 (P.L.913, NO.367), KNOWN AS THE PROFESSIONAL
13 ENGINEERS REGISTRATION LAW, ON forms to be furnished by the
14 department, showing the political subdivision and county in
15 which the tract of land upon which the well to be drilled is
16 located, the name of the surface landowner and lessor, the name
17 of the owner or operator of all known underlying workable coal
18 seams, if any, the acreage in the tract to be drilled, the
19 proposed location of the well determined by survey, the courses
20 and distances of such location from two or more permanent
21 IDENTIFIABLE points or landmarks on said tract BOUNDARY CORNERS, <—
22 the proposed angle and direction of such well, if the well is to
23 be deviated substantially from a vertical course, the number or
24 other identification to be given the well, the workable coal
25 seams, if any, underlying the tract of land upon which the well
26 is to be drilled or altered which are to be cased off in
27 accordance with section 207 and such information needed by the
28 department to administer this act. The department shall forward,
29 by certified mail, a copy of said plat to the surface landowner
30 and the owner and lessee, if any, of such coal and every coal

1 operator as they are identified on the well permit application
2 WITHIN TEN DAYS OF RECEIPT OF THE WELL PERMIT APPLICATION. In <—
3 the event there are multiple surface owners, notification shall
4 be accomplished under this section by sending notice to the
5 persons to whom the tax notices for said surface property are
6 sent, as indicated in the assessment books in the county in
7 which the property is located. If the applicant submits to the
8 department written approval of the proposed well location by the
9 surface landowner and the coal operator, lessee or owner, if
10 any, of the coal underlying the proposed well location and no
11 objections are raised by the department within 15 days of filing
12 or if no such approval has been submitted and no objections are
13 made to such proposed well location within 15 days from receipt
14 of such notice by the surface landowner and the coal operator,
15 lessee or owner, if any, or by the department, the same shall be
16 filed and become a permanent record of such location, subject to
17 inspection at any time by any interested person.

18 (c) If the applicant for a well permit is a corporation,
19 partnership or a person nonresident of the Commonwealth, then
20 there shall be designated the name and address of an agent for
21 such operator who shall be the attorney in fact for the operator
22 and who shall be a resident of the Commonwealth upon whom
23 notices, orders or other communications issued pursuant to this
24 act or the regulations adopted hereunder may be served and upon
25 whom process may be served. Every well operator required to
26 designate an agent under this section shall within five days
27 after the termination of such designation notify the department
28 of such termination and designate a new agent.

29 (d) Every application for a well permit shall be accompanied
30 by a permit fee established by regulation of the department

1 which bears a reasonable relationship to the cost of
2 administering this act: Provided, however, That the permit fee
3 shall be \$75 for two years immediately following the effective
4 date of this act.

5 (e) The department shall ~~make a determination on~~ ISSUE OR <—
6 DENY a permit application within 45 days of its submission;
7 however, the department shall have the right to extend ~~such~~ <—
8 ~~period for causes~~ FOR 15 DAYS FOR CAUSES SHOWN upon notification <—
9 to the applicant of the reasons for that extension. The
10 department may impose such permit terms and conditions as are
11 necessary to assure compliance with this act and other laws
12 administered by the department. The department shall have the
13 ~~right~~ AUTHORITY to deny a permit to any person for the following <—
14 reasons:

15 (1) the well site for which a permit is requested ~~is in~~ <—
16 ~~violation of any of the provisions of this act, or if~~
17 ~~issuance of such permit would result in a violation of this~~
18 WILL NOT SATISFY THE REQUIREMENTS OF THIS act or any other <—
19 applicable environmental statute, rule or regulation;

20 (2) the permit application is incomplete;

21 (3) unresolved objections to the well location by coal
22 mine owner or operator remain;

23 (4) there is no bond on file with the department for the
24 well; or

25 (5) the applicant, with respect to any other well or
26 wells which the applicant operates, is in continuing
27 violation of this act or any other applicable statute
28 administered by the department, WHICH CONDUCT SATISFIES THE <—
29 ELEMENTS OF A MISDEMEANOR OFFENSE SET FORTH IN THE APPLICABLE
30 STATUTE, BASED ON SUBSTANTIAL EVIDENCE. The right of the

department to deny a permit under this paragraph shall not be effective until a final administrative determination has been made of any of these violations and no appeal is pending in which a stay has been granted.

(f) Upon issuance of a permit, the well operator may proceed with the drilling of the well at the exact location shown on the plat after providing the department ~~and~~, the surface landowner

~~reasonable~~ AND THE LOCAL POLITICAL SUBDIVISION IN WHICH THE WELL IS TO BE LOCATED, 24 HOURS' notice of the date that drilling

will commence. In noncoal areas where more than one well is to be drilled as part of the same development project, only the first well of the project need be located by survey. The

remaining wells of the project shall be shown on the plat in a manner prescribed by regulation. Prior to drilling each of the

additional project wells, the well operator shall notify the department of his intention and provide reasonable notice of the

date drilling will commence. Whenever, during the drilling of any well which is not underlain by an operating coal mine, the

well operator shall encounter conditions of such a nature as to render continued drilling the same bore hole more hazardous than

usual, or otherwise impossible, then the well operator shall have the right, upon verbal notice to the ~~appropriate~~ department

~~representative~~, to plug such bore hole immediately and to commence a new bore hole not more than 50 feet distant if the

location of the new bore hole does not violate section 205 and if, for wells subject to the act of July 25, 1961 (P.L.825,

No.359), known as the Oil and Gas Conservation Law, the new location complies with any existing law, regulation or spacing

order and if the new bore hole is a minimum of 330 feet distant from the nearest lease boundary. Within ten days of commencement

1 of the new bore hole, the well operator shall file with the
2 department a written notice of intention to plug, a well record,
3 a completion report, a plugging certificate for the original
4 bore hole, and an amended plat for the new bore hole. THE WELL <—
5 OPERATOR SHALL FORWARD A COPY OF THE AMENDED PLAT TO THE SURFACE
6 LANDOWNER IDENTIFIED ON THE WELL PERMIT APPLICATION WITHIN TEN
7 DAYS OF COMMENCEMENT OF THE NEW WELL BORE.

8 (g) A copy of the well permit shall be posted at the
9 drilling site, in a conspicuous manner, prior to commencement of
10 drilling.

11 (h) The well operator shall install the permit number issued
12 by the department in a legible, visible and permanent manner on
13 the well upon completion.

14 (i) Well permits issued for drilling of wells covered by
15 this act shall expire one year after issuance unless operations
16 for drilling the well are commenced within such period and
17 ~~prosecuted~~ PURSUED with due diligence or unless the permit is <—
18 renewed in accordance with regulations of the department. If
19 drilling is commenced during the one-year period, the well
20 permit shall remain in force until the well is plugged in
21 accordance with section 210 or the permit is revoked. Any
22 drilling permit issued prior to the effective date of this act
23 for a well which is an operating well on said date shall remain
24 in force as a well permit until the well is plugged in
25 accordance with section 210. Nothing in this subsection shall be
26 construed to rescind the provisions pertaining to drilling
27 permits contained in the Oil and Gas Conservation Law.

28 (j) Any operating wells drilled prior to the effective date
29 of this act which have not received a drilling permit from the
30 department shall be entitled to receive a well permit from the

1 department upon the submission of a well permit application, on
2 forms ~~prescribed in~~ OR IN A MANNER PRESCRIBED BY the department, <—
3 which shall contain the following information:

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

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

15 (3) the approximate date of the drilling, completion of
16 said well and the approximate depth of said well, the
17 producing horizons, well construction information and
18 driller's logs, if available; and <—

19 (4) ~~a permit fee of \$25 per well and~~ an indemnity bond <—
20 satisfying the requirements of section 215; AND <—

21 (5) A PERMIT FEE OF \$25 PER WELL, EXCEPT THAT THE
22 DEPARTMENT MAY ESTABLISH A BLANKET PERMIT FEE WHERE MULTIPLE
23 WELL PERMIT APPLICATIONS ARE SUBMITTED SIMULTANEOUSLY FOR
24 WELLS THAT ARE PART OF THE SAME DEVELOPMENT PROJECT.

25 The department may extend the one-year time period provided
26 in subsection (a) for compliance with the permitting
27 requirements of this act for previously unpermitted wells for
28 good cause shown. However, such extension shall not exceed a
29 period ending two years from the effective date of this act. The
30 department may adopt and promulgate guidelines designed to

1 insure a fair implementation of this subsection which recognizes
2 the practical difficulties of locating unpermitted wells and
3 complying with the reporting requirements of this act.

4 (k) The department may establish by regulation certain
5 categories of alterations of permitted wells for which the
6 permitting requirements of ~~subsection (a)~~ THIS SECTION shall not <—
7 apply. The well operator or owner who proposes to conduct such
8 alteration activity shall first obtain a permit modification
9 from the department. Requirements for permit modification shall
10 be as the department shall require by regulation.

11 (L) NO PERMIT ISSUED PURSUANT TO THIS SECTION MAY BE <—
12 TRANSFERRED WITHOUT PRIOR APPROVAL OF THE DEPARTMENT. REQUESTS
13 FOR APPROVAL OF SUCH TRANSFER SHALL BE MADE ON FORMS OR IN A
14 MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT SHALL HAVE
15 THE AUTHORITY TO DENY SUCH REQUEST FOR THE REASONS SET FORTH IN
16 SUBSECTION (E)(5).

17 Section 202. Permit objections.

18 (a) In case any well location referred to in section 201(b)
19 is made so that the well, when drilled, will be located on a
20 tract whose surface is owned by a person other than the well
21 operator then the surface landowner affected shall be notified
22 of the intent to drill and have right to file objections, ~~based~~ <—
23 IN ACCORDANCE WITH SECTION 501, TO THE WELL LOCATION OR on the <—
24 assertion that information in the application is untrue in any
25 material respect ~~or that the well location violates section 205,~~ <—
26 ~~in accordance with section 501 to such proposed location within~~
27 15 days of the receipt by the surface owner of the plat provided
28 for in section 201(b). If no such objections are filed or none
29 are raised by the department within 15 days after receipt of the
30 plat by the surface landowner, or if written approval by the

1 surface landowner is filed with the department and no objections
2 are raised by the department within 15 days of filing, the
3 department shall ~~process the permit application~~ PROCEED TO ISSUE <—
4 OR DENY THE PERMIT.

5 (b) In case any well location referred to in section 201(b)
6 is made so that the well when drilled will penetrate anywhere
7 within the outside coal boundaries of any operating coal mine or
8 coal mine already projected and platted but not yet being
9 operated or within 1,000 linear feet beyond such boundaries and
10 the well when drilled or the pillar of coal about the well will,
11 in the opinion of the coal owner or operator, unduly interfere
12 with or endanger such mine, then the coal owner or operator
13 affected shall have the right to file objections in accordance
14 with section 501 to such proposed location within 15 days of the
15 receipt by the coal operator of the plat provided for in section
16 201(b). An alternative location at which the proposed well could
17 be drilled to overcome such objections shall, if possible, be
18 indicated. If no such objections to the proposed location are
19 filed or if none are raised by the department within 15 days
20 after receipt of the plat by the coal operator or owner, or if
21 written approval by the coal operator or owner of the location
22 is filed with the department and no objections are raised by the
23 department with 15 days of filing, the department shall ~~process~~ <—
24 ~~the permit application~~ PROCEED TO ISSUE OR DENY THE PERMIT. <—

25 (c) If any objections are filed by any coal operator or
26 owner or are made by the department, the department shall fix a
27 time and place for a conference in accordance with section 501
28 not more than ten days from the date of the service of such
29 objections on the well operator at which conference the well
30 operator and such coal operators or owners as are present or

1 represented shall consider the objections and attempt to agree
2 upon a location. If they fail to agree upon a location, the
3 department shall by an appropriate order, determine a location
4 on such tract of land as near to the original location as
5 possible where, in the judgment of the department, the well can
6 be safely drilled without unduly interfering with or endangering
7 such mine as defined in subsection (b). Such new location as
8 agreed upon by said parties or as determined by the department
9 shall be indicated on the plat on file with the department and
10 shall become a permanent record, whereupon the department shall
11 ~~promptly process the permit application.~~ PROCEED TO ISSUE OR <—
12 DENY THE PERMIT.

13 (d) Within 120 days after the commencement of drilling
14 operations, the coal operator shall accurately locate the well
15 by a closed survey on the same datum as the mine workings or
16 coal boundaries are mapped and file the results of the survey
17 with the department and forward, by certified mail, a copy to
18 the well operator.

19 Section 203. Permit ~~suspension~~; revocation; cease and desist <—
20 orders.

21 ~~(a) The department shall have the right to suspend the~~ <—
22 ~~permit for any well with respect to which the operator is in~~
23 ~~violation of the act or other applicable laws, rules and~~
24 ~~regulations of the department or of the conditions of the well~~
25 ~~permit. Prior to any suspension of a permit, the department~~
26 ~~shall give written notice to the well operator of its intended~~
27 ~~action. Said well operator shall have 15 days to request a~~
28 ~~conference with the department to give cause why such action~~
29 ~~should not be taken. Upon receipt of such written notice, the~~
30 ~~department shall hold a conference and shall, within ten days~~

1 ~~thereafter, make a determination.~~

2 ~~(b)~~ (A) The department shall have the authority and order <—
3 immediate cessation of operations or activities on any well or
4 well site from which arises a threat of imminent harm to person
5 or property of or pollution of waters of the Commonwealth. ANY <—
6 DEPARTMENT ORDER SHALL AUTOMATICALLY EXPIRE AFTER A 5-DAY PERIOD
7 UNLESS THE DEPARTMENT OBTAINS A COURT ORDER UPHOLDING AND
8 CONTINUING THE EXISTING DEPARTMENT ORDER.

9 ~~(e)~~ (B) The department shall have the power to SUSPEND OR <—
10 revoke a well permit pursuant to this section for any operating
11 well where the well site is shown to be in continuing violation
12 of this act, the act of June 22, 1937 (P.L.1987, No.394), known
13 as The Clean Streams Law, the act of July 7, 1980 (P.L.380,
14 No.97), known as the Solid Waste Management Act, or other
15 statutes administered by the department and where the violation
16 is caused by the drilling, completion or continued operation of
17 a well.

18 ~~(d)~~ (C) Prior to the SUSPENSION OR revocation of a well <—
19 permit, the department shall serve written notice upon the well
20 operator or its agent of the intention of the department to
21 SUSPEND OR revoke said well permit and shall state with <—
22 specificity the statutory provisions, appropriate rule or
23 regulation or other reason and the factual circumstances which
24 surround the violation upon which the permit SUSPENSION OR <—
25 revocation is to be based. Within 15 days of the receipt of such
26 written notice by the well operator or its agent, there shall be
27 scheduled a conference pursuant to this act unless the right to
28 such conference is waived by the well operator or its authorized
29 agent. Such conference shall be for the purpose of determining
30 the exact nature of the violation and to determine whether said

1 violation continues to exist. The department shall determine
2 within 15 days of the conclusion of such conference whether or
3 not the violation is continuing and upon a written finding that
4 the well site is in continuing violation, the department may
5 SUSPEND OR revoke the well permit for the well involved <—
6 effective upon receipt of written notice of same by the well
7 operator or its agent unless the well operator or its agent
8 requests a hearing before the Environmental Hearing Board within
9 five days of the receipt of such notice.

10 ~~(e)~~ (D) Upon a finding by the department that the well <—
11 permit should be SUSPENDED OR revoked, the well operator shall <—
12 be entitled to a hearing before the Environmental Hearing Board
13 within 30 days of the departmental finding for permit SUSPENSION <—
14 OR revocation. Upon a similar finding by the Environmental
15 Hearing Board that a continuing violation of this act exists and
16 that the well permit should be SUSPENDED OR revoked, the permit <—
17 shall be SUSPENDED OR revoked ~~subject to any appeal in which a~~ <—
18 ~~stay has been granted~~. THE WELL OPERATOR SHALL HAVE ALL RIGHTS <—
19 OF APPEAL PURSUANT TO 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW
20 AND PROCEDURE). NO WELL PERMIT SUSPENSION OR REVOCATION SHALL BE
21 FINAL OR EFFECTIVE UNTIL AN EXHAUSTION OF THE APPEAL PROCESS,
22 PROVIDING THAT A STAY HAS BEEN ISSUED WHICH REMAINS AS A
23 SUPERSEDEAS.

24 ~~(f)~~ (E) Nothing contained in this section shall affect or <—
25 impair the enforcement powers granted the department pursuant to
26 this act.

27 Section 204. Inactive status.

28 (a) Upon application, the department may grant inactive
29 status for any permitted well which satisfies the following
30 requirements:

1 (1) the condition of the well is sufficient to prevent
2 damage to the producing zone, migration of hydrocarbons or
3 water from one strata to another, contamination of fresh
4 water or other natural resources or surface leakage of any
5 substance;

6 (2) the well is temporarily plugged in a manner
7 prescribed by regulation which stops the vertical flow of
8 fluids or gas within the well bore and which is adequate to
9 protect freshwater aquifers, IF THE DEPARTMENT DETERMINES THE <—
10 WELL POSES A THREAT TO THE HEALTH AND SAFETY OF PERSONS OR
11 PROPERTY OR TO THE ENVIRONMENT;

12 (3) the applicant certifies that the well is of future
13 utility and presents a viable plan for utilizing the well
14 within a reasonable time; and

15 (4) the applicant satisfies such bonding requirements as
16 the department shall establish by regulation to ensure the
17 proper plugging of wells granted inactive status.

18 (b) The owner or operator of any well granted inactive
19 status shall be responsible for monitoring the mechanical
20 integrity of such well and shall report the same on an annual
21 basis to the department in a manner and form as the department
22 shall prescribe by regulation.

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

1 Section 205. Well location restrictions.

2 (a) Wells may not be drilled within 200 feet measured
3 horizontally from any building or existing water well without
4 the written consent of the owner thereof. Where the distance
5 restriction would deprive the owner of the oil and gas rights of
6 the right to produce or share in the oil or gas ~~from~~ UNDERLYING <—
7 said surface tract, the well operator may be granted a variance
8 from said distance restriction upon submission of a plan which
9 shall identify the additional measures, facilities or practices
10 to be employed during well site construction, drilling and
11 operations. The variance, if granted, shall include such
12 additional terms and conditions as the department shall require
13 to insure the safety and protection of affected persons and
14 property. The provisions may include insurance, bonding and
15 indemnification, as well as technical requirements.

16 (b) No well site may be prepared or well drilled within 100
17 feet measured horizontally from any stream, spring or body of
18 water as identified on the most current 7 1/2 minute topographic
19 quadrangle map of the United States Geological Survey or within
20 100 feet of any wetlands as defined herein. The department may
21 waive such distance restrictions upon submission of a plan which
22 shall identify the additional measures, facilities or practices
23 to be employed during well site construction, drilling and
24 operations. Such waiver, if granted, ~~may~~ SHALL impose such <—
25 permit conditions as are necessary to protect the waters of the
26 Commonwealth.

27 Section 206. Well site restoration.

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

(b) During and after all earthmoving or soil disturbing activities, including but not limited to, the 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) Within nine months after completion of drilling of any well, the owner or operator shall ~~restore the well site by~~ removing or filling 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 the express written consent of the surface landowner is obtained.

(d) 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) Restoration activities required by this act or in regulations promulgated hereunder shall also comply with all applicable provisions of The Clean Streams Law.

(f) Failure to restore the well site as required in this act or in regulations promulgated hereunder is a violation of this act.

(g) The restoration period may be extended by the department for an additional six months upon application of the well owner or operator providing evidence of inability to comply due to adverse weather conditions or lack of essential fuel, equipment or labor.

Section 207. Casing requirements.

1 (a) To prevent the migration of gas or fluids into sources
2 of fresh groundwater and to prevent ~~intermingling~~ POLLUTION OR <—
3 DIMINUTION of fresh groundwaters, there shall be run and
4 permanently cemented a string OR STRINGS of casing in each well <—
5 drilled through the fresh water bearing strata TO A DEPTH AND in <—
6 a manner prescribed by regulation by the department.

7 (b) When a well is drilled at a location where the coal has
8 been removed from one or more coal seams, the well shall be
9 drilled and cased to prevent the migration of gas or fluids into
10 the seam from which the coal has been removed in a manner
11 prescribed by regulation of the department. The department and
12 the coal operator, owner or lessee shall be given at least 72
13 hours' notice prior to commencement of the work protecting the
14 mine.

15 (c) When a well is drilled at a location where the coal seam
16 has not been removed, the well shall be drilled to such a depth
17 and of size as will permit the placing of casing, packers in,
18 and vents on, the hole at such points and in such a manner
19 prescribed by the department by regulation as will exclude all
20 gas or fluids from the coal seam, except such as may be found
21 naturally in the coal seam itself and will enable the monitoring
22 of the integrity of the production casing.

23 Section 208. Protection of water supplies., ~~rebuttable~~ <—
24 ~~presumption.~~

25 (a) Any well operator who affects a public or private water
26 supply by ~~contamination~~ POLLUTION or diminution shall restore or <—
27 replace the affected supply with an alternate source of water
28 adequate in quantity or quality for the purposes served by the
29 supply.

30 ~~(b) It shall be presumed, as a matter of law, that a well~~ <—

1 operator is responsible, without proof of fault, negligence or
2 causation, for all pollution or diminution of public or private
3 water supplies within 1,000 feet of the perimeter of the well,
4 which occurred within six months after the completion of such
5 drilling or alteration activity but which did not exist prior to
6 the drilling or alteration of the well as determined by a
7 predrilling or prealteration survey. There shall be only four
8 defenses to the presumptions of liability provided herein. The
9 well operator must affirmatively prove by clear and convincing
10 evidence that:

11 (1) the landowner or water supply company refused to
12 allow the operator access to conduct a predrilling or
13 prealteration survey;

14 (2) the structure or water supply is not within the
15 relevant zone of presumed damage;

16 (3) the pollution or diminution existed prior to the
17 drilling or alteration as determined by a predrilling or
18 prealteration survey or occurred more than six months after
19 completion of such drilling or alteration activities; or

20 (4) the pollution or diminution occurred as the result
21 of some cause other than said drilling or alteration.

22 (e) (B) Any landowner or water supply company PURVEYOR who <—
23 suffers pollution or diminution of a water supply within the <—
24 relevant zone of presumed damage BECAUSE OF ACTIVITY ASSOCIATED <—
25 WITH AN OIL OR GAS WELL shall file a written claim with the well
26 operator or owner within 90 days of THE DISCOVERY OF such <—
27 pollution or diminution. The well operator or owner shall
28 repair, replace, restore or remedy coverage for any pollution or
29 diminution of public or private water supplies within 30 days
30 after receiving written notice of a claim. The well operator or

1 owner may, within 30 days after receiving written notice of a
2 claim, request A conference to arbitrate the claim with the
3 affected landowner or water ~~supply company~~ PURVEYOR in
4 accordance with section 501. UPON RECEIPT OF A REQUEST FOR A
5 CONFERENCE, THE DEPARTMENT SHALL INVESTIGATE THE CLAIM OF THE
6 LANDOWNER OR WATER PURVEYOR AND PROCEED TO ARBITRATE SAID CLAIM
7 IN ACCORDANCE WITH THE PROVISIONS OF SECTION 501.

<—

<—

<—

8 ~~(d)~~ (C) Nothing herein shall prevent any landowner or water
9 ~~supply company~~ PURVEYOR who claims pollution or diminution of a
10 water supply from seeking any other remedy that may be provided
11 at law or in equity.

<—

<—

12 Section 209. Use of safety devices.

13 Any person engaged in drilling any oil or gas well shall
14 equip the well with casings of sufficient strength and with such
15 other safety devices as may be necessary in a manner as
16 prescribed by regulation of the department and shall use every
17 effort and endeavor effectively to prevent blowouts, explosions
18 and fires.

19 Section 210. Plugging requirements.

20 (a) Upon abandoning or ceasing to operate any well, the
21 owner or operator thereof shall plug the well in a manner
22 prescribed by regulation of the department in order to stop any
23 vertical flow of fluids or gas within the well bore unless the
24 department has granted inactive status for such well pursuant to
25 section 204.

26 (b) Prior to the abandonment of any well in an area
27 underlain by a workable coal seam, the well operator or owner
28 shall notify the coal operator, lessee or owner and the
29 department of his intention to plug and abandon any such well
30 and submit a plat, on a form to be furnished by the department,

1 showing the location of the well and fixing the date and time at
2 which the work of plugging will be commenced, which time shall
3 be not less than 72 hours after the time when such notice is
4 received, nor more than 30 days thereafter in order that their
5 representatives may be present at the plugging of the well. Such
6 notice may be waived by the department and said coal operator,
7 lessee or owner and any of them may likewise waive their right
8 to be present but such waiver by coal operator, lessee or owner
9 shall be in writing and a copy thereof attached to THE notice of <—
10 abandonment, filed with the department under this section.
11 Whether or not such representatives appear, the well operator
12 may, if he has fully complied with the requirements of this
13 section, proceed at the time fixed, to plug the well in the
14 manner as prescribed by regulation of the department. When such
15 plugging has been completed, a certificate shall be prepared and
16 signed, on a form to be furnished by the department, by two
17 experienced and qualified people who participated in the work
18 setting forth the time and manner in which the well has been
19 plugged. One copy of this certificate shall be mailed to each
20 coal operator, lessee or owner to whom notice was given by
21 certified mail and another copy shall be mailed to the
22 department.

23 (c) Prior to the abandonment of any well, except an
24 uncompleted bore hole plugged immediately upon suspension of
25 drilling in an area not underlain by a workable coal seam, the
26 well operator shall notify the department of his intention to
27 plug and abandon any such well and submit a plat, on a form to
28 be furnished by the department, showing the location of the well
29 and fixing the date and time at which the work of plugging will
30 be commenced, which time shall not be less than 72 hours nor

1 more than 30 days after the time of mailing such notice, in
2 order that the department representative may be present at the
3 plugging of the well. Such notice or waiting period may be
4 verbally waived by the department. In noncoal areas where more
5 than one well has been drilled as part of the same development
6 project and these wells are now to be plugged, it is required
7 that the department be given 72 hours' notice prior to plugging
8 the first well of such project subject to waiver of notice
9 described herein. In the plugging of subsequent wells, no
10 additional notice shall be required if the plugging on the
11 project is continuous. If the plugging of subsequent wells is
12 delayed for any reason, notice shall be given to the department
13 of the continuation of such project. Whether or not such
14 department representative appears, the well operator may, if he
15 has fully complied with the requirements of this section,
16 proceed at the time fixed to plug the well in the manner as
17 prescribed by regulation of the department. When such plugging
18 has been completed, a certificate shall be prepared, on a form
19 to be furnished by the department, by two experienced and
20 qualified people who participated in the work, setting forth the
21 time and manner in which the well was plugged. A copy of this
22 certificate shall be mailed to the department.

23 (d) Whenever any well is to be abandoned immediately after
24 completion of drilling, the well operator shall give at least 24
25 hours' notice by telephone, confirmed by certified mail, to the
26 department and to the coal operator, lessee or owner, if any,
27 fixing the date and time at which the work of plugging will be
28 commenced. Such notice may be waived by the department and said
29 coal operator, lessee or owner, and any of them may likewise
30 waive their right to be present. Whether or not any

1 representative of the department or of the coal operator, lessee
2 or owner, if any, appear, the well operator may, if he has fully
3 complied with the requirements of this section, proceed at the
4 time fixed, to plug the well in the manner provided by
5 regulation prescribed by the department. The well operator shall
6 prepare the certificate of plugging and mail copies of the same
7 as provided in subsections (b) and (c).

8 (e) If a well is abandoned without plugging, the department
9 shall have the right to enter upon the well site and plug the
10 abandoned well and to sell such equipment casing and pipe as may
11 have been used in the production of the well in order to recover
12 the costs of plugging. Said costs of plugging shall have
13 priority over all liens on said equipment, casing and pipe and
14 said sale shall be free and clear of any such liens to the
15 extent the costs of plugging exceed the sale price. If the
16 equipment price obtained for casing and pipe salvaged at the
17 abandoned well site is inadequate to pay for the cost of
18 plugging the well, the owner or operator of the well shall be
19 legally liable for the additional costs of plugging the well. An <—
20 ~~abandoned, unplugged well is hereby declared to constitute a~~
21 ~~public nuisance.~~

22 Section 211. Alternative methods.

23 Whenever provision is made in this act for adoption of
24 regulatory requirements for casing, plugging or equipping a
25 well, a well operator may request the authority to use an
26 alternative method of material by filing an application with the
27 department, describing such proposed alternative method or
28 material in reasonable detail indicating the manner in which it
29 will accomplish the goals of this act and regulations adopted
30 pursuant hereto. Notice of filing of any such application shall

1 be given by the well operator by certified mail to any coal
2 operator or operators affected. Any such coal operator may,
3 within 15 days following such notice, file objections to such
4 proposed alternative method or material. If no objections are
5 filed within said 15-day period and if none is raised by the
6 department, the department shall forthwith make a determination
7 whether to allow the use of the proposed alternative method or
8 material.

9 Section 212. Well reporting requirements.

10 (a) Every well operator shall file with the department, on a
11 form provided by the department, an annual report specifying the
12 amount of production from each well on an individual well basis.
13 Where said data is not available on a well basis, it may be
14 reported on the most well-specific basis available. Annual
15 reports shall also specify the status of each well, however, in
16 subsequent years, only changes in the status need be reported.
17 All such reports shall be kept confidential for one year after
18 the date the information is required to be filed hereunder. ~~if~~ <—
19 ~~the operator requests such confidential treatment at the time~~
20 ~~the information is submitted to the department.~~ Upon request of
21 the well operator, the department shall for good cause shown
22 extend the period of confidentiality for two years. The total
23 period of confidentiality shall not exceed three years. For
24 statistical purposes the department may utilize such
25 confidential information in an aggregate form.

26 (b) It shall be the duty of the well operator to keep
27 records of any well drilled or altered. A record of the well
28 containing such information as required by regulation shall be
29 filed with the department within 30 days of cessation of
30 drilling. A completion report containing such additional

1 information as required by regulation shall be filed with the
2 department within 30 days after the completion of the well and
3 it shall be kept on file by the department. Within 90 days after
4 the completion of drilling or recompletion of a well, if
5 requested by the department, the well operator shall submit a
6 copy of the electrical, radioactive or other standard industry
7 logs if they have been run. In addition, if requested by the
8 department within one year, the well operator shall file a copy
9 of drill stem test charts, formation water analysis, porosity,
10 permeability or fluid saturation measurements, core analysis and
11 lithologic log or sample description or other similar data as
12 compiled. No such information shall be required unless the well
13 operator has had such information compiled in the ordinary
14 course of business. No interpretation of the data is to be
15 filed.

16 (c) Upon notification by the department prior to
17 commencement of drilling, the well operator shall collect for
18 the department additional data as the department shall specify,
19 such as representative drill cuttings and samples from cores
20 taken and any other such geological information that the
21 operator reasonably can compile. No interpretation of the data
22 is to be filed.

23 (d) All electrical, radioactive or other standard industry
24 logs, drill stem test charts, formation water analyses,
25 porosity, permeability or fluid saturation measurements, core
26 analysis and lithologic logs or sample description or other
27 similar data as compiled, furnished under subsection (b) or
28 drill cuttings furnished under subsection (c) shall be kept
29 confidential for one year after the date of information is
30 required to be filed hereunder. Upon request of the well

1 operator, the department shall for good cause shown extend the
2 period of confidentiality for two years. The total period of
3 confidentiality shall not exceed three years.

4 Section 213. Notification of transfer.

5 The owner or operator of any well shall notify the
6 department, in writing, in such form as the department may
7 direct by regulation, of the sale, assignment, transfer,
8 conveyance or exchange by the owner or to the owner of such well
9 within 30 days after such sale, assignment, conveyance or
10 exchange. No such transfer shall relieve the well owner or
11 operator of any liability accrued under this act, nor shall it
12 relieve him of the obligation to plug said well until a
13 replacement bond has been filed with the department by the new
14 owner.

15 Section 214. Coal operator responsibilities, coal pillar
16 permits.

17 (a) Hereafter, at any time prior to removing any coal or
18 other underground material or extending the workings in any coal
19 mine within 500 feet of any oil or gas well of which the coal
20 operator has knowledge, or any approved well location of which
21 the coal operator has knowledge, the coal operator shall
22 forward, by certified mail, to or file with the well operator
23 and the department a copy of such relevant part of its maps and
24 plans which it is presently required by law to prepare and file
25 with the department, showing the pillar which the coal operator
26 proposes to leave in place around each oil or gas well in the
27 projected workings. Following the filing of maps and plans, the
28 coal operator may proceed with mining operations in the manner
29 projected on said maps and plans but he shall not remove any
30 coal or cut any passageway within 150 feet of any such well or

1 approved well location until a permit has been issued as
2 hereinafter provided. If, in the opinion of the well operator or
3 the department, such plan indicates that the pillar proposed to
4 be left around any such well or approved well location is
5 insufficient in size, then the well operator affected shall
6 attempt to agree with the coal operator upon a suitable pillar,
7 subject to the approval of the department, but failing to agree,
8 such well operator may, within ten days from receipt by them of
9 such plan, file objections in accordance with section 501 to
10 such proposed plan, indicating the size of the pillar to be left
11 with respect to each such well. If no objections are filed
12 within said ten-day period or if none are raised by the
13 department, the department shall forthwith issue a permit to the
14 coal operator reciting the filing of said maps or plans, that no
15 objections have been made thereto and that the pillar proposed
16 to be left for each such well is approved in the manner as
17 projected.

18 (b) If any objections are filed by such well operator or are
19 raised by the department, the department shall direct that a
20 conference be held in accordance with section 501 within ten
21 days of the filing of such objections. At such conference the
22 coal operator and the person who has filed such objections shall
23 attempt to agree upon a proposed plan, showing the pillar to be
24 left around each well, which will satisfy such objections and be
25 approved by the department and, if such plan is agreed upon, the
26 department shall forthwith issue to the coal operator a permit
27 reciting the filing of said plan and that the pillar to be left
28 for each such well is approved as agreed upon. If no such plan
29 showing the pillar to be left with respect to each well can be
30 agreed upon at such conference, the department shall by an

1 appropriate order, determine the pillar to be left with respect
2 to such well. In a proceeding under this section, the department
3 shall follow as nearly as is possible the original plan filed by
4 the coal operator. The department shall not require the coal
5 operator to leave a pillar in excess of 100 feet in radius,
6 except that, if it is established that unusual conditions exist
7 requiring the leaving of a larger pillar, the department may
8 require a pillar up to but not exceeding 150 feet in radius. The
9 pillar to be left with respect to each well as determined by the
10 department shall be shown on the maps or plans on file with the
11 department as provided in subsection (a) and the department
12 shall thereupon issue to the coal operator a permit approving
13 the pillar to be left for each such well.

14 (c) Every application for a coal pillar permit shall be
15 accompanied by a fee established by regulation of the
16 department.

17 (d) Application may be made at any time to the department by
18 the coal operator to leave a pillar of less size than that shown
19 on the plan filed by him or approved or determined by the
20 department pursuant to the provisions of this section. If any
21 such application is filed, the department may, following the
22 procedure hereinbefore in this section prescribed, by an
23 appropriate order, determine a different plan showing a pillar
24 of less size with respect to any or all wells covered by such
25 application and an amended permit shall thereupon be issued
26 approving the pillar to be left with respect to each such well.

27 (e) No coal operator shall, without the written approval of
28 the department after notice and opportunity for hearing as
29 prescribed in this section, remove any coal or cut any
30 passageway so as to leave a pillar of less size with respect to

1 any oil or gas well than shown on a permit issued under this
2 act.

3 (f) Nothing in this act shall be construed to require a well
4 operator to pay for any coal pillar required by the act to be
5 left around any well drilled prior to the effective date of this
6 act. Nothing contained in this act, which may require a coal
7 operator to leave a pillar of coal of a certain size around a
8 well drilled after the effective date of this act, shall in any
9 way affect any right which the coal operator would have had
10 prior to the effective date of this act to obtain payment for
11 such coal, nor any duty or right which the well operator,
12 storage operator or land owner may have had prior to the
13 effective date of this act to pay for or not to pay for such
14 coal.

15 Section 215. Bonding.

16 (a) Upon filing an application for a well permit ~~or upon~~ ←
17 ~~registration of an operating well~~ and before continuing to
18 operate any oil or gas well, the owner or operator thereof shall
19 file with the department a bond for the well and the well site
20 on a form to be prescribed and furnished by the department,
21 payable to the Commonwealth and conditioned that the operator
22 shall faithfully perform all of the requirements of this act.
23 The amount of the bond required shall be in the amount of \$2,500
24 per well.

25 In lieu of individual bonds for each well an owner or
26 operator may file a blanket bond, on a form prepared by the
27 department, covering all of its wells in Pennsylvania as
28 enumerated on the bond form. A blanket bond shall be in the
29 amount of \$25,000.

30 Liability under such bond shall continue until the well has

1 been properly plugged in accordance with this act and for a
2 period of one year after filing of the certificate of plugging
3 with the department. Each bond shall be executed by the operator
4 and a corporate surety licensed to do business in the
5 Commonwealth and approved by the secretary. The operator may
6 elect to deposit cash, bank certificates of deposit,
7 automatically renewable irrevocable bank letters of credit which
8 may be terminated by the bank at the end of a term only upon the
9 bank giving 90 days prior written notice to the permittee and
10 the department or negotiable bonds of the United States
11 Government or the Commonwealth, the Pennsylvania Turnpike
12 Commission, the General State Authority, the State Public School
13 Building Authority or any municipality within the Commonwealth,
14 with the department in lieu of a corporate surety. The cash
15 deposit, bank certificate of deposit, amount of such irrevocable
16 letter of credit or market value of such securities shall be
17 equal at least to the sum of the bond. The secretary shall, upon
18 receipt of any such deposit of cash, letters of credit or
19 negotiable bonds, immediately place the same with the State
20 Treasurer, whose duty it shall be to receive and hold the same
21 in the name of the Commonwealth, in trust, for the purpose for
22 which such deposit is made. The State Treasurer shall at all
23 times be responsible for the custody and safekeeping of such
24 deposits. The operator making deposit shall be entitled from
25 time to time to demand and receive from the State Treasurer, on
26 the written order of the secretary, the whole or any portion of
27 any collateral so deposited, upon depositing with him, in lieu
28 thereof, other collateral of the classes herein specified having
29 a market value at least equal to the sum of the bond, and also
30 to demand, receive and recover the interest and income from said

1 negotiable bonds as the same becomes due and payable. Where
2 negotiable bonds, deposited as aforesaid, mature or are called,
3 the State Treasurer, at the request of the owner thereof, shall
4 convert such negotiable bonds into such other negotiable bonds
5 of the classes herein specified as may be designated by the
6 owner. Where notice of intent to terminate a letter of credit is
7 given, the department shall give the operator 30 days' written
8 notice to replace the letter of credit with other acceptable
9 bond guarantees as provided herein and if the owner or operator
10 fails to replace the letter of credit within the 30-day
11 notification period, the department shall draw upon and convert
12 such letter of credit into cash and hold it as a collateral bond
13 guarantee.

14 (b) No bond shall be fully released until all requirements
15 of this act are fully met. Upon release of all of the bonds and
16 collateral as herein provided, the State Treasurer shall
17 immediately return to the owner the amount of cash or securities
18 specified therein.

19 (c) If the well owner or operator fails or refuses to comply
20 with the requirements of this act, the regulations promulgated
21 hereunder or the conditions of the permit, the department shall
22 declare the bond forfeited and shall certify the same to the
23 Attorney General, who shall proceed to enforce and collect the
24 full amount of the bond and where the owner or operator has
25 deposited cash or securities as collateral in lieu of a
26 corporate surety, the department shall declare said collateral
27 forfeited and shall direct the State Treasurer to pay the full
28 amount of said funds into the Well Plugging Restricted Revenue
29 Account, or to proceed to sell said security to the extent
30 forfeited and pay the proceeds thereof into the Well Plugging

1 Restricted Revenue Account. Should any corporate surety or bank
2 fail to promptly pay, in full, a forfeited bond, it shall be
3 disqualified from writing any further bonds under the act or any
4 other environmental act administered by the department. Any
5 person aggrieved by reason of forfeiting the bond or converting
6 collateral, as herein provided, shall have a right to appeal to
7 the Environmental Hearing Board in the manner provided by law.
8 Upon forfeiture of a blanket bond for a violation occurring at
9 one or more well sites, the person whose bond is forfeited shall
10 submit a replacement bond to cover all other wells of which he
11 is owner or operator within ten days of said forfeiture. Failure
12 to submit said replacement bond constitutes a violation of this
13 section as to each of the wells owned or operated by said
14 person.

15 (d) All remedies for violation of this act, the regulations
16 adopted hereunder or the conditions of permits are expressly
17 preserved. Nothing in subsections (a), (b) and (c) shall be
18 construed as an exclusive penalty or remedy for such violations
19 of law. No action taken pursuant to subsection (c) shall waive
20 or impair any other remedy or penalty provided in law.

21 Section 216. Oil and Gas Technical Advisory Board.

22 (a) There shall be created an Oil and Gas Technical Advisory
23 Board. Said board shall include at least three petroleum
24 engineers, petroleum geologists or experienced driller
25 representatives from the oil and gas industry with three years
26 of experience in Pennsylvania and one mining engineer
27 representative from the coal industry with three years of
28 experience in Pennsylvania, all appointed by the secretary for a
29 term of three years. Said members shall not receive a salary but
30 shall be reimbursed for all necessary expenses incurred in the

1 performance of their duties. The board shall meet upon the call
2 of the secretary. Vacancies on the board shall be filled by the
3 secretary within six months.

4 (b) The department shall consult with the board in the
5 formulation, drafting and presentation stages of all regulations
6 of a technical nature promulgated under this act. The board
7 shall be given a reasonable opportunity to review and comment on
8 all regulations of a technical nature prior to submission to the
9 Environmental Quality Board for initial consideration. The
10 written report of the board shall be presented to the
11 Environmental Quality Board with any regulatory proposal.

12 CHAPTER 3

13 UNDERGROUND GAS STORAGE

14 Section 301. Reporting requirements for gas storage operations.

15 (a) Any person who is injecting into or storing gas in a
16 storage reservoir which underlies or is within 3,000 linear feet
17 of an operating coal mine which is operating in a coal seam that
18 extends over the storage reservoir or the reservoir protective
19 area, shall, within 60 days thereafter, file with the department
20 a copy of a map and certain data in the form and manner provided
21 in this subsection or as otherwise prescribed by regulation of
22 the department.

23 Any person who is injecting gas into or storing gas in a
24 storage reservoir which is not under or within 3,000 linear feet
25 but is less than 10,000 linear feet from an operating coal mine
26 which is operating in a coal seam that extends over the storage
27 reservoir or the reservoir protective area, shall file such map
28 and data within such time in excess of 60 days as the department
29 may fix or as otherwise prescribed by regulation.

30 Any person who proposes to inject or store gas in a storage

1 reservoir located as above, shall file the required map and data
2 with the department not less than six months prior to the
3 starting of actual injection or storage.

4 The map provided for herein shall be prepared by a competent
5 engineer or competent geologist. It shall show the stratum or
6 strata in which the existing or proposed storage reservoir is or
7 is to be located, the geographic location of the outside
8 boundaries of the said storage reservoir and reservoir
9 protective area, the location of all known oil or gas wells
10 WITHIN THE RESERVOIR OR WITHIN 3,000 LINEAR FEET THEREOF, which <—
11 have been drilled into or through the storage stratum ~~within the~~ <—
12 ~~reservoir or within 3,000 linear feet thereof,~~ indicating which
13 of these wells have been or are to be cleaned out and plugged or
14 reconditioned for storage and also indicating the proposed
15 location of all additional wells which are to be drilled within
16 the storage reservoir or within 3,000 linear feet thereof.

17 The following information, if available, shall be furnished
18 for all known oil or gas wells which have been drilled into or
19 through the storage stratum within the storage reservoir or
20 within 3,000 linear feet thereof, name of the operator, date
21 drilled, total depth, depth of production if the well was
22 productive of oil or gas, the initial rock pressure and volume,
23 the depths at which all coal seams were encountered and a copy
24 of the driller's log or other similar information. At the time
25 of the filing of the aforesaid maps and data, such person shall
26 file a detailed statement of what efforts he has made to
27 determine that the wells shown on said map are accurately
28 located thereon and that, to the best of his knowledge, they are
29 all the oil or gas wells which have ever been drilled into or
30 below the storage stratum within the proposed storage reservoir

1 or within the reservoir protective area. This statement shall
2 also include information as to whether or not the initial
3 injection is for testing purposes, the maximum pressure at which
4 injection and storage of gas is contemplated and a detailed
5 explanation of the methods to be used or which, theretofore,
6 have been used in drilling, cleaning out, reconditioning and
7 plugging wells in the storage reservoir or within the reservoir
8 protective area. The map and data required to be filed hereunder
9 shall be amended or supplemented semiannually in case any
10 material changes have occurred. The department may required a
11 storage operator to amend or supplement such map or data at more
12 frequent intervals if material changes have occurred justifying
13 such earlier filing.

14 (b) Any person who is injecting gas into or storing gas in a
15 storage reservoir not then subject to subsection (a), by a
16 process other than that of secondary recovery or gas recycling,
17 shall, with such time in excess of 60 days as the department may
18 fix, file with the department a copy of a map and certain data
19 in the form and manner provided in this subsection or as
20 prescribed by regulation of the department.

21 Any person who, after the effective date of this chapter,
22 proposes to inject or store gas in a storage reservoir in an
23 area not covered by subsection (a) by a process other than that
24 of secondary recovery or gas recycling, shall file the required
25 map and data with the department not less than six months prior
26 to the starting of actual injection or storage.

27 The map provided for herein shall be prepared by a competent
28 engineer or competent geologist. It shall show the stratum or
29 strata in which the existing or proposed storage reservoir is or
30 is to be located, the geographic location of the outside

1 boundaries of the said storage reservoir, the location of all
2 known oil or gas wells ~~which have been drilled into or through~~ <—
3 ~~the storage stratum~~ within the reservoir or within 3,000 linear
4 feet thereof, WHICH HAVE BEEN DRILLED INTO OR THROUGH THE <—
5 STORAGE STRATUM, indicating which of these wells have been or
6 are to be cleaned out and plugged or reconditioned for storage
7 and also indicating the proposed location of all additional
8 wells which are to be drilled within the storage reservoir or
9 within 3,000 linear feet thereof.

10 The following information, if available, shall be furnished
11 for all known oil or gas wells which have been drilled into or
12 through the storage stratum within the storage reservoir or
13 within 3,000 linear feet thereof, name of the operator, date
14 drilled, total depth, depth of production if the well was
15 productive of oil or gas, the initial rock pressure and volume
16 and a copy of the driller's log or other similar information. At
17 the time of the filing of the aforesaid maps and data, such
18 person shall file a detailed statement of what efforts he has
19 made to determine that the wells shown on said map are
20 accurately located thereon and that, to the best of that
21 person's knowledge, they are all the oil or gas wells which have
22 ever been drilled into or below the storage stratum within the
23 proposed storage reservoir. This statement shall also include
24 information as to whether or not the initial injection is for
25 testing purposes, the maximum pressure at which injection and
26 storage of gas is contemplated and a detailed explanation of the
27 methods to be used or which, theretofore, have been used in
28 drilling, cleaning out, reconditioning and plugging wells in the
29 storage reservoir. The map and data required to be filed
30 hereunder shall be amended or supplemented semiannually in case

1 any material changes have occurred. The department may require a
2 storage operator to amend or supplement such map or data at more
3 frequent intervals if material changes have occurred justifying
4 such earlier filing.

5 (c) Storage operators shall give notice to the department of
6 the name of each political subdivision and county in which said
7 operator maintains and operates a gas storage reservoir.

8 (d) At the time of the filing of maps and data and the
9 filing of amended or supplemental maps or data required by this
10 section, the person filing the data shall give written notice of
11 said filing to all persons who may be affected under the
12 provisions of this act by the storage reservoir described in
13 such maps or data. Such notices shall contain a description of
14 the boundaries of such storage reservoir. When a person
15 operating a coal mine or owning an interest in coal properties
16 which are or may be affected by the storage reservoir requests,
17 in writing, a copy of any map or data filed with the department,
18 such copy shall be furnished by the storage operator.

19 (e) For all purposes of this act, the outside boundaries of
20 a storage reservoir shall be defined by the location of those
21 wells around the periphery of the storage reservoir which had no
22 gas production when drilled in said storage stratum. The
23 boundaries as thus defined shall be originally fixed or
24 subsequently changed where, based upon the number and nature of
25 such wells, and upon the geological and production knowledge of
26 the storage stratum, its character, permeability, distribution
27 and operating experience, it is determined in a conference under
28 section 501 that modification should be made.

29 (f) The requirements of this section shall not apply to the
30 operator of an underground gas storage reservoir so long as said

1 reservoir is located more than 10,000 linear feet from an
2 operating coal mine. Such storage operator shall give notice to
3 the department of the name of each political subdivision and
4 county in which said operator maintains and operates a gas
5 storage reservoir. In those political subdivisions and counties
6 where both gas storage reservoirs and coal mines are being
7 operated, the department may request the storage operator to
8 furnish maps showing the geographical location and outside
9 boundaries of such storage reservoirs. The department shall keep
10 a record of such information and shall promptly notify the coal
11 operator and the storage operator when notified by them that the
12 coal mine and storage reservoir are within 10,000 linear feet of
13 each other.

14 Section 302. Reporting requirements for coal mining operations.

15 (a) Any person owning or operating a coal mine shall file
16 with the department a map prepared ~~by a competent engineer,~~ AND <—
17 SEALED BY AN INDIVIDUAL LICENSED AS A PROFESSIONAL ENGINEER OR
18 PROFESSIONAL LAND SURVEYOR PURSUANT TO THE PROVISIONS OF THE ACT
19 OF MAY 23, 1945 (P.L.913, NO.367), KNOWN AS THE PROFESSIONAL
20 ENGINEERS REGISTRATION LAW, showing the outside coal boundaries
21 of the said operating coal mine, the existing workings and
22 exhausted areas and the relationship of said boundaries to
23 identifiable surface properties and landmarks. Any operating
24 coal mine, which has been penetrated by a well shall furnish a
25 mine map to the department each year indicating the excavations
26 for the preceding year and the projections for the ensuing year.
27 Any person who is storing or contemplating the storage of gas in
28 the vicinity of such operating coal mines shall, upon written
29 request, be furnished a copy of the aforesaid map by the coal
30 operator and such person and the department shall, thereafter,

1 be informed of any boundary changes at the time such changes
2 occur. The department shall keep a record of such information
3 and shall promptly notify the coal operator and the storage
4 operator when notified by them that the coal mine and the
5 storage reservoir are within 10,000 linear feet of each other.

6 (b) Any person owning or operating any coal mine which is or
7 which hereafter comes within 10,000 linear feet of a storage
8 reservoir and where the coal seam being operated extends over
9 the storage reservoir or the reservoir protective area, shall,
10 within 45 days after he has notice from the storage operator of
11 such fact, file with the department and furnish to the person
12 operating such storage reservoir a map in the form hereinabove
13 provided and showing, in addition, the existing and projected
14 excavations and workings of such operating coal mine for the
15 ensuing 18-month period and, also, the location of any oil or
16 gas wells of which said coal operator has knowledge. Such person
17 owning or operating said coal mine shall, each six months
18 thereafter, file with the department and furnish to the person
19 operating such storage reservoir a revised map showing any
20 additional excavations and workings, together with the projected
21 excavations and workings for the then ensuing 18-month period,
22 which may be within 10,000 linear feet of said storage
23 reservoir. The department may require a coal operator to file
24 such revised map at more frequent intervals if material changes
25 have occurred justifying such earlier filing. Such person owning
26 or operating said coal mine shall also file with the department
27 and furnish the person operating said reservoir prompt notice of
28 any wells which have been cut into, together with all available
29 pertinent information.

30 (c) Any person owning or operating a coal mine who has

1 knowledge that it overlies or is within 2,000 linear feet of a
2 gas storage reservoir shall, within 30 days, notify the
3 department and the storage operator of such fact.

4 (d) When any person owning or operating a coal mine
5 hereafter expects that within the ensuing nine-month period,
6 such coal mine will be extended to a point which will be within
7 2,000 linear feet of any storage reservoir, he shall notify the
8 department and the storage operator in writing of such fact.

9 (e) Any person hereafter intending to establish or
10 reestablish an operating coal mine which, when established or
11 reestablished, will be over a storage reservoir or within 2,000
12 linear feet of a storage reservoir or which, upon being
13 established or reestablished, may, within nine months
14 thereafter, be expected to be within 2,000 linear feet of a
15 storage reservoir, shall notify the department and the storage
16 operator, in writing, before doing so and such notice shall
17 include the date on which it is intended the operating coal mine
18 will be established or reestablished. Any person who serves such
19 notice of an intention to establish or reestablish an operating
20 coal mine under this subsection, without intending in good faith
21 to establish or reestablish such mine, shall be liable for
22 continuing damages to any storage operator injured by the
23 serving of such improper notice and shall be guilty of a
24 misdemeanor under this chapter and subject to the same penalties
25 as set forth in section 505.

26 Section 303. General gas storage reservoir operations.

27 (a) Any person who operates or proposes to operate a storage
28 reservoir, except one that is filled by the secondary recovery
29 or gas recycling process, shall:

30 (1) Use every known method which is reasonable under the

1 circumstances for discovering and locating all wells which
2 have or may have been drilled into or through the storage
3 reservoir.

4 (2) Plug or recondition in the manner provided in
5 regulations of the department pursuant to this act all known
6 wells, except to the extent otherwise provided in subsections
7 (b) and (c), drilled into or through the storage reservoir.

8 (b) In order to meet the requirements of subsection (a),
9 wells which are to be plugged shall be plugged in the manner
10 specified in section 210. When a well located within the storage
11 reservoir area has been plugged prior to the enactment of this
12 act and on the basis of the data, information and other evidence
13 submitted to the department, it is determined that such plugging
14 was done in the manner required in section 210 or in a manner
15 approved as an alternative method in accordance with section 211
16 and the plugging is still sufficiently effective to meet the
17 requirements of this act, the obligations imposed by subsection
18 (a) as to plugging the well shall be considered fully satisfied.

19 (c) In order to meet the requirements of subsection (a),
20 wells which are to be reconditioned shall, unless the department
21 by regulation specifies a different procedure, be cleaned out
22 from the surface through the storage horizon and the producing
23 casing and such other casing strings which are determined not to
24 be in good physical condition shall be replaced with new casing
25 using the same procedure as is applicable to drilling a new well
26 as provided for in this act. In the case of wells to be used for
27 gas storage, the annular space between each string of casing and
28 the annular space behind the largest diameter casing to the
29 extent possible shall be filled to the surface with cement or
30 bentonitic mud or such nonporous material as is approved by the

1 department pursuant to section 211. At least 15 days prior to
2 the time when a well is to be reconditioned, the storage
3 operator shall give notice thereof to the department, setting
4 forth in such notice the manner in which it is planned to
5 recondition such well and any pertinent data known to the
6 storage operator which will indicate the then existing condition
7 of such well. In addition, the storage operator shall give the
8 department at least 72 hours' notice of the time when such
9 reconditioning is to begin. If no objections are raised by the
10 department within ten days, the storage operator may proceed
11 with the reconditioning in accordance with the plan as
12 submitted. If any objections are made by the department, it may
13 fix a time and place for a conference in accordance with section
14 501 at which conference the storage operator and the department
15 shall endeavor to agree upon a plan of reconditioning which
16 meets the requirements herein and which will satisfy such
17 objections. If no plan is approved at such conference, the
18 department may, by an appropriate order, determine whether the
19 plan as submitted meets the requirements set forth herein or
20 what changes, if any, should be made to meet such requirements.
21 If, in reconditioning a well in accordance with said plan,
22 physical conditions are encountered which justify or necessitate
23 a change in said plan, the storage operator may request that the
24 plan be changed. If the request is denied, the department shall
25 arrange for a conference in accordance with section 501 to
26 determine the matter in the same manner as set forth herein in
27 connection with original objections to said plan. Applications
28 may be made to the department in the manner prescribed in
29 section 211 for approval of an alternative method of
30 reconditioning a well. When a well located within the storage

1 reservoir has been reconditioned prior to the enactment of this
2 chapter or was so drilled and equipped previously and on the
3 basis of the data, information and other evidence submitted to
4 the department, it is determined that:

5 (1) Such conditioning or previous drilling and equipping
6 was done in the manner required in this subsection or in
7 regulations promulgated hereunder or in a manner approved as
8 an alternative method in accordance with section 211.

9 (2) Such reconditioning or previous drilling and
10 equipping is still sufficiently effective to meet the
11 requirements of this act, the obligations imposed by
12 subsection (a), as to reconditioning said well, shall be
13 considered fully satisfied. Where a well requires emergency
14 repairs, this subsection shall not be construed to require
15 the storage operator to give the notices specified herein
16 before making such repairs.

17 (d) The requirements of subsection (a) shall not apply to
18 the injection of gas into any stratum when the sole purpose of
19 such injection, such purpose being herein referred to as
20 testing, is to determine whether the said stratum is suitable
21 for storage purposes. Testing shall be conducted only in
22 compliance with the following requirements:

23 (1) The person testing or proposing to test shall comply
24 with all of the provisions and requirements of section 301
25 and shall verify the statement required to be filed thereby.

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

29 (3) If the department shall have any objections, it
30 shall fix a time and place for a conference in accordance

1 with section 501, not more than ten days from the date of
2 notice to the storage operator, at which conference the
3 storage operator and the department shall attempt to agree on
4 the questions involved. If such agreement cannot be reached
5 at such conference, the department may issue an appropriate
6 order.

7 (e) If, in any proceeding under this act, the department
8 shall determine that any operator of a storage reservoir has
9 failed to carry out any lawful order issued under this act, it
10 shall have authority to require such storage operator to suspend
11 the operation of such reservoir and to withdraw the gas
12 therefrom until such violation is remedied. In such an event the
13 gas shall be withdrawn under the following conditions: the
14 storage operator shall remove the maximum amount of gas which is
15 required by the department to be removed from the storage
16 reservoir that can be withdrawn in accordance with recognized
17 engineering and operating procedures and shall proceed with due
18 diligence insofar as existing facilities used to remove gas from
19 the reservoir will permit.

20 (f) In addition to initial compliance with the other
21 provisions of this act and any lawful orders issued thereunder,
22 it shall be the duty, at all times, of the person owning or
23 operating any storage reservoir which is subject to the
24 provisions of this chapter, to keep all wells drilled into or
25 through the storage reservoir in such condition and to operate
26 the same in such manner as to prevent the escape of gas
27 therefrom and to operate and maintain such storage reservoir and
28 its facilities in such manner as prescribed by regulation of the
29 department and at such pressures as will prevent gas from
30 escaping from such reservoir or its facilities, but in no case

1 shall such pressure exceed the highest rock pressure found to
2 have existed during the production history of the reservoir or
3 such other high pressure as the department may approve after
4 conference under section 501 based upon geological and
5 production knowledge of the reservoir, its character,
6 permeability distribution and operating experience. This duty
7 shall not be construed to include the inability to prevent the
8 escape of gas where such escape results from an act of God or an
9 act of any person not under the control of the storage operator
10 other than in connection with any well which the storage
11 operator has failed to locate and to make known to the
12 department. If any escape of gas does result from an act of God
13 or an act of any person not under the control of the storage
14 operator, the storage operator shall be under the duty of taking
15 such action thereafter as is reasonably necessary to prevent
16 further escape of gas.

17 Section 304. Gas storage reservoir operations in coal areas.

18 (a) Any person who operates a storage reservoir which
19 underlies or is within 2,000 linear feet of an operating coal
20 mine which is operating in a coal seam that extends over the
21 storage reservoir or the reservoir protective area shall:

22 (1) Use every known method which is reasonable under the
23 circumstances for discovering and locating all wells which
24 have or may have been drilled into or through the storage
25 stratum in that acreage which is within the outside coal
26 boundaries of such operating coal mine and which overlies the
27 storage reservoir or the reservoir protective area.

28 (2) Plug or recondition in the manner provided by
29 section 210 and subsection (e), all known wells, except to
30 the extent otherwise provided in subsections (e), (f), (g)

1 and (h), drilled into or through the storage stratum and
2 which are located within that portion of the acreage of the
3 operating coal mine overlying the storage reservoir or the
4 reservoir protective area, however, where objection is raised
5 as to the use of any well as a storage well and after a
6 conference in accordance with section 501, it is determined
7 by the department, taking into account all the circumstances
8 and conditions that such well should not be used as a storage
9 well, such well shall be plugged, unless, in the opinion of
10 the storage operator, the well to which such objection has
11 been raised may at some future time be used as a storage
12 well, the storage operator may recondition and inactivate
13 such well instead of plugging it if such alternative is
14 approved by the department after taking into account all of
15 the circumstances and conditions.

16 The requirements of paragraph (2) shall be deemed to have
17 been fully complied with if, as the operating coal mine is
18 extended, all wells which from time to time come within the
19 acreage described in paragraph (2) are reconditioned or plugged
20 as provided in subsection (e) or (f) and in section 210 so that
21 by the time the coal mine has reached a point within 2,000
22 linear feet of any such wells, they will have been reconditioned
23 or plugged so as to meet the requirements of subsection (e) or
24 (f) and of section 210.

25 (b) Any person operating a storage reservoir referred to in
26 subsection (a) shall file with the department and furnish a copy
27 to the person operating the affected operating coal mine a
28 verified statement setting forth:

29 (1) That the map and any supplemental maps required by
30 section 301(a) have been prepared and filed in accordance

1 with section 301.

2 (2) A detailed explanation of what the storage operator
3 has done to comply with the requirements of subsection (a)(1)
4 and (2) and the results thereof.

5 (3) Such additional efforts, if any, as the storage
6 operator is making and intends to make to locate all wells.

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

9 If such statement is not filed by the storage reservoir
10 operator within the time specified herein, the department may
11 order such operator to file such statement.

12 (c) Within 120 days after the receipt of any such statement,
13 the department may direct that a conference be held in
14 accordance with section 501 to determine whether the information
15 as filed indicates that the requirements of section 301 and of
16 subsection (a) have been fully complied with. At such
17 conference, if any person shall be of the opinion that such
18 requirements have not been fully complied with, the parties
19 shall attempt to agree on what additional things are to be done
20 and the time within which they are to be completed, subject to
21 the approval of the department to meet the said requirements.

22 If such agreement cannot be reached, the department shall
23 determine whether the requirements of section 301 and of
24 subsection (a) have been met. If the department shall determine
25 that any of the said requirements have not been met, the
26 department shall issue an order which shall specify in detail
27 both the extent to which such requirements have not been met and
28 the things which the storage operator must do to meet such
29 requirements. The order shall grant to the storage operator such
30 time as is reasonably necessary to complete each of the things

1 which he is directed to do. If, in carrying out said order, the
2 storage operator encounters conditions which were not known to
3 exist at the time of the issuance of the order and which
4 materially affect the validity of said order or the ability of
5 the storage operator to comply with the order, the storage
6 operator may apply for a rehearing or modification of said
7 order.

8 (d) Whenever in compliance with subsection (a), a storage
9 operator, after the filing of the statement provided for in
10 subsection (b), plugs or reconditions a well, he shall so notify
11 the department and the coal operator affected, in writing,
12 setting forth such facts as will indicate the manner in which
13 the plugging or reconditioning was done. Upon receipt thereof,
14 the coal operator affected or the department may request a
15 conference in accordance with section 501.

16 (e) In order to meet the requirements of subsection (a),
17 wells which are to be plugged shall be plugged in the manner
18 specified in regulations promulgated pursuant to section 201.
19 When a well, located within the storage reservoir or the
20 reservoir protective area, has been plugged prior to the
21 enactment of this act and on the basis of the data information
22 and other evidence submitted to the department, it is determined
23 that such plugging was done in the manner required in section
24 210, or in a manner approved as an alternative method in
25 accordance with section 211, and said plugging is still
26 sufficiently effective to meet the requirements of this act, the
27 obligations imposed by subsection (a) as to plugging said well
28 shall be considered fully satisfied.

29 (f) In order to meet the requirements of subsection (a),
30 wells which are to be reconditioned shall, unless the department

1 by regulation specifies a different procedure, be cleaned out
2 from the surface through the storage horizon and the following
3 casing strings shall be pulled and replaced with new casing,
4 using the same procedure as is applicable to drilling a new well
5 as provided for in this act, the producing casing, the largest
6 diameter casing passing through the lowest workable coal seam
7 unless such casing extends at least 25 feet below the bottom of
8 such coal seam and is determined to be in good physical
9 condition, but the storage operator may, instead of replacing
10 the largest diameter casing, replace the next largest casing
11 string if such casing string extends at least 25 feet below the
12 lowest workable coal seam and such casing strings which are
13 determined not to be in good physical condition. In the case of
14 wells to be used for gas storage, the annular space between each
15 string of casing and the annular space behind the largest
16 diameter casing to the extent possible, shall be filled to the
17 surface with cement or aquagel or such equally nonporous
18 material as is approved by the department pursuant to section
19 211. At least 15 days prior to the time when a well is to be
20 reconditioned, the storage operator shall give notice thereof to
21 the coal operator, lessee or owner and to the department,
22 setting forth in such notice the manner in which it is planned
23 to recondition such well and any pertinent data known to the
24 storage operator which will indicate the then existing condition
25 of such well. In addition, the storage operator shall give the
26 coal operator, lessee or owner and the department at least 72
27 hours' notice of the date and time when reconditioning is to
28 begin. The coal operator, lessee or owner shall have the right
29 to file, within ten days after the receipt of the first notice
30 required herein, objections to the plan of reconditioning as

1 submitted by the storage operator. If no such objections are
2 filed or if none is raised by the department, within such ten-
3 day period, the storage operator may proceed with the
4 reconditioning in accordance with the plan as submitted. If any
5 such objections are filed or are made by the department, it
6 shall fix a time and place for a conference in accordance with
7 section 501, at which conference the storage operator and the
8 person who has filed such objections shall endeavor to agree
9 upon a plan of reconditioning which meets the requirements
10 herein and which will satisfy such objections. If no plan is
11 approved at such conference, the department shall, by an
12 appropriate order, determine whether the plan as submitted meets
13 the requirements set forth herein or what changes, if any,
14 should be made to meet such requirements. If, in reconditioning
15 a well in accordance with said plan, physical conditions are
16 encountered which justify or necessitate a change in said plan,
17 the storage operator or the coal operator may request that the
18 plan be changed. If said parties cannot agree upon such change,
19 the department shall arrange for a conference to determine the
20 matter in the same manner as set forth herein in connection with
21 original objections to said plan. Application may be made to the
22 department in the manner prescribed in section 211 for approval
23 of an alternative method of reconditioning a well. When a well
24 located within the storage reservoir or the reservoir protective
25 area has been reconditioned prior to the enactment of this act,
26 or was so drilled and equipped previously and on the basis of
27 the data, information and other evidence submitted to the
28 department, it is determined that:

29 (1) Such reconditioning or previous drilling and
30 equipping was done in the manner required in this subsection,

1 or in regulations promulgated hereunder, or in a manner
2 approved as an alternative method in accordance with section
3 211.

4 (2) Such reconditioning or previous drilling and
5 equipping is still sufficiently effective to meet the
6 requirements of this act, the obligations imposed by
7 subsection (a) as to reconditioning said well shall be
8 considered fully satisfied. Where a well requires emergency
9 repairs, this subsection shall not be construed to require
10 the storage operator to give the notices specified herein
11 before making such repairs.

12 (g) When a well located within the reservoir protective area
13 is a producing well in a stratum below the storage stratum, the
14 obligations imposed by subsection (a) shall not begin until such
15 well ceases to be a producing well.

16 (h) When a well within a storage reservoir or the reservoir
17 protective area penetrates the storage stratum but does not
18 penetrate the coal seam being mined by an operating coal mine,
19 the department may, upon application of the operator of such
20 storage reservoir, exempt such well from the requirements of
21 this section. Either party affected may request a conference
22 with respect to the exemption of any such well in accordance
23 with section 501.

24 (i) In fulfilling the requirements of subsection (a)(2) with
25 respect to a well within the reservoir protective area, the
26 storage operator shall not be required to plug or recondition
27 such well until he has received from the coal operator written
28 notice that the mine workings will, within the period stated in
29 such notice, be within 2,000 linear feet of such well. Upon the
30 receipt of such notice, the storage operator shall use due

1 diligence to complete the plugging or reconditioning of such
2 well in accordance with the requirements of this section and of
3 section 210. If the said mine workings do not, within a period
4 of three years after said well has been plugged, come within
5 2,000 linear feet of said well, the coal operator shall
6 reimburse the storage operator for the cost of said plugging,
7 provided such well is still within the reservoir protective area
8 as of that time.

9 (j) When retreat mining approaches a point, where within 90
10 days, it is expected that such retreat work will be at the
11 location of the pillar surrounding an active storage well, the
12 coal operator shall give written notice of such approach to the
13 storage operator and by agreement said parties shall determine
14 whether it is necessary or advisable to inactivate effectively
15 said well temporarily. The well shall not be reactivated until a
16 reasonable period has elapsed, such reasonable period to be
17 determined by said parties. In the event that said parties
18 cannot agree upon either of the foregoing matters, such question
19 shall be submitted to the department for a decision. The number
20 of wells required to be temporarily inactivated during the
21 retreat period shall not be such as to materially affect the
22 efficient operation of such storage pool. This provision shall
23 not preclude the temporary inactivation of a particular well
24 where the practical effect of inactivating such well is to
25 render the pool temporarily inoperative.

26 (k) The requirements of subsections (a), (l) and (m) shall
27 not apply to the injection of gas into any stratum when the
28 whole purpose of such injection, such purpose being herein
29 referred to as testing, is to determine whether the said stratum
30 is suitable for storage purposes. Testing shall be conducted

1 only in compliance with the following requirements:

2 (1) The person testing or proposing to test shall comply
3 with all of the provisions and requirements of section 301
4 and shall verify the statement required to be filed thereby.

5 (2) If any part of the proposed storage reservoir is
6 under or within 2,000 linear feet of an operating coal mine
7 which is operating in a coal seam that extends over the
8 proposed storage reservoir or the reservoir protective area,
9 the storage operator shall give at least six months' written
10 notice to the department and to the coal operator of the fact
11 that injection of gas for testing purposes is proposed.

12 (3) The coal operator affected may, at any time, file
13 objections with the department and the department shall fix a
14 time and place for a conference in accordance with section
15 501, not more than ten days from the date of the notice to
16 the storage operator, at which conference the storage
17 operator and the person who has filed such objections shall
18 attempt to agree, subject to the approval of the department,
19 on the questions involved. If such agreement cannot be
20 reached at such conference, the department may issue an
21 appropriate order.

22 (4) Where, at any time, a proposed storage reservoir
23 being tested comes under or within 2,000 linear feet of an
24 operating coal mine, either because of the extension of the
25 storage reservoir being tested or because of the extension or
26 establishment or reestablishment of the operating coal mine,
27 then and at the time of any such event, the requirements of
28 this subsection shall become applicable to such testing.

29 (1) Any person who proposes to establish a storage reservoir
30 under or within 2,000 linear feet of an operating coal mine

1 which is operating in a coal seam that extends over the storage
2 reservoir or the reservoir protective area shall, prior to
3 establishing such reservoir in addition to complying with the
4 requirements of section 301 and subsection (a), file the
5 verified statement required by subsection (b) and fully comply
6 with such order or orders, if any, as the department may issue
7 in the manner provided for under subsection (b) or (c) before
8 beginning the operation of such storage reservoir. After the
9 person proposing to operate such storage reservoir shall have
10 complied with such requirements and shall have thereafter begun
11 to operate such reservoir, he shall continue to be subject to
12 all of the provisions of this chapter.

13 (m) When a gas storage reservoir is in operation on the
14 effective date of this act and at any time thereafter, it is
15 under or within 2,000 linear feet of an operating coal mine, or,
16 when a gas storage reservoir is put in operation after the
17 effective date of this act and at any time after such storage
18 operations begin, it is under or within 2,000 linear feet of an
19 operating coal mine, then and in either such event, the storage
20 operator shall comply with all of the provisions of this
21 section, except that the time for filing the verified statement
22 under subsection (b) shall be 60 days after the date stated in
23 the notice filed by the coal operator under section 302(d) and
24 (e), the coal operator shall give notice of such delay to the
25 department and the department shall, upon the request of the
26 storage operator, extend the time for filing such statement by
27 the additional time which will be required to extend or
28 establish or reestablish such operating coal mine to a point
29 within 2,000 linear feet of such reservoir. Such verified
30 statement shall also indicate that the map referred to in

1 section 301(a) has been currently amended as of the time of the
2 filing of such statement. The person operating any such storage
3 reservoir shall continue to be subject to all of the provisions
4 of this chapter.

5 (n) If, in any proceeding under this act, the department
6 shall determine that any operator of a storage reservoir has
7 failed to carry out any lawful order issued under this act, the
8 department shall have authority to require such storage operator
9 to suspend the operation of such reservoir and to withdraw the
10 gas therefrom until such violation is remedied. In such an
11 event, the gas shall be withdrawn under the following
12 conditions: the storage operator shall remove the maximum amount
13 of gas which is required by the department to be removed from
14 the storage reservoir that can be withdrawn in accordance with
15 recognized engineering and operating procedures and shall
16 proceed with due diligence insofar as existing facilities used
17 to remove gas from the reservoir will permit.

18 (o) In addition to initial compliance with the other
19 provisions of this act and any lawful orders issued thereunder,
20 it shall be the duty, at all times, of the person owning or
21 operating any storage reservoir which is subject to the
22 provisions of this chapter, to keep all wells drilled into or
23 through the storage stratum in such condition and to operate the
24 wells in such manner as to prevent the escape of gas out of the
25 storage reservoir and its facilities and to operate and maintain
26 such storage reservoir and its facilities in such manner as
27 prescribed by regulation of the department and at such pressures
28 as will prevent gas from escaping from such reservoir or its
29 facilities. This duty shall not be construed to include the
30 inability to prevent the escape of gas where such escape results

1 from an act of God or an act of any person not under the control
2 of the storage operator other than in connection with any well
3 which the storage operator has failed to locate and to make
4 known to the department. If any escape of gas does result from
5 an act of God or an act of any person not under the control of
6 the storage operator, the storage operator shall be under the
7 duty of taking such action thereafter as is reasonably necessary
8 to prevent further escape of gas out of the storage reservoir
9 and its facilities.

10 Section 305. Inspection of facilities and records.

11 (a) The person operating any storage reservoir affected by
12 the terms of this act shall, at all reasonable times, be
13 permitted to inspect the applicable records and facilities of
14 any coal mine overlying such storage reservoir or the reservoir
15 protective area and the person operating any such coal mine
16 affected by the terms of this act shall, similarly at all
17 reasonable times, be permitted to inspect the applicable records
18 and facilities of any such storage reservoir underlying any such
19 coal mine.

20 (b) In the event that either such storage operator or coal
21 operator shall refuse to permit any such inspection of records
22 or facilities, the department may, on its own motion or on
23 application of the party seeking the inspection after reasonable
24 written notice and a hearing thereon, if requested by either of
25 the parties affected, make an order for such inspection.

26 Section 306. Reliance on maps; burden of proof.

27 (a) In determining whether a particular coal mine or
28 operating coal mine is or will be within any distance material
29 under this act from any storage reservoir, the owner or operator
30 of such coal mine and the storage operator may rely on the most

1 recent map of the storage reservoir or coal mine filed by the
2 other with the department.

3 (b) Where the accuracy of any map or data filed by any
4 person pursuant to the requirements of this act is in issue, the
5 person filing the same shall, at the request of the objecting
6 party, be required to disclose the information and method used
7 in compiling such map and data and such information as is
8 available to such person that might affect the current validity
9 of such map or data. If any material question is raised as to
10 the accuracy of such map or data with respect to any particular
11 matter or matters contained therein, the person filing such map
12 or data shall then have the burden ~~of providing~~ OF PROVING the <—
13 accuracy of the map or data with respect to such matter or
14 matters.

15 Section 307. Exemptions.

16 (a) The provisions of this chapter shall not apply to the
17 following types of coal mines:

18 (1) Strip mines and auger mines operating from the
19 surface.

20 (2) Mines to which the provisions of the act of June 9,
21 1911 (P.L.756, No.319), entitled "An act to provide for the
22 health and safety of persons employed in and about the
23 bituminous coal-mines of Pennsylvania, and for the protection
24 and preservation of property connected therewith," did not
25 apply as provided in section 3 of Article XXVIII thereof, and
26 mines to which the provisions of the act of June 2, 1891
27 (P.L.176, No.177), entitled "An act to provide for the health
28 and safety of persons employed in and about the anthracite
29 coal mines of Pennsylvania and for the protection and
30 preservation of property connected therewith," did not apply

as provided in section 1 of Article I thereof.

(b) Injection of gas for storage purposes in any workable coal seam, whether or not such seam is being or has been mined, shall be prohibited. Nothing in this chapter shall be construed to prohibit the original extraction of natural gas, crude oil or coal.

(c) Nothing contained in this chapter shall apply to the storage of gas or liquids in storage reservoirs excavated in rock formations specifically for storage purposes.

CHAPTER 4

EMINENT DOMAIN

Section 401. Appropriation of interest in real properties.

(a) Any and all corporations empowered to transport, sell or store, natural or manufactured gas, within this Commonwealth, shall have the right, subject to the following limitations, to appropriate interests in real property located within the storage reservoir and the reservoir ~~and the reservoir~~ protective area, for the injection, storage and removal from storage of natural or manufactured gas in any stratum which is or previously has been commercially productive of natural gas. The right of eminent domain shall not be exercised to acquire for the purpose of gas storage:

(1) any interest in any geological stratum within the area of the proposed storage reservoir AND THE RESERVOIR PROTECTIVE AREA, unless the original recoverable oil or gas reserves ~~therein~~ WITHIN SUCH PROPOSED STORAGE RESERVOIR have been depleted or exhausted by at least 80% and unless and until the condemnor shall have acquired the right by grant, lease or other agreement to store gas in the said geological stratum underlying at least 75% of the area of the proposed

1 storage reservoir; or

2 (2) any interest in any geological stratum within the
3 area of the proposed storage reservoir AND THE RESERVOIR <—
4 PROTECTIVE AREA owned directly or indirectly by a gas company
5 or by a person engaged in the local distribution of natural
6 gas which interest is being used by such gas company or by
7 such person for present storage of gas in the performance of
8 service to customers within its service area.

9 (b) This act shall be construed to authorize appropriation
10 within the storage reservoir and the reservoir protective area
11 of the stratum to be used for storage, any gas reserve remaining
12 therein and any active or abandoned well or wells drilled into
13 said stratum and further to authorize the appropriation within
14 the storage reservoir and the reservoir protective area of the
15 right to enter upon and use the surface of lands for the purpose
16 of locating, reconditioning, maintaining, plugging or replugging
17 any active or abandoned wells or operating any wells drilled
18 into or through said storage stratum. This act shall not be
19 construed, however, to preclude the owner of nonstorage strata
20 from the drilling of wells for the purpose of producing oil or
21 gas from any stratum above or below the storage stratum
22 appropriated by such corporation, but the corporation
23 appropriating or holding storage rights shall have access to and
24 the right to inspect and examine any such drilling or completed
25 well and the drilling logs and all other records relating to the
26 drilling, equipping or operating of such well for the purpose of
27 determining whether the storage stratum is being adequately
28 protected to prevent the escape of gas stored therein. This act
29 shall not authorize the appropriation of any coal or coal
30 measure whether or not being mined or any interest therein.

1 (c) Any person drilling, operating, using or plugging any
2 well through any stratum which has been appropriated under this
3 act shall so drill, case, equip, operate or plug the same as to
4 prevent any avoidable escape of gas that may be stored in the
5 storage stratum. Upon failure, neglect or refusal of such person
6 or persons to comply with this section, the court of common
7 pleas of the county in which the tract of land is situated shall
8 have the power to compel compliance by injunction or to grant
9 other appropriate relief upon action brought by the corporations
10 storing gas in the storage stratum.

11 (d) Prior to any appropriation, the corporation shall
12 attempt to agree with the owner or owners of the interests in
13 real property involved as to the damage properly payable for the
14 property rights or interests to be appropriated in or on his,
15 her or their property, if such owner or owners can be found and
16 are sui juris. Failing to agree, the corporation shall tender to
17 the property owner or owners a surety bond to secure him, he or
18 them in the payment of damages. If the owner or owners refuse to
19 accept said bond or cannot be found or are not sui juris, said
20 bond, after reasonable notice to the property owner or owners by
21 advertisement or otherwise, shall then be presented for approval
22 to the court of common pleas of the county in which the tract of
23 land is situated. Upon the approval of the bond and its being
24 filed in said court, the right of the corporation to enter upon
25 the enjoyment of the powers given it by this act to store gas
26 and to enter on the property for the purpose of locating,
27 reconditioning, maintaining, plugging or replugging any active
28 or abandoned wells or operating any wells drilled into or
29 through said storage stratum within the storage reservoir
30 boundary or within the reservoir protective area shall be

1 complete.

2 (e) Upon petition of either the property owner or owners or
3 the corporation exercising the right of eminent domain
4 hereunder, said court shall appoint three disinterested
5 freeholders of the county to serve as viewers to assess the
6 damages proper to be paid to the property owner or owners for
7 the rights appropriated by said corporation and shall fix a time
8 for their meeting of which notice shall be given to both
9 parties. After the viewers have filed their report with the
10 court, said court shall fix reasonable compensation for the
11 service of said viewers.

12 (f) Either party may appeal from the report of the viewers
13 within 20 days after the filing thereof with the court of common
14 pleas and have a jury trial and the right of appeal as in
15 ordinary cases.

16 (g) Nothing contained in this section shall relieve the
17 person operating a storage reservoir from the requirements of
18 this act.

19 CHAPTER 5

20 ENFORCEMENT AND REMEDIES

21 Section 501. Conferences.

22 (a) The department or any person having a direct interest in
23 the subject matter of this act may, at any time, request that a
24 conference be held for the purpose of discussing and endeavoring
25 to resolve by mutual agreement any matter arising under the
26 provisions of this act. Prompt notice of any such conference
27 shall be given by the department to all such interested parties.
28 At such conference a representative of the department shall be
29 in attendance and the department may make such recommendations
30 as it deems appropriate. ~~Any agreement reached at such~~

<—

1 ~~conference shall be consistent with the requirements of this act~~
2 ~~and, if approved by the department, shall be in attendance and~~
3 ~~the department may make such recommendations as it deems~~
4 ~~appropriate.~~ Any agreement reached at such conference shall be
5 consistent with the requirements of this act and, if approved by
6 such representative of the department, it shall be reduced to
7 writing and shall be effective, unless reviewed and rejected by
8 the department within ten days after the close of the
9 conference. The record of any such agreement approved by the
10 department shall be kept on file by the department with copies
11 furnished to the parties. Scheduling of a conference shall not
12 affect the authority of the department to issue an appropriate
13 order to compel compliance with this act.

14 (b) Whenever a coal operator is to be given notice by the
15 department of any proceeding to be held under this section, the
16 department shall also send simultaneously a copy of such notice
17 to the collective bargaining representative of the employees of
18 the coal operator.

19 Section 502. Public nuisances.

20 ~~Any violation of the provisions of this act, any rule or~~ <—
21 ~~regulation of the department, any order of the department or any~~
22 ~~term or condition of any permit relating to the casing of wells,~~
23 ~~plugging of wells, well site restoration, use of safety devices~~
24 ~~or the protection of water supplies shall constitute a public~~
25 ~~nuisance. Any person committing such a violation shall be liable~~
26 ~~for the costs of abatement of any pollution and any public~~
27 ~~nuisance caused by such violation. The Environmental Hearing~~
28 ~~Board and any court of competent jurisdiction is hereby given~~
29 ~~jurisdiction over actions to recover the costs of such~~

30 ~~abatement.~~ AN ABANDONED, UNPLUGGED WELL IS HEREBY DECLARED TO <—

1 CONSTITUTE A PUBLIC NUISANCE.

2 Section 503. Enforcement orders.

3 The department may issue orders to such persons as it deems
4 necessary to aid in the enforcement of the provisions of this
5 act. An order issued under this act shall take effect upon
6 notice, unless the order specifies otherwise. ~~An appeal to the~~ <—
7 ~~Environmental Hearing Board shall not act as a supersedeas.~~ The
8 power of the department to issue an order under this act is an
9 addition to any other remedy which may be afforded to the
10 department pursuant to this act or any other act.

11 Section 504. Restraining violations.

12 (a) In addition to any other remedies provided in this act,
13 the department may institute a suit in equity in the name of the
14 Commonwealth where a violation of law or nuisance exists for an
15 injunction to restrain a violation of this act or the rules,
16 regulations, standards or orders adopted or issued thereunder
17 and to restrain the maintenance or threat of a public nuisance.
18 In any such proceeding, the court shall, upon motion of the
19 Commonwealth, issue a prohibitory or mandatory preliminary
20 injunction if it finds that the defendant is engaging in
21 unlawful conduct as defined by this act or is engaged in conduct
22 which is causing immediate and irreparable harm to the public.
23 The Commonwealth shall not be required to furnish bond or other
24 security in connection with such proceedings. In addition to an
25 injunction, the court in such equity proceedings, may level
26 civil penalties as specified in section 506.

27 (b) In addition to any other remedies provided for in this
28 act, upon relation of any district attorney of any county
29 affected, or upon relation of the solicitor of any municipality
30 affected, an action in equity may be brought in a court of

1 competent jurisdiction for an injunction to restrain any and all
2 violations of this act or the rules and regulations promulgated
3 hereunder, or to restrain any public nuisance or detriment to
4 health.

5 (c) The penalties and remedies prescribed by this act shall
6 be deemed concurrent and the existence of or exercise of any
7 remedy shall not prevent the department from exercising any
8 other remedy hereunder, at law or in equity.

9 (d) Actions instituted under this section may be filed in
10 the appropriate court of common pleas or in the Commonwealth
11 Court, which courts are hereby granted jurisdiction to hear such
12 actions.

13 Section 505. Penalties.

14 (a) Any person who violates any provisions of the act is
15 guilty of a summary offense and, upon conviction thereof, shall
16 be sentenced to pay a fine of not more than \$300 or undergo
17 imprisonment of not more than 90 days, or both. Each day's
18 continuance of such violation shall be a separate and distinct
19 offense.

20 (b) Any person who willfully violates any provisions of this
21 act or any order of the department issued pursuant to the
22 provisions of this act is guilty of a misdemeanor and, upon
23 conviction thereof, shall be sentenced to pay a fine of not more
24 than \$5,000, or undergo imprisonment of not more than one year,
25 or both. Each day's continuance of such violation shall be a
26 separate distinct offense.

27 Section 506. Civil penalties.

28 In addition to proceeding under any other remedy available at
29 law or in equity for a violation of a provision of this act or a
30 rule or regulation of the department or any order of the

1 department, the Environmental Hearing Board, after hearing, may
2 assess a civil penalty upon a person for such violation. Such a
3 penalty may be assessed whether or not the violation was
4 willful. The civil penalty so assessed shall not exceed \$25,000,
5 plus \$1,000 for each day of continued violation. In determining
6 the amount of the civil penalty, the board shall consider the
7 willfulness of the violation, damage or injury to the natural
8 resources of the Commonwealth ~~of~~ OR their uses, endangerment of <—
9 the safety of others, costs of remedying the harm, savings
10 resulting to the person in consequence of such violation and
11 other relevant factors. It shall be payable to the Commonwealth
12 and shall be collectible in any manner provided at law for the
13 collection of debts. If any person liable to pay any such
14 penalty neglects or refuses to pay the same after demand, the
15 amount, together with interest and any costs that may accrue,
16 shall be a lien in favor of the Commonwealth upon the property,
17 both real and personal, of such person but only after same has
18 been entered and docketed of record by the prothonotary of the
19 county where such is situated. The board may, at any time,
20 transmit to the prothonotaries of the respective counties
21 certified copies of all such liens and it shall be the duty of
22 each prothonotary to enter and docket the same of record in his
23 office and to index the same as judgments are indexed, without
24 requiring the payment of costs as a condition precedent to the
25 entry thereof.

26 Section 507. Existing rights and remedies preserved;
27 cumulative remedies authorized.

28 Nothing in this act shall be construed as estopping the
29 Commonwealth or any district attorney from proceeding in courts
30 of law or equity to abate pollution forbidden under this act or

1 abate nuisances under existing law. It is hereby declared to be
2 the purposes of this act to provide additional and cumulative
3 remedies to control activities related to drilling for or
4 production of oil and gas within the Commonwealth and nothing
5 contained in this act shall in any way abridge or alter rights
6 of action or remedies now or hereafter existing in equity, or
7 under the common law or statutory law, criminal or civil, nor
8 shall any provision in this act, or the granting of any permit
9 under this act, or any act done by virtue of this act, be
10 construed as estopping the Commonwealth in the exercise of its
11 rights under the common law or decisional law or in equity, from
12 proceeding in courts of law or equity to suppress nuisances, or
13 to abate any pollution now or hereafter existing or to enforce
14 common law or statutory rights. No courts of this Commonwealth
15 having jurisdiction to abate public or private nuisances shall
16 be deprived of such jurisdiction in any action to abate any
17 private or public nuisance instituted by any person for the
18 reasons that such nuisance constitutes air or water pollution.
19 Section 508. Production of materials; witnesses; depositions;
20 rights of entry.

21 ~~(a) The department and its agents and employees shall:~~ <—
22 ~~(1) Have access to and require the production of books~~
23 ~~and papers, documents and physical evidence pertinent to any~~
24 ~~matter under investigation.~~
25 ~~(2) Enter any building, property, premises or place~~
26 ~~where for the purposes of making such investigation or~~
27 ~~inspection as may be necessary to ascertain the compliance or~~
28 ~~noncompliance by any person with the provisions of this act~~
29 ~~and the rules or regulations promulgated hereunder. In~~
30 ~~connection with such inspection or investigation, samples may~~

1 ~~be taken of any solid, semisolid, liquid or contained gaseous~~
2 ~~material for analysis.~~

3 (A) THE DEPARTMENT IS AUTHORIZED TO MAKE SUCH INSPECTIONS, <—
4 CONDUCT SUCH TESTS OR SAMPLING, OR EXAMINE BOOKS, PAPERS AND
5 RECORDS PERTINENT TO ANY MATTER UNDER INVESTIGATION PURSUANT TO
6 THIS ACT AS IT DEEMS NECESSARY TO DETERMINE COMPLIANCE WITH THIS
7 ACT AND FOR THIS PURPOSE, THE DULY AUTHORIZED AGENTS AND
8 EMPLOYEES OF THE DEPARTMENT ARE AUTHORIZED AT ALL REASONABLE
9 TIMES TO ENTER AND EXAMINE ANY PROPERTY, FACILITY, OPERATION OR
10 ACTIVITY.

11 (B) THE OWNER, OPERATOR OR OTHER PERSON IN CHARGE OF SUCH
12 PROPERTY, FACILITY, OPERATION OR ACTIVITY, UPON PRESENTATION OF
13 PROPER IDENTIFICATION AND PURPOSE FOR INSPECTION BY THE AGENTS
14 OR EMPLOYEES OF THE DEPARTMENT, SHALL GIVE SUCH AGENTS AND
15 EMPLOYEES FREE AND UNRESTRICTED ENTRY AND ACCESS, AND UPON
16 REFUSAL TO GRANT SUCH ENTRY OR ACCESS, THE AGENT OR EMPLOYEE MAY
17 OBTAIN A SEARCH WARRANT OR OTHER SUITABLE ORDER AUTHORIZING SUCH
18 ENTRY AND INSPECTION. IT SHALL BE SUFFICIENT PROBABLE CAUSE TO
19 ISSUE A SEARCH WARRANT AUTHORIZING SUCH EXAMINATION AND
20 INSPECTION IF THERE IS PROBABLE CAUSE TO BELIEVE THAT THE OBJECT
21 OF THE INVESTIGATION IS SUBJECT TO REGULATION UNDER THIS ACT,
22 AND ACCESS, EXAMINATION OR INSPECTION IS NECESSARY TO ENFORCE
23 THE PROVISIONS OF THIS ACT.

24 ~~(b)~~ (C) The department shall have the power in any part of <—
25 the Commonwealth to subpoena witnesses, to administer oaths,
26 examine witnesses or to take such testimony or compel the
27 production of such books, records, maps, plats, papers,
28 documents and other writings as it may deem necessary or proper
29 in and pertinent to any proceedings or investigation held or had
30 by it. In case of refusal to obey any subpoena served upon any

1 person, any court shall, on application of the department, have
2 power to enforce such subpoenas in contempt proceedings. The
3 fees for serving a subpoena shall be the same as those paid
4 sheriffs for similar services.

5 ~~(e)~~ (D) The department or any party to proceedings before <—
6 the department may cause the deposition of witnesses, residing
7 within or without the Commonwealth, to be taken in the manner
8 prescribed by law for taking depositions in civil actions.

9 ~~(d)~~ (E) Witnesses who are summoned before the department <—
10 shall be paid the same fees as are paid to witnesses in the
11 courts of record of general jurisdiction. Witnesses whose
12 depositions are taken pursuant to the provisions of this act and
13 the officers taking the same shall be entitled to the same fees
14 as are paid for like services in such courts.

15 Section 509. Unlawful conduct.

16 It shall be unlawful for any person to:

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

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

28 (3) Refuse, obstruct, delay or threaten any agent or
29 employee of the department in the course of performance of
30 any duty under this act including, but not limited to, entry

1 and inspection under any circumstances.

2 (4) Attempt to obtain a permit by misrepresentation or
3 failure to disclose all relevant facts.

4 Section 510. Collection of fines and penalties.

5 All fines and penalties shall be collectible in any manner
6 provided by law for the collection of debts. If any person
7 liable to pay any such penalty neglects or refuses to pay the
8 same after demand, the amount together with interest and any
9 costs that may accrue, shall be a judgment in favor of the
10 Commonwealth upon the property of such person, but only after
11 same has been entered and docketed of record by the prothonotary
12 of the county where such property is situated. The department
13 may, at any time, transmit to the prothonotaries of the
14 respective counties certified copies of all judgments and it
15 shall be the duty of each prothonotary to enter and docket the
16 same of record in his office and to index the same as judgments
17 are indexed, without requiring the payment of costs as a
18 condition precedent to the entry thereof.

19 Section 511. Third party liability.

20 Where a person other than the well operator as herein
21 defined, renders a service or product to a well or well site,
22 that person shall be jointly and severally liable with the well
23 owner or operator for violations of this act arising out of and
24 caused by his actions at the well or well site.

25 CHAPTER 6

26 MISCELLANEOUS PROVISIONS

27 Section 601. Well Plugging Restricted Revenue Account.

28 All fines, civil penalties, permit and registration fees
29 collected under this act shall be paid into the State Treasury
30 into a restricted revenue account to be known as the Well

1 Plugging Restricted Revenue Account, hereby established, which
2 shall be administered by the department for the plugging and
3 sealing of abandoned wells and to cover the purposes of
4 administering this act. All the moneys from time to time paid
5 into the Well Plugging Restricted Revenue Account are
6 specifically appropriated upon annual approval by the Governor
7 to the Department of Environmental Resources to carry out the
8 purposes of this act.

9 In consideration of the establishment in section 215 of bond
10 amounts which may not be adequate to fully indemnify the
11 Commonwealth for the cost of plugging abandoned wells, there
12 shall be added to the permit fee established by the department
13 under section 201 for new wells a \$50 surcharge. All moneys
14 deposited in this restricted revenue account from the surcharge
15 shall be expended by the department to plug abandoned wells
16 which threaten ~~potential pollution of waters of this~~ THE HEALTH <—
17 AND SAFETY OF PERSONS OR PROPERTY OR POLLUTION OF THE WATERS OF
18 THE Commonwealth.

19 Section 602. Local ordinances.

20 Except with respect to ordinances adopted pursuant to the act
21 of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
22 Municipalities Planning Code and the act of October 4, 1978
23 (P.L.851, No.166), known as the Flood Plain Management Act, all
24 local ordinances and enactments purporting to regulate oil and
25 gas well drilling are hereby superseded. The Commonwealth, by
26 this enactment, hereby preempts the regulation of oil and gas
27 wells as herein defined.

28 Section 603. Effect on department authority.

29 The provisions of this act shall not be construed to affect,
30 limit or impair any right or authority of the department under

1 the act of June 22, 1937 (P.L.1987, No.394), known as The Clean
2 Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787),
3 known as the Air Pollution Control Act, the act of November 26,
4 1978 (P.L.1375, No.325), known as the Dam Safety and
5 Encroachments Act and the act of July 7, 1980 (P.L.380, No.97),
6 known as the Solid Waste Management Act.

7 SECTION 604. REGULATORY AUTHORITY. <—

8 THE ENVIRONMENTAL QUALITY BOARD SHALL ADOPT REGULATIONS TO
9 IMPLEMENT THE PROVISIONS OF THIS ACT.

10 SECTION 605. SEVERABILITY.

11 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
12 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS
13 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
14 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
15 THE INVALID PROVISION OR APPLICATION.

16 Section ~~604.~~—Repeal 606. REPEALS. <—

17 (A) The act of November 30, 1955 (P.L.756, No.225), known as <—
18 the Gas Operations Well-Drilling Petroleum and Coal Mining Act,
19 is repealed.

20 (B) ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS THEY <—
21 ARE INCONSISTENT WITH THIS ACT.

22 Section ~~605~~ 607. Effective date. <—

23 This act shall take effect in 60 days.