
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1975 Session of
2011

INTRODUCED BY GABLER, CREIGHTON, GROVE, HARHART, KAUFFMAN,
MAHER, MUNDY, QUINN, STEPHENS, WAGNER AND YOUNGBLOOD,
NOVEMBER 3, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
NOVEMBER 3, 2011

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," in
17 preliminary provisions, further providing for definitions;
18 and, in general requirements, further providing for well
19 permits, for well location restrictions and for protection of
20 water supplies.

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

23 Section 1. Section 103 of the act of December 19, 1984
24 (P.L.1140, No.223), known as the Oil and Gas Act, is amended by
25 adding a definition to read:

26 Section 103. Definitions.

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

4 * * *

5 "Unconventional well." A bore hole drilled or being drilled
6 for the purpose of or to be used for the production of oil or
7 gas from a geological formation existing below the base of the
8 Elk Sandstone or its geologic equivalent stratigraphic interval
9 where oil or gas generally cannot be produced at economic flow
10 rates or in economic volumes except by wells stimulated by
11 hydraulic fracture treatments, a horizontal well bore or by
12 using multilateral well bores or other techniques to expose more
13 of the formation of the well bore.

14 * * *

15 Section 2. Sections 201(b) and (d) and 205 of the act are
16 amended to read:

17 Section 201. Well permits.

18 * * *

19 (b) (1) The permit application shall be accompanied by a
20 plat prepared by a competent engineer or a competent
21 surveyor, on forms to be furnished by the department, showing
22 the political subdivision and county in which the tract of
23 land upon which the well to be drilled is located, the name
24 of the surface landowner of record and lessor, the name of
25 all surface landowners or water purveyors whose water
26 supplies are within 1,000 feet of the proposed well location
27 or, in the case of an unconventional well, within 2,500 feet
28 of the proposed well location, the name of the owner of
29 record or operator of all known underlying workable coal
30 seams, if any, the acreage in the tract to be drilled, the

1 proposed location of the well determined by survey, the
2 courses and distances of such location from two or more
3 permanent identifiable points or landmarks on said tract
4 boundary corners, the proposed angle and direction of such
5 well, if the well is to be deviated substantially from a
6 vertical course, the number or other identification to be
7 given the well, the workable coal seams, if any, underlying
8 the tract of land upon which the well is to be drilled or
9 altered, which are to be cased off in accordance with section
10 207, and such information needed by the department to
11 administer this act.

12 (2) The applicant shall forward, by certified mail, a
13 copy of said plat to the following:

14 (i) the surface landowner[, all];

15 (ii) the coal owner if coal rights have been severed
16 from the surface regardless of whether the coal seam is
17 workable;

18 (iii) all surface landowners or water purveyors
19 whose water supplies are within 1,000 feet of the
20 proposed well location[, the] or, in the case of an
21 unconventional well, within 2,500 feet of the proposed
22 well location; and

23 (iv) the owner and lessee, if any, of [such] any
24 coal seams, and every coal operator required to be
25 identified on the well permit application [and].

26 Each applicant shall submit proof of such notification with
27 the well permit application.

28 (3) The municipality where the proposed unconventional
29 well is located and a municipality within 2,500 feet of the
30 proposed unconventional well location.

1 (4) With respect to surface owners, notification shall
2 be accomplished under this section by sending notice to the
3 persons to whom the tax notices for said surface property are
4 sent, as indicated in the assessment books in the county in
5 which the property is located. With respect to surface
6 landowners or water purveyors whose water supplies are within
7 1,000 feet of the proposed well location or, in the case of
8 an unconventional well, within 2,500 feet of the proposed
9 well location, notification shall be made on forms and in a
10 manner prescribed by the department sufficient to identify,
11 for such persons, the rights afforded them under section 208
12 and the advisability of taking their own predrilling or
13 prealteration survey.

14 (5) If the applicant submits to the department written
15 approval of the proposed well location by the surface
16 landowner and the coal operator, lessee or owner, if any, of
17 the coal underlying the proposed well location and no
18 objections are raised by the department within 15 days of
19 filing or if no such approval has been submitted and no
20 objections are made to such proposed well location within 15
21 days from receipt of such notice by the surface landowner and
22 the coal operator, lessee or owner, if any, or by the
23 department, the same shall be filed and become a permanent
24 record of such location, subject to inspection at any time by
25 any interested person.

26 * * *

27 (d) Every application for a well permit shall be accompanied
28 by a permit fee, established by regulation of the [department]
29 Environmental Quality Board, which bears a reasonable
30 relationship to the cost of administering this act: Provided,

1 however, That the permit fee shall be \$100 for two years
2 immediately following the effective date of this act.

3 * * *

4 Section 205. Well location restrictions.

5 (a) Wells may not be drilled within 200 feet or, in the case
6 of an unconventional well, within 500 feet, measured
7 horizontally from any existing building or existing water well
8 without the written consent of the owner thereof. Where the
9 distance restriction would deprive the owner of the oil and gas
10 rights of the right to produce or share in the oil or gas
11 underlying said surface tract, the well operator may be granted
12 a variance from said distance restriction upon submission of a
13 plan which shall identify the additional measures, facilities or
14 practices to be employed during well site construction, drilling
15 and operations. The variance, if granted, shall include such
16 additional terms and conditions as the department shall require
17 to insure the safety and protection of affected persons and
18 property. The provisions may include insurance, bonding and
19 indemnification, as well as technical requirements.

20 (b) (1) No well site may be prepared or well drilled within
21 100 feet or, in the case of an unconventional well, within
22 250 feet, measured horizontally from any stream, spring or
23 body of water as identified on the most current 7 1/2 minute
24 topographic quadrangle map of the United States Geological
25 Survey or [within 100 feet of any] wetlands greater than one
26 acre in size.

27 (2) The department may waive such distance restrictions
28 upon submission of a plan which shall identify the additional
29 measures, facilities or practices to be employed during well
30 site construction, drilling and operations. Such waiver, if

1 granted, shall impose such permit conditions as are necessary
2 to protect the waters of the Commonwealth.

3 (3) The department may establish additional protective
4 measures for the storage of wastewater resulting from
5 hydraulic fracturing operations and hazardous chemicals or
6 materials intended to be used on the well drilling site
7 within 2,500 feet of any such stream, spring, body of water
8 or wetland.

9 (b.1) (1) No unconventional well may be drilled within
10 2,500 feet of a water well, lake, reservoir, impoundment,
11 spring or the permitted intake of a stream that serves as a
12 primary source of supply for a community water system as
13 defined in the act of May 1, 1984 (P.L.206, No.43), known as
14 the Pennsylvania Safe Drinking Water Act.

15 (2) The Environmental Quality Board shall develop
16 conditions under which the restriction in paragraph (1) may
17 be waived.

18 (3) Nothing in this act shall be construed to permit the
19 disclosure of location data on community drinking water wells
20 and surface water intakes, related to public utilities,
21 including municipal or authority systems, to protect such
22 facilities against sabotage or criminal or terrorist acts or
23 to abrogate the provisions of the act of November 29, 2006
24 (P.L.1435, No.156), known as the Public Utility Confidential
25 Security Information Disclosure Protection Act.

26 (c) The department shall, on making a determination on a
27 well permit, consider the impact of the proposed well on public
28 resources to include, but not be limited to, the following:

29 (1) Publicly owned parks, forests, gamelands and
30 wildlife areas.

- 1 (2) National or State scenic rivers.
- 2 (3) National natural landmarks.
- 3 (4) Habitats of rare and endangered flora and fauna and
4 other critical communities.
- 5 (5) Historical and archaeological sites listed on the
6 Federal or State list of historic places.
- 7 (6) Sources used for public drinking water supplies.
- 8 (7) Whether the proposed well location is within a
9 floodplain.

10 Section 3. Section 208(a), (b), (c) and (d) of the act are
11 amended and the section is amended by adding subsections to
12 read:

13 Section 208. Protection of water supplies.

14 (a) (1) Any well operator who affects a public or private
15 water supply by pollution or diminution shall restore or
16 replace the affected supply with an alternate source of water
17 adequate in quantity or quality for the purposes served by
18 the supply.

19 (2) The department shall ensure that a restored or
20 replaced water supply meets applicable water quality
21 standards consistent with the Safe Drinking Water Act (Public
22 Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f et
23 seq.), the act of May 1, 1984 (P.L.206, No.43), known as the
24 Pennsylvania Safe Drinking Water Act, and predrilling or
25 alteration water quantity standards as determined by the
26 department. The Environmental Quality Board shall promulgate
27 regulations necessary to meet the requirements of this
28 subsection.

29 (b) (1) Any landowner or water purveyor suffering pollution
30 or diminution of a water supply as a result of the drilling,

1 alteration or operation of an oil or gas well may so notify
2 the department and request that an investigation be
3 conducted.

4 (2) A well operator who receives notice from a
5 landowner, water purveyor or affected person that a water
6 supply has been affected by pollution or diminution shall
7 report receipt of the notice to the department as soon as
8 possible, but no later than ten calendar days after receiving
9 the notice.

10 (3) Within ten days of such notification, the department
11 shall investigate any such claim and shall, within 45 days
12 following notification, make a determination. If the
13 department finds that the pollution or diminution was caused
14 by the drilling, alteration or operation activities or if it
15 presumes the well operator responsible for pollution pursuant
16 to subsection (c), then it shall issue such orders to the
17 well operator as are necessary to assure compliance with
18 subsection (a). Such orders may include orders requiring the
19 temporary replacement of a water supply where it is
20 determined that the pollution or diminution may be of limited
21 duration.

22 (c) Unless rebutted by [one of the five defenses] a defense
23 established in subsection (d), it shall be presumed that a well
24 operator is responsible for the pollution of a water supply that
25 is within 1,000 feet of the oil or gas well, where the pollution
26 occurred within six months after the completion of drilling or
27 alteration of such well.

28 (c.1) Unless rebutted by a defense established under
29 subsection (d), it shall be presumed that an unconventional well
30 operator is responsible for the pollution of a water supply that

1 is within 2,500 feet of the unconventional well where the
2 pollution occurred within 12 months after the completion of
3 drilling or alteration of the well.

4 (d) In order to rebut [the] a presumption of liability
5 established in subsection (c) or (c.1), the well operator must
6 affirmatively prove one of the following five defenses:

7 (1) The pollution existed prior to the drilling or
8 alteration activity as determined by a predrilling or
9 prealteration survey.

10 (2) The landowner or water purveyor refused to allow the
11 operator access to conduct a predrilling or prealteration
12 survey.

13 (3) The water supply is not within 1,000 feet or, in the
14 case of an unconventional well, within 2,500 feet of the
15 well.

16 (4) The pollution occurred more than six months or, in
17 the case of an unconventional well, the pollution occurred
18 more than 12 months after completion of drilling or
19 alteration activities.

20 (5) The pollution occurred as the result of some cause
21 other than the drilling or alteration activity.

22 * * *

23 (e.1) (1) At least 30 days prior to commencing a well
24 drilling operation or alteration activity, an unconventional
25 well operator shall survey, sample and analyze the quality
26 and flow of water from any well, spring or other water source
27 located within 2,500 feet of the proposed oil or gas well.
28 The water well, spring or other water source to be tested
29 shall be a supply that is utilized by a landowner or water
30 purveyor for human consumption, domestic animals or other

1 general use.

2 (2) The unconventional well operator shall utilize a
3 laboratory approved by the department to perform the water
4 supply analysis.

5 (3) The unconventional well operator shall, within five
6 days of receipt of the test results, provide this information
7 in writing to the landowner or water purveyor.

8 (4) In the event the landowner or water purveyor rejects
9 the offer to have the water supply tested or denies access to
10 the landowner's or water purveyor's property for the test to
11 be conducted, the unconventional well operator shall not be
12 required to meet the provisions of this subsection.

13 (5) The performance or excused performance of a water
14 supply test under this subsection shall in no way be
15 construed to prohibit the unconventional well operator from
16 commencing drilling operations, provided the appropriate
17 permit approvals are obtained.

18 (e.2) (1) Upon the completion of drilling operations or
19 alteration activities and for a period of 12 months
20 thereafter, an unconventional well operator, upon written
21 request of the landowner or water purveyor, shall conduct a
22 follow-up survey and analysis of the quality and flow of
23 water from any well, spring or other water source initially
24 tested by the well operator under subsection (e.1). An
25 unconventional well operator shall not be required to conduct
26 such follow-up test more than once in a 12-month period. The
27 unconventional well operator's duty to conduct follow-up
28 testing shall end 12 months after the completion of drilling
29 activities.

30 (2) The unconventional well operator shall provide

1 written notice to the landowner or water purveyor of the
2 right to request follow-up tests.

3 (3) The unconventional well operator shall obtain and
4 analyze the water samples in accordance with methods
5 established by the department. All follow-up tests shall be
6 conducted by a laboratory certified by the department to
7 perform the testing.

8 (4) The unconventional well operator shall, within five
9 days of receipt of the test results, provide this information
10 in writing to the landowner or water purveyor.

11 (5) In the event the landowner or water purveyor rejects
12 the offer to have a follow-up water supply test or denies
13 access to the landowner's or water purveyor's property for
14 the test to be conducted, the unconventional well operator
15 shall not be required to meet the provisions of this
16 subsection.

17 (6) The performance or excused performance of a follow-
18 up water supply test under this subsection shall in no way be
19 construed to prohibit the unconventional well operator from
20 proceeding with a drilling operation or alteration activity,
21 provided the appropriate permit approvals are obtained.

22 * * *

23 (g) This section shall also apply to pits, impoundments,
24 storage tanks or other measures used to store any wastewater
25 resulting from hydraulic fracturing operations of an
26 unconventional well located within 2,500 feet of any well,
27 spring or other water source. The department shall establish
28 methods and criteria for surveying water quality before and
29 after the use of pits or impoundments used to store any
30 wastewater resulting from hydraulic fracturing operations.

1 Section 4. This act shall take effect in 60 days.