

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 614 Session of
1989

INTRODUCED BY BOWLEY, BLACK, YANDRISEVITS, VAN HORNE,
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PRESTON, TRELLO, JADLOWIEC, BROUJOS, MERRY, SERAFINI, DeWEESE
AND FARGO, MARCH 6, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 30, 1990

AN ACT

1 Amending the act of December 19, 1984 (P.L.1140, No.223),
2 entitled "An act relating to the development of oil and gas
3 and coal; imposing duties and powers on the Department of
4 Environmental Resources; imposing notification requirements
5 to protect landowners; and providing for definitions, for
6 various requirements to regulate the drilling and operation
7 of oil and gas wells, for gas storage reservoirs, for various
8 reporting requirements, including certain requirements
9 concerning the operation of coal mines, for well permits, for
10 well registration, for distance requirements, for well casing
11 requirements, for safety device requirements, for storage
12 reservoir obligations, for well bonding requirements, for a
13 Well Plugging Restricted Revenue Account to enforce oil and
14 gas well plugging requirements, for the creation of an Oil
15 and Gas Technical Advisory Board, for oil and gas well
16 inspections, for enforcement and for penalties," further
17 providing for definitions, well permits, well registration,
18 inactive status, plugging requirements, well reporting
19 requirements, bonding, the Oil and Gas Technical Advisory
20 Board, public nuisances, civil penalties, determination of
21 compliance, unlawful conduct, surcharges for new wells;
22 EXEMPTING CERTAIN WELLS FROM BONDING REQUIREMENTS; and
23 further providing for local ordinances. <—

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

26 Section 1. The definitions of "alteration" and "well
27 operator" or "operator" in section 103 of the act of December

1 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act,
2 amended October 9, 1986 (P.L.1431, No.135), are amended and the
3 section is amended by adding a definition to read:

4 Section 103. Definitions.

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

8 * * *

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

14 (1) repairing or replacing of casing [with casing of the
15 same diameter and length in noncoal areas;

16 (2) repairing or replacing of production casing with
17 casing of the same or smaller diameter and length: Provided,
18 however, That] if the activity does not affect the depth or
19 diameter of the well bore, provided that the use or purpose
20 of the well does not change and provided that the activity
21 complies with regulations promulgated hereunder. However,
22 this exclusion shall not apply to production casings in coal
23 areas when said production casings are also the coal
24 protection casings and shall not apply when the method of
25 repairing or replacing the casing would affect the coal
26 protection casing;

27 (3) nor shall it include stimulation [as a normal
28 initial completion procedure nor stimulation used to enhance
29 additional oil or gas zones within the same well bore.] of a
30 well.

1 * * *

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

8 * * *

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

17 * * *

18 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—
19 SECTION 104. EXEMPTIONS.

20 ALL WELLS DRILLED PRIOR TO JANUARY 1, 1975, SHALL BE EXEMPT
21 FROM THE BONDING PROVISIONS OF THIS ACT.

22 Section ~~2~~ 3. Section 201(a) and (k) of the act, amended <—
23 October 9, 1986 (P.L.1431, No.133), are amended to read:
24 Section 201. Well permits.

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

1 obtain a permit to redrill a nonproducing well, if:

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

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

11 * * *

12 (k) No permit issued pursuant to this section or
13 registration issued pursuant to section 203 may be transferred
14 without prior approval of the department. Requests for approval
15 of such transfer shall be made on forms or in a manner
16 prescribed by the department. The department shall approve or
17 deny the transfer request within 45 days of receipt of a
18 complete and accurate application. The department shall only
19 have the authority to deny such request for the reasons set
20 forth in subsection (e)(4) or (5). Approval of the transfer
21 request shall permanently transfer responsibility to plug the
22 well under section 210 to the recipient of the transferred
23 permit or registration.

24 * * *

25 ~~Section 3. Sections 203(a), 204, 210, 212(a) and 213 of the~~ <—
26 ~~act are amended~~ 4. SECTION 203(A) OF THE ACT IS AMENDED AND THE <—
27 SECTION IS AMENDED BY ADDING SUBSECTIONS to read:

28 Section 203. Well registration and identification.

29 (a) [Within one year from the effective date of this act,
30 every person owning or operating a well for which no drilling

1 permit was issued by the department shall register such well on
2 forms or in a manner prescribed by the department, which shall
3 contain the following information:] Within one year of the
4 effective date of this amendatory act, every person who is the
5 owner or operator of a well in existence prior to April 18,
6 1985, which well has not been registered with the department and
7 for which no drilling permit has been issued by the department,
8 shall register such well with the department. Any well owner or
9 operator who registers a well pursuant to this subsection, and
10 any well owner or operator who has previously registered a well
11 pursuant to this act shall, within one year of the effective
12 date of this amendatory act, identify any abandoned well on
13 property such well owner or operator owns or leases and request
14 approval from the department for classification of the well as
15 an orphan well. Information regarding wells to be registered or
16 identified shall be provided on forms or in a manner prescribed
17 by the department and shall include:

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

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

30 (3) The approximate date of the drilling, completion of

1 said well and the approximate depth of said well, the
2 producing horizons, well construction information and
3 driller's logs, if available.

4 (4) An indemnity bond [or], an alternative fee in lieu
5 of bonding or such other evidence of financial security
6 submitted by the well operator and deemed appropriate by the
7 department and satisfying the requirements of section 215:
8 Provided, however, That no bond, alternative fee or other
9 evidence of financial security shall be required for
10 identification of an orphan well.

11 (5) A registration fee of \$15 per well[, except that the
12 department may establish] or a blanket registration fee [not
13 to exceed \$250 where] of \$250 for multiple well registration
14 applications which are submitted simultaneously [for wells
15 that are part of the same development project. The blanket
16 registration fee shall bear a reasonable relationship to the
17 administrative costs associated with processing such multiple
18 well registration applications]. The registration fee shall
19 be waived for a period of one year from the effective date of
20 this amendatory act, and no fee shall be charged for
21 identification of an orphan well.

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

29 (a.2) Persons who are not well owners or operators and who
30 discover an abandoned well on property owned or leased by them

1 shall identify such well to the department within 60 days of
2 discovery and advise the department that they are seeking
3 classification for such well as an orphan well. No fee shall be
4 required for such identification.

5 * * *

6 SECTION 5. SECTIONS 204, 210, 212(A) AND 213 OF THE ACT ARE <—
7 AMENDED TO READ:

8 Section 204. Inactive status.

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

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

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

23 (3) [the applicant certifies that the well is of future
24 utility and presents a viable plan for utilizing the well
25 within a reasonable time] the operator anticipates future use
26 of the well; and

27 (4) the applicant satisfies the bonding requirements of
28 section 215, except that the department may require
29 additional financial security for any well on which an
30 alternative fee is being paid in lieu of bonding under

1 section 215(d).

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

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

16 (c) Any well granted inactive status pursuant to subsection
17 (a) shall be plugged in accordance with section 210 or returned
18 to active status within ten years of the date inactive status
19 was granted, unless the owner or operator applies for an
20 extension of inactive status which may be granted on a year-to-
21 year basis if the department determines that the owner or
22 operator has demonstrated his ability to continue to meet the
23 requirements of this section, and the owner or operator
24 certifies that the well will be of future use within a
25 reasonable period of time. An owner or operator who has been
26 granted inactive status for a well which is returned to active
27 status prior to expiration of the ten-year period set forth in
28 subsection (a) shall notify the department that the well has
29 been returned to active status and shall not be permitted to
30 apply for another automatic ten-year period of inactive status

1 for such well. The owner or operator may make application to
2 return the well to inactive status, and such application may be
3 approved on a year-to-year basis if the department determines
4 that the owner or operator has demonstrated an ability to
5 continue to meet the requirements of this section, and the owner
6 or operator certifies that the well will be of future use within
7 a reasonable period of time. The department shall approve or
8 deny an application to extend a period of inactive status or to
9 return a well to inactive status within 30 days of receipt of
10 such application, and such application shall not be unreasonably
11 denied. If the department denies an application to extend the
12 period of inactive status or to return a well to inactive
13 status, a well owner or operator aggrieved thereby shall have
14 the right to appeal such denial to the Environmental Hearing
15 Board within 30 days of receipt of such denial. Upon cause shown
16 by a well owner or operator, the board may grant a supersedeas
17 pursuant to section 4 of the act of July 13, 1988 (P.L.530,
18 No.94), known as the Environmental Hearing Board Act, in order
19 that the well in question may retain inactive status during the
20 period of appeal.

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

28 Section 210. Plugging requirements.

29 (a) Upon abandoning any well, the owner or operator thereof
30 shall plug the well in a manner prescribed by regulation of the

1 department in order to stop any vertical flow of fluids or gas
2 within the well bore unless the department has granted inactive
3 status for such well pursuant to section 204[.] or the well has
4 been approved by the department as an orphan well pursuant to
5 section 203. Where the department determines that a prior owner
6 or operator received economic benefit, other than economic
7 benefit derived only as a landowner or from a royalty interest,
8 subsequent to April 18, 1979, from an orphan well or from a well
9 which has not been registered, such owner or operator shall be
10 responsible for the plugging of the well. Where, in the case of
11 gas wells penetrating workable coal seams which were drilled
12 prior to the effective date of the Gas Operations Well-Drilling
13 Petroleum and Coal Mining Act or which were permitted after such
14 date but not plugged in accordance with this act, the owner or
15 operator of such a well, or a coal operator or his agent,
16 proposes to plug such well for the purpose of allowing the
17 mining through of it, the gas well shall be cleaned out to a
18 depth of at least 200 feet below the coal seam in which the
19 mining through is proposed and unless impracticable, to a point
20 200 feet below the deepest minable coal seam. Such gas well
21 shall be plugged from that depth in accordance with the
22 provisions of section 13 of the act of December 18, 1984
23 (P.L.1069, No.214), known as the Coal and Gas Resource
24 Coordination Act, and the regulations of the department.

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

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

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

1 when such notice is received, in order that the department
2 representative may be present at the plugging of the well. Such
3 notice or waiting period may be verbally waived by the
4 department. In noncoal areas where more than one well has been
5 drilled as part of the same development project and these wells
6 are now to be plugged, it is required that the department be
7 given [72 hours'] three working days' 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 an orphan well or abandoned without
9 plugging or if a well is in operation but is not registered
10 pursuant to section 203, the department shall have the right to
11 enter upon the well site and plug the [abandoned] well and to
12 sell such equipment, casing and pipe at the abandoned well or
13 unregistered well site as may have been used in the production
14 of the well in order to recover the costs of plugging. In the
15 case of a well which is in operation but has not been
16 registered, the department shall make an effort to determine
17 ownership of such well and provide written notice to such owner
18 of pending action which may be taken pursuant to this
19 subsection. If the department cannot determine ownership of the
20 well within 30 days, it may proceed pursuant to this subsection.
21 [Said costs] Costs of plugging shall have priority over all
22 liens on said equipment, casing and pipe, and said sale shall be
23 free and clear of any such liens to the extent the costs of
24 plugging exceed the sale price. If the equipment price obtained
25 for casing and pipe salvaged at the abandoned well or
26 unregistered well site is inadequate to pay for the cost of
27 plugging the abandoned or unregistered well, the owner or
28 operator of the abandoned or unregistered well shall be legally
29 liable for the additional costs of plugging the well.

30 Section 212. Well reporting requirements.

1 (a) Every well operator shall file with the department, on a
2 form provided by the department, an annual report specifying the
3 amount of production [from each well on an individual well
4 basis. Where said data is not available on a well basis, it may
5 be reported] on the most well-specific basis available. Annual
6 reports shall also specify the status of each well; however, in
7 subsequent years, only changes in the status need be reported.
8 [All such reports shall be kept confidential for one year after
9 the date the information is required to be filed hereunder. Upon
10 request of the well operator, the department shall extend the
11 period of confidentiality for four years. The total period of
12 confidentiality shall not exceed] The department shall keep all
13 such reports confidential for five years: Provided, however,
14 That the [department] Commonwealth shall have the right to
15 utilize such information in enforcement proceedings, in making
16 designations or determinations under section 1927-A of the act
17 of April 9, 1929 (P.L.177, No.175), known as The Administrative
18 Code of 1929, or in aggregate form for statistical purposes.

19 * * *

20 Section 213. Notification and effect of well transfer.

21 The owner or operator of any well shall notify the
22 department, in writing, in such form as the department may
23 direct by regulation, of the sale, assignment, transfer,
24 conveyance or exchange by the owner or to the owner of such well
25 within 30 days after such sale, assignment, conveyance or
26 exchange. No such transfer shall relieve the well owner or
27 operator of any [liability] obligation accrued under this act,
28 nor shall it relieve him of the obligation to plug said well
29 until the requirements of section 215 have been met, after which
30 time the transferring owner or operator shall be relieved from

1 any obligation under this act including the obligation to plug
2 said well.

3 Section ~~4~~ 5 6. Section 215 of the act, amended October 9, <—
4 1986 (P.L.1431, No.135), is amended to read:

5 Section 215. Bonding.

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

27 (2) In lieu of individual bonds for each well, an owner
28 or operator may file a blanket bond, on a form prepared by
29 the department, covering all of its wells in Pennsylvania as
30 enumerated on the bond form. A blanket bond shall be in the

1 amount of \$25,000 for at least two years following the
2 effective date of this act, after which time the bond amount
3 may be adjusted by the Environmental Quality Board every two
4 years to reflect the projected costs to the Commonwealth of
5 performing well plugging.

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

1 letter of credit or market value of such securities shall be
2 equal at least to the sum of the bond. The secretary shall,
3 upon receipt of any such deposit of cash, letters of credit
4 or negotiable bonds, immediately place the same with the
5 State Treasurer, whose duty it shall be to receive and hold
6 the same in the name of the Commonwealth, in trust, for the
7 purpose for which such deposit is made. The State Treasurer
8 shall at all times be responsible for the custody and
9 safekeeping of such deposits. The operator making deposit
10 shall be entitled from time to time to demand and receive
11 from the State Treasurer, on the written order of the
12 secretary, the whole or any portion of any collateral so
13 deposited, upon depositing with him, in lieu thereof, other
14 collateral of the classes herein specified having a market
15 value at least equal to the sum of the bond, and also to
16 demand, receive and recover the interest and income from said
17 negotiable bonds as the same becomes due and payable. Where
18 negotiable bonds, deposited as aforesaid, mature or are
19 called, the State Treasurer, at the request of the owner
20 thereof, shall convert such negotiable bonds into such other
21 negotiable bonds of the classes herein specified as may be
22 designated by the owner. Where notice of intent to terminate
23 a letter of credit is given, the department shall give the
24 operator 30 days' written notice to replace the letter of
25 credit with other acceptable bond guarantees as provided
26 herein and, if the owner or operator fails to replace the
27 letter of credit within the 30-day notification period, the
28 department shall draw upon and convert such letter of credit
29 into cash and hold it as a collateral bond guarantee.

30 (b) No bond shall be fully released until all requirements

1 of this act identified in subsection (a) or section 213 are
2 fully met. Upon release of all of the bonds and collateral as
3 herein provided, the State Treasurer shall immediately return to
4 the owner the amount of cash or securities specified therein.

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

1 section as to each of the wells owned or operated by said
2 person.

3 (d) (1) Any [well] operator of not more than 200 wells who
4 cannot obtain a bond for a well drilled prior to [the
5 effective date of this act] April 18, 1985, as required under
6 subsection (a), due to an inability to demonstrate sufficient
7 financial resources [shall submit to the department letters
8 of rejection from three separate bonding companies licensed
9 to do business in the Commonwealth. Such letters shall state
10 that the operator has been denied a bond and state the
11 grounds for denial of the bond. In] may, in lieu of the
12 bond[, the operator shall submit]:

13 (i) Submit to the department a fee in the amount of
14 \$50 per well, or a blanket fee of \$500 for ten to 20
15 wells, or a blanket fee of \$1,000 for more than 20 wells,
16 which shall be a nonrefundable fee paid each year that
17 the operator has not filed a bond with the department.
18 [The operator must demonstrate every three years a
19 continued inability to obtain a bond as prescribed
20 above.] All fees collected in lieu of a bond under this
21 subsection shall be paid into the Well Plugging
22 Restricted Revenue Account and shall be used for the
23 purposes authorized by this act. The Environmental
24 Quality Board shall have the power, by regulation, to
25 increase the amount of the fees established under this
26 subsection [if it is found that the total moneys
27 collected hereunder are insufficient to reimburse the
28 Commonwealth for costs incurred in correcting violations
29 on wells covered under this subsection].

30 (ii) (A) Make phased deposits of collateral to

1 fully collateralize the bond. Such payment shall be
2 based on the number of wells the operator owns or
3 operates. The operator shall make an initial deposit
4 and shall, thereafter, make annual deposits in
5 accordance with the schedule in clause (B). Interest
6 accumulated by the collateral shall become a part of
7 the bond until such time as the collateral, plus
8 accumulated interest, equals the amount of the
9 required bond. The collateral shall be deposited, in
10 trust, with the State Treasurer, as provided in this
11 subsection, or with a bank selected by the department
12 which shall act as trustee for the benefit of the
13 Commonwealth, to guarantee the operator's compliance
14 with the drilling, water supply replacement,
15 restoration and plugging requirements of this act.
16 The operator shall be required to pay all costs of
17 the trust.

18 (B) An operator of up to ten existing wells who
19 does not intend to operate additional wells shall
20 deposit \$250 per well and shall, thereafter, annually
21 deposit \$50 per well until the obligations of this
22 section are fully met. An operator of 11 to 25 wells
23 or an operator of up to ten wells who applies for one
24 or more permits for additional wells shall deposit
25 \$2,000 and shall, thereafter, annually deposit
26 \$1,150, plus \$150 for each additional well to be
27 permitted that year, until the obligations of this
28 section are fully met. An operator or 26 to 50 wells
29 shall deposit \$3,000, and shall, thereafter, annually
30 deposit \$1,300, plus \$400 for each additional well to

1 be permitted that year, until the obligations of this
2 section are fully met. An operator of 51 to 100 wells
3 shall deposit \$4,000 and shall, thereafter, annually
4 deposit \$1,500, plus \$400 for each additional well to
5 be permitted that year, until the obligations of this
6 section are fully met. Operators of 101 to 200 wells
7 shall deposit \$8,000 and shall, thereafter, annually
8 deposit \$1,600, plus \$1,000 for each additional well
9 to be permitted that year until the obligations of
10 this section are fully met. Operators of more than
11 200 wells shall fully bond their wells immediately.
12 The department shall reduce the amount of phased
13 collateral payments or the period of time over which
14 phased collateral payments shall be made on behalf of
15 owners or operators who, prior to the effective date
16 of this amendatory act, have paid a fee in lieu of
17 bond pursuant to subsection (d)(1)(i), and who,
18 within one year of the effective date of this
19 amendatory act, choose to enter the phased collateral
20 program pursuant to subsection (d)(1)(ii) rather than
21 to continue to make payments in lieu of bond.
22 Payments made in lieu of bond prior to the effective
23 date of this amendatory act shall not be credited in
24 any other manner, nor shall the department be
25 required to refund such fees at any time. The
26 Environmental Quality Board shall have the power, by
27 regulation, to change the annual deposits established
28 under this clause if it is found to be necessary to
29 accommodate a change in the amount of the bond
30 required under this section.

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

9 (i) immediately submit the appropriate bond amount
10 in full; or

11 (ii) cease all operations and plug the wells in
12 accordance with section 210.

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

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

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

9 (i) immediately submit the appropriate bond amount
10 in full; or

11 (ii) cease all operations and plug the wells in
12 accordance with section 210.

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

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

23 (f) Owners or operators who have failed to meet the
24 requirements of this section prior to the effective date of this
25 amendatory act shall not be required to make payments pursuant
26 to this section on a retroactive basis as a condition of
27 obtaining a permit under this act.

28 Section ~~5-6~~ 7. The heading of section 508 of the act is <—
29 amended and the section is amended by adding a subsection to
30 read:

1 Section 508. Production of materials; witnesses; depositions;
2 rights of entry; determination of compliance.

3 * * *

4 (f) Any purchaser of oil or gas shall, upon request, provide
5 to the department information as may be necessary for the
6 department to determine ownership of facilities from which such
7 oil or gas was obtained. Such information shall be kept
8 confidential for a period of five years. The department shall
9 have the right to utilize such information in enforcement
10 proceedings.

11 Section ~~6-7~~ 8. Sections 509 and ~~601~~, 601 AND 602 of the act <—
12 are amended to read:

13 Section 509. Unlawful conduct.

14 It shall be unlawful for any person to:

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

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

27 (3) Refuse, obstruct, delay or threaten any agent or
28 employee of the department in the course of LAWFUL <—
29 performance of any duty under this act, including, but not
30 limited to, entry and inspection [under any circumstances]. <—

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

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

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

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

23 (b) To aid in the indemnification of the Commonwealth for
24 the cost of plugging abandoned wells, there shall be added to
25 the permit fee established by the department under section 201
26 for new wells a \$50 surcharge. All moneys [deposited in this
27 restricted revenue account from the surcharge] collected as a
28 result of this surcharge shall be paid into the State Treasury
29 into a restricted revenue account to be known as the Abandoned
30 Well Plugging Fund, hereby established, and shall be expended by

1 the department to plug abandoned wells which threaten the health
2 and safety of persons or property or pollution of the waters of
3 the Commonwealth.

4 (c) There is hereby created a restricted revenue account to
5 be known as the Orphan Well Plugging Fund. There shall be added
6 to the permit fee established by the department under section
7 201 for new wells a \$100 surcharge for wells to be drilled for
8 oil production and a \$200 surcharge for wells drilled for gas
9 production, which surcharges shall be placed in the Orphan Well
10 Plugging Fund and shall be expended by the department to plug
11 orphan wells. If an operator rehabilitates a well abandoned by
12 another operator or an orphan well, the permit fee and the
13 surcharge for such well shall be waived.

14 ~~Section 7 8. Section 602 of the act is amended to read:~~ <—
15 Section 602. Local ordinances.

16 Except with respect to ordinances adopted pursuant to the act
17 of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
18 Municipalities Planning Code and the act of October 4, 1978
19 (P.L.851, No.166), known as the Flood Plain Management Act, all
20 local ordinances and enactments purporting to regulate oil and
21 gas well operations regulated by this act are hereby superseded.
22 No ordinance or enactment heretofore adopted, nor any ordinance
23 or enactment adopted by a municipality pursuant to the
24 aforementioned acts, may contain provisions which impose
25 conditions, requirements or limitations which duplicate,
26 supplement, vary, conflict or are inconsistent with the
27 provisions of this act or which interfere with the uniform
28 regulation of oil and gas well operations as provided for in
29 this act. The Commonwealth, by this enactment, hereby preempts
30 the regulation of oil and gas wells as herein defined.

1 Section & 9. Section 603.1 of the act, added October 9, 1986 <—
2 (P.L.1431, No.135), is amended to read:

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

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

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

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

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

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

1 conditions imposed under subsection (a)(1) and (2) and the owner
2 or operator maintains compliance with this act and any
3 applicable regulations promulgated by the Environmental Quality
4 Board.

5 [(b)] (c) Nothing in this section shall diminish any other
6 duties or obligations that an owner or operator may have under
7 the Solid Waste Management Act. The provisions of this section
8 shall not apply to any waste which is classified as a hazardous
9 waste pursuant to the Solid Waste Management Act, or the
10 Resource Conservation and Recovery Act of 1976 (Public Law 94-
11 580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq.).

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

16 Section 9 10. This act shall take effect in 30 days.

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