
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 132 Session of
2007

INTRODUCED BY YEWIC, TANGRETTI, BASTIAN, BOYD, CALTAGIRONE,
EACHUS, GEORGE, MELIO, PALLONE, PRESTON, SIPTROTH, SOLOBAY,
STAIRS, WOJNAROSKI, DeWEESE, MUNDY, MAHONEY, REED, CAPPELLI,
HALUSKA, ROHRER, CREIGHTON AND CLYMER, JANUARY 31, 2007

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 31, 2007

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, providing for coal.

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

5 Section 1. Title 27 of the Pennsylvania Consolidated
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 33

8 COAL

9 Sec.

10 3301. Definitions.

11 3302. Surface use agreements for coal bed methane wells.

12 § 3301. Definitions.

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

16 "Coal bed methane." Gas which can be produced from a coal

1 seam, a mined-out area or a gob well.

2 "Coal bed methane well." A hole or well, which is sunk,
3 drilled, bored or dug into the earth for the production of coal
4 bed methane from a coal seam, a mined-out area or a gob well for
5 consumption or sale. The term includes a horizontal borehole.

6 The term does not include any of the following:

7 (1) A shaft, hole or well, which is sunk, drilled, bored
8 or dug into the earth for core drilling or production of coal
9 or water.

10 (2) A bore hole drilled or being drilled for the purpose
11 of or to be used for degasifying coal seams if a condition in
12 one of the following subparagraphs is met:

13 (i) The bore hole is:

14 (A) used to vent methane to the outside
15 atmosphere from an operating coal mine;

16 (B) regulated as part of the mining permit under
17 the act of June 22, 1937 (P.L.1987, No.394), known as
18 The Clean Streams Law, and the act of May 31, 1945
19 (P.L.1198, No.418), known as the Surface Mining
20 Conservation and Reclamation Act; and

21 (C) drilled by the operator of the operating
22 coal mine for the purpose of increased safety.

23 (ii) The bore hole is used to vent methane to the
24 outside atmosphere under a federally funded or
25 Commonwealth-funded abandoned mine reclamation project.

26 (3) A well or borehole drilled in a coal seam from
27 within an underground coal mine for the production of coal
28 bed methane. This paragraph includes a well or borehole
29 connected to a well or borehole which is sunk, drilled or dug
30 from the surface.

1 "Department." The Department of Environmental Protection of
2 the Commonwealth.

3 "Surface owner." The owner of real property where a coal bed
4 methane well is located or proposed to be located that is not
5 entitled to royalties for the removal or recovery of the coal
6 bed methane from the well.

7 "Surface-use agreement." A written and signed agreement
8 between a surface owner and operator upon the location of
9 proposed wells, access roads and other uses of the surface.
10 § 3302. Surface-use agreements for coal bed methane wells.

11 (a) Procedures.--If a surface owner is not entitled to
12 royalties under the act of July 20, 1979 (P.L.183, No.60),
13 entitled "An act regulating the terms and conditions of certain
14 leases regarding natural gas and oil," for the removal or
15 recovery of methane gas or any other gas found in any coal
16 formation, the following procedures shall apply:

17 (1) Prior to submitting a permit application for a coal
18 bed methane gas well under section 201 of the act of December
19 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act,
20 the operator shall provide the surface owner with a statement
21 citing deeds, leases, rights-of-way and other rights relating
22 to the operator's access to the coal bed methane gas. The
23 operator and the affected surface owner shall attempt to
24 enter into a surface-use agreement. If no surface-use
25 agreement is reached, the operator may, without hindrance by
26 the surface owner, use the surface in a manner which is
27 reasonably necessary to extract the underlying coal bed
28 methane; and such use shall be without liability for damages
29 unless it results in an unnecessary impairment to any
30 existing use of the surface. In an action by the surface

1 owner to seek damages or other relief, the surface owner has
2 the burden of establishing unreasonable surface use or
3 unnecessary impairment of the surface by the operator for the
4 purpose of extracting the underlying coal bed methane.

5 (2) If the surface owner and the operator have entered
6 into a surface-use agreement, the operator's well drilling
7 permit application under the Oil and Gas Act shall show the
8 location of the well at the agreed-upon location; and, at the
9 time of filing the well permit application with the
10 department, the operator shall provide the surface owner with
11 a complete copy of the well permit application.

12 (3) If the surface owner and the operator have not
13 entered into a surface-use agreement, at the time of filing
14 the well permit application with the department, the operator
15 shall provide the surface owner with a complete copy of the
16 well permit application and shall provide the surface owner
17 with a plat of the surface owner's property showing the
18 proposed locations of the well, access roads and other
19 surface uses reasonably necessary to extract the coal bed
20 methane beneath the property.

21 (4) Nothing in this section shall relieve the operator
22 of responsibilities under the Oil and Gas Act, including
23 protection, contamination, loss or diminution of water
24 supplies; well site restoration; and the casing, cementing or
25 plugging of wells.

26 (5) In an action for damages or other relief for
27 unnecessary impairment of the surface by an operator, the
28 prevailing party shall be entitled to recover reasonable
29 litigation costs, including attorney and expert witness fees.

30 (6) Nothing in this section shall:

1 (i) preclude a person from seeking other remedies
2 allowed by statute, common law, deed or contract;

3 (ii) diminish rights granted before the effective
4 date of this section by statute, common law, deed or
5 contract; or

6 (iii) vest the surface owner with title to oil, gas
7 or coal bed methane interests which have been severed
8 from the surface estate.

9 (7) This section shall not apply to a surface-use
10 agreement in effect prior to the effective date of this
11 section.

12 (8) In accordance with section 602 of the Oil and Gas
13 Act, this section shall supersede an ordinance or resolution
14 of a political subdivision which deals with the material
15 regulated by this paragraph.

16 (b) Surveys.--At the request of the surface owner, the
17 department shall provide deviation surveys and other information
18 available under the Oil and Gas Act, if available.

19 (c) Enforcement actions.--This section shall not affect an
20 enforcement action initiated prior to the effective date of this
21 section by the department under the Oil and Gas Act.

22 Section 2. This act shall take effect in 60 days.