

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 265 Session of 2011

INTRODUCED BY M. WHITE, SCARNATI, YUDICHAK, YAW, D. WHITE,
FOLMER, SOLOBAY, EARLL, KASUNIC AND MENSCH, JANUARY 26, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 26, 2011

AN ACT

1 Amending the act of December 18, 1984 (P.L.1069, No.214),
2 entitled "An act requiring coordination of coal mine and gas
3 well operators; authorizing Department of Environmental
4 Resources enforcement powers; and providing penalties,"
5 further providing for definitions, for permits, for permit
6 application, for minimum distance between gas wells, for well
7 class designation and for coordination of gas well drilling
8 through active coal mines; providing for a pillar support
9 study; and further providing for plugging gas wells
10 penetrating workable coal seams, for penalties and for
11 validity of other laws.

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

14 Section 1. The definitions of "active coal mine,"
15 "department," "Gas Operations Well-Drilling Petroleum and Coal
16 Mining Act," "operating coal mine," "permittee" and "workable
17 coal seam" in section 2 of the act of December 18, 1984
18 (P.L.1069, No.214), known as the Coal and Gas Resource
19 Coordination Act, are amended and the section is amended by
20 adding a definition to read:

21 Section 2. Definitions.

22 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Active coal mine." [Any operating coal mine or coal mine
4 already projected and permitted, but not yet being operated, or
5 within 1,000 linear feet beyond such boundaries.] That portion
6 of a workable coal seam which is shown on the five-year timing
7 map prepared by the mine operator and provided to the Department
8 of Environmental Protection upon issuance of a new permit, an
9 amendment to an existing permit adding additional area to be
10 mined, or renewal of an existing permit, and which is contiguous
11 to the permit area of any operating coal mine. For purposes of
12 this act:

13 (1) A five-year timing map shall include the area of the
14 workable coal seam which may reasonably be expected to be
15 mined and permitted for mining by the operator during the
16 five-year period beyond the projected completion of the
17 mining of the currently permitted area.

18 (2) All five-year timing maps shall be considered
19 confidential by the department, provided, however that the
20 department shall provide a copy of the timing map upon
21 request to any person who currently either operates one or
22 more oil or gas wells, or holds a valid permit to drill an
23 oil or gas well in this Commonwealth, and who can document a
24 valid existing right to develop the oil or gas under any
25 portion of the timing map. The party obtaining access to the
26 map shall treat the timing map and the information contained
27 therein as confidential.

28 (3) In the case of currently permitted mines, the mine
29 operator shall provide the current five-year timing map to

1 the department within 30 days of the effective date of this
2 paragraph.

3 "Department." The Department of Environmental [Resources]
4 Protection.

5 * * *

6 ["Gas Operations Well-Drilling Petroleum and Coal Mining
7 Act." The act of November 30, 1955 (P.L.756, No.225), known as
8 the Gas Operations Well-Drilling Petroleum and Coal Mining Act.]

9 * * *

10 "Oil and Gas Act." The act of December 19, 1984 (P.L.1140,
11 No.223), known as the Oil and Gas Act.

12 * * *

13 "Operating coal mine." [A coal mine which is producing coal
14 or has been in production of coal at any time during the 12
15 months immediately preceding the date its status is put in
16 question under this act and any worked out or abandoned coal
17 mine connected underground with or contiguous to such operating
18 coal mine and any coal mine to be established or reestablished
19 as an operating coal mine within one year.] That portion of a
20 workable coal seam which is covered by an underground mining
21 permit issued by the Department of Environmental Protection.

22 * * *

23 "Permittee." The well operator who has received a drilling
24 permit in accordance with the [Gas Operations Well-Drilling
25 Petroleum and Coal Mining] act of December 19, 1984 (P.L.1140,
26 No.223), known as the Oil and Gas Act.

27 * * *

28 "Workable coal seam." [A coal seam identified by the
29 Topographical and Geological Survey of the Department of

1 Environmental Resources as capable of being mined by underground
2 methods.] Includes:

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

5 (2) A coal seam which, in the judgment of the Department
6 of Environmental Protection, can reasonably be expected to be
7 mined by underground methods.

8 Section 2. Sections 5 and 6 of the act are amended to read:

9 Section 5. Permits.

10 No person shall be issued a permit pursuant to the [Gas
11 Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas
12 Act to drill a new gas well unless the provisions of this act
13 are met.

14 Section 6. Permit application and well completion.

15 (a) All permit applications made pursuant to the [Gas
16 Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas
17 Act for a gas well covered by this act shall include a
18 certification that the gas well will be located so that it will
19 comply with the minimum distance requirements set forth in
20 section 7, including any exception granted by the department
21 pursuant to section 7(b), (c) and (d).

22 (b) All permit applications made pursuant to the [Gas
23 Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas
24 Act for a gas well covered by this act shall be processed by the
25 department in the order in which they are received. No such
26 permit application shall be deemed complete unless all
27 information necessary to process the permit in compliance with
28 this act has been received by the department, including all
29 information necessary to act on any exception requested pursuant

1 to section 7(b), (c) and (d).

2 (c) In any case where two or more permits have been applied
3 for or issued by the department, pursuant to the [Gas Operations
4 Well-Drilling Petroleum and Coal Mining] Oil and Gas Act, for
5 gas wells covered by this act, and gas wells covered by the
6 permits or applications cannot be drilled without violating the
7 provisions of section 7, the department shall notify each
8 affected permit applicant or permittee.

9 (d) (1) In any case where two or more permits have been
10 applied for or issued by the department, pursuant to the [Gas
11 Operations Well-Drilling Petroleum and Coal Mining] Oil and
12 Gas Act for gas wells covered by this act, and all gas wells
13 covered by the permits or permit applications cannot be
14 drilled without violating the provisions of section 7, the
15 first permitted gas well for which drilling is commenced
16 shall determine compliance of the remaining proposed gas
17 wells with section 7.

18 (2) Drilling shall be deemed to have commenced for the
19 purposes of this subsection when the permittee has begun
20 actually drilling with the intent of continuing the drilling
21 in a workmanlike manner to a formation capable of producing
22 enough gas to make it economically feasible to complete the
23 well.

24 (e) Within 60 days of completion of drilling operations of a
25 well, the operator shall supply to the coal owner a copy of the
26 portion of any well bore deviation survey obtained in the
27 subject well between the surface and to a point below the
28 deepest known coal seam encountered during the drilling
29 operation.

1 (f) All permit applications made pursuant to the Oil and Gas
2 Act, which will penetrate an operating coal mine shall be
3 accompanied by the written consent of the operator of such coal
4 mine to the proposed location of the well.

5 (g) Any person applying for a permit under the Oil and Gas
6 Act shall forward, by certified mail, a copy of the plat
7 required under section 201(b) of the Oil and Gas Act to the coal
8 owner if coal rights have been severed from the surface where
9 the well is to be drilled or altered, regardless of whether the
10 coal seam is workable.

11 Section 3. Section 7(a) and (b) of the act, amended November
12 29, 2004 (P.L.1341, No.171), are amended and the section is
13 amended by adding subsections to read:

14 Section 7. Minimum distance between gas wells.

15 (a) No permit for a gas well covered by this act may be
16 issued to drill a new gas well, or reopen a gas well which has
17 been plugged in accordance with the [Gas Operations Well-
18 Drilling Petroleum and Coal Mining] Oil and Gas Act, unless the
19 proposed gas well is located not less than 1,000 feet from any
20 other well. For the purpose of this section, "other well" shall
21 not include any:

22 (1) Oil or gas well or injection well which does not
23 penetrate a workable coal seam.

24 (2) Oil or gas well or injection well which has been
25 plugged in accordance with this act or any other act of this
26 Commonwealth which would meet State and Federal requirements
27 for the safe mining through of a gas well.

28 (3) Nonproducing oil or gas well which was drilled and
29 abandoned prior to November 30, 1955.

1 (4) Storage well.

2 (b) The department shall, upon request of the permit
3 applicant or the owner of the workable coal seam which underlies
4 the proposed gas well, grant an exception from the minimum 1,000
5 feet distance requirement of subsection (a), where the permit
6 applicant and the owner of the workable coal seam consent in
7 writing. [In no case shall the minimum distance between the
8 proposed gas well and any other well be less than 900 feet
9 pursuant to this subsection.]

10 * * *

11 (d) Notwithstanding any other provisions of this section, no
12 permit for a gas well covered by this act which is intended to
13 be part of a well cluster shall be issued unless the well
14 cluster is located not less than 2,000 feet from the nearest
15 well cluster as measured from the center of the well bore of the
16 nearest well, unless the permit applicant and the owner of the
17 workable coal seam consent in writing to spacing the well
18 clusters closer than 2,000 feet. The well location limitations
19 imposed in subsection (a) shall not be applicable between and
20 among wells located within the same well cluster.

21 (e) The Environmental Quality Board may promulgate
22 regulations modifying the maximum area of a well cluster based
23 upon the study required under section 12.1. In the event the
24 permit applicant and the owner of the workable coal seam cannot
25 agree on the spacing of well clusters, either party may invoke
26 the procedures of section 12(c), (d), (e) and (f) in order to
27 reach an agreement. When a well cluster will penetrate a
28 workable coal seam which is not part of an active mine, the
29 applicant for the gas well shall provide the owner of the coal

1 seam with a copy of the plat, and the owner of the coal seam
2 shall have 15 days from receipt of the plat to provide
3 recommendations to the applicant for the gas well on the
4 location of the well cluster.

5 (f) For purposes of this section, a "well cluster" shall
6 mean an area within a well pad intended to host multiple
7 horizontal wells and which comprises an area no greater than
8 5,000 square feet.

9 Section 4. Sections 10(a) and 12(a), (e) and (g) of the act
10 are amended to read:

11 Section 10. Well class designation.

12 (a) Within one year of the effective date of this act, the
13 department shall serve written notice on the permittee of record
14 of all gas wells permitted under the [Gas Operations Well-
15 Drilling Petroleum and Coal Mining] Oil and Gas Act and which
16 penetrate a workable coal seam that the permittee must designate
17 his gas well as nonproducing, inoperative or producing as those
18 terms are defined in this act.

19 * * *

20 Section 12. Coordination of gas well drilling through active
21 coal mines.

22 (a) When a proposed gas well or well cluster is located
23 above an active coal mine, then the owner of the coal mine may,
24 within ten days from the receipt by the department of the plat
25 and notice required by the [Gas Operations Well-Drilling
26 Petroleum and Coal Mining] Oil and Gas Act, file objections, in
27 writing, to such proposed drilling with the department, setting
28 out in detail the ground or grounds upon which the objections
29 are based.

1 * * *

2 (e) The panel shall make its recommendation within ten days
3 of the close of the meeting and shall immediately submit it to
4 the department, to the collective bargaining representative of
5 the employees of the coal operator and to the parties to this
6 proceeding. Within 20 days from receipt of a panel's
7 recommendation, the department shall proceed to issue a permit
8 with the location of the gas well as recommended by the panel
9 unless the department, pursuant to its authority under the [Gas
10 Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas
11 Act, has determined that the well cannot be safely drilled at
12 such location. When such a determination is made by the
13 department, it shall so notify the panel, stating its reasons
14 for the rejection, and direct the panel to submit another
15 recommendation within ten days for an alternate location of the
16 gas well on such tract of land. Upon issuance of the permit, the
17 location as determined by the department shall be indicated on
18 the plat on file with the department, and the distance and
19 direction of the new location, if any, from the original
20 location shall be shown and the plat shall be filed and become a
21 permanent record.

22 * * *

23 [(g) This section shall not apply to any operating coal mine
24 when a gas well is proposed to be drilled through the mine.]

25 Section 5. The act is amended by adding a section to read:

26 Section 12.1. Pillar support study.

27 (a) The purpose of this section is to conduct a
28 comprehensive evaluation and update of the Joint Coal and Gas
29 Committee Gas Well Pillar Study commissioned in 1956 by the

1 Department of Mines and Mineral Industries.

2 (b) Within 60 days of the effective date of this section,
3 the department shall commission an independent study to conduct
4 an assessment of the following:

5 (1) The appropriate pillar size around an active well,
6 an inactive well, a well cluster, an inactive well cluster, a
7 plugged well cluster or a plugged well necessary to ensure
8 the integrity of the well, to furnish adequate protection to
9 the workable coal seam, and to ensure the safety and
10 protection of coal miners.

11 (2) Any additional criteria or standards that should be
12 considered by the department when considering the approval of
13 pillars around an oil or gas well which penetrates a workable
14 coal seam.

15 (c) The independent expert shall solicit input,
16 recommendations, data and other relevant information from
17 representatives of the department, the coal industry and the gas
18 industry as part of its assessment.

19 (d) The assessment required under subsection (b) shall be
20 submitted to the department within 240 days of the effective
21 date of this section and published in the Pennsylvania Bulletin.

22 Section 6. Sections 13(a) introductory paragraph, 15(c) and
23 17 of the act are amended to read:

24 Section 13. Plugging gas wells penetrating workable coal seams.

25 (a) The owner or permittee of any gas well which is required
26 to be plugged pursuant to the [Gas Operations Well-Drilling
27 Petroleum and Coal Mining] Oil and Gas Act, which penetrates a
28 workable coal seam and which has not already been plugged as
29 required by Pennsylvania law, shall securely plug the well using

1 any one of the following techniques, except as provided in
2 subsection (b) and depending on whether the coal-protection
3 string of casing has been circulated and cemented into the
4 surface:

5 * * *

6 Section 15. Penalties.

7 * * *

8 (c) Except as provided in subsections (a) and (b), any
9 person violating any provision of this act shall be subject to
10 the penalty provisions provided by [section 504 of the Gas
11 Operations Well-Drilling Petroleum and Coal Mining] Chapter 5 of
12 the Oil and Gas Act.

13 Section 17. Validity of other laws.

14 This act shall not be construed to repeal or otherwise
15 invalidate any provision of the [Gas Operations Well-Drilling
16 Petroleum and Coal Mining] Oil and Gas Act, except those
17 provisions enumerated in section 13.

18 Section 7. This act shall take effect immediately.