
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 447 Session of
2011

INTRODUCED BY YAW, M. WHITE, MENSCH AND FONTANA,
FEBRUARY 11, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 11,
2011

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, consolidating the Oil and Gas Conservation Law with
3 modifications relating to definitions, standard unit order,
4 process, administration, standard of review, hearings and
5 appeals, establishment of units, integration of various
6 interests, lease extension and scope; providing for gas and
7 hazardous liquids pipelines; and making a related repeal.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Title 58 of the Pennsylvania Consolidated
11 Statutes is amended by adding parts to read:

12 PART I

13 PRELIMINARY PROVISIONS

14 (RESERVED)

15 PART II

16 (RESERVED)

17 PART III

18 UTILIZATION

19 Chapter

20 31. (Reserved)

1 32. (Reserved)
2 33. (Reserved)
3 34. Unconventional Oil and Gas Conservation

4 CHAPTER 31

5 (RESERVED)

6 CHAPTER 32

7 (RESERVED)

8 CHAPTER 33

9 (RESERVED)

10 CHAPTER 34

11 UNCONVENTIONAL OIL

12 AND GAS CONSERVATION

13 Subchapter

14 A. Preliminary Provisions

15 B. (Reserved)

16 C. Establishment of Standard Units

17 D. Procedure

18 E. Effect of Order

19 F. (Reserved)

20 G. (Reserved)

21 H. (Reserved)

22 I. (Reserved)

23 J. Miscellaneous Provisions

24 SUBCHAPTER A

25 PRELIMINARY PROVISIONS

26 Sec.

27 3401. Short title of chapter.

28 3402. Legislative intent.

29 3403. Definitions.

30 § 3401. Short title of chapter.

1 This chapter shall be known and may be cited as the
2 Unconventional Oil and Gas Unit Establishment Act.

3 § 3402. Legislative intent.

4 The purposes of this chapter are:

5 (1) To promote the development of unconventional oil and
6 gas resources of this Commonwealth in accordance with the
7 best principles and practices of oil and gas conservation
8 while reasonably protecting the correlative rights of the
9 person affected.

10 (2) To provide for the protection of the environment.

11 § 3403. Definitions.

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

15 "Coal and Gas Resource Coordination Act." The act of
16 December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas
17 Resource Coordination Act.

18 "Commission." The Pennsylvania Public Utility Commission.

19 "Consenting party." A person participating in a unit
20 established under this chapter who agrees or elects to
21 participate in a pro rata share of costs and production of a
22 well drilled on that unit in accordance with a joint operating
23 agreement.

24 "Control." To own or to have the right to explore for,
25 develop, operate and produce oil or gas from the stratigraphic
26 interval proposed to be included in a unit.

27 "Correlative rights." The rights of each owner of oil and
28 gas interests included or proposed to be included in a standard
29 unit or in land that constitutes stranded acreage to have fair
30 and reasonable opportunity to obtain a just and equitable share

1 of the oil and gas in the unit without being required to drill
2 unnecessary wells or incur other unnecessary expense to recover
3 the oil or gas or its equivalent. The term includes the owners
4 of oil and gas interests in properties adjacent to properties
5 included or proposed to be included within the unit.

6 "Department." The Department of Environmental Protection of
7 the Commonwealth.

8 "Drill." The drilling or redrilling of a well or the
9 deepening or plugging back of an existing well.

10 "Drill pad." The area of surface operations surrounding the
11 surface location of a well or wells.

12 "Horizontal well." A directional well that is drilled nearly
13 vertically to a certain depth and then angled out horizontally
14 or nearly horizontally to produce from and remain substantially
15 or entirely within a specific geologic interval until the
16 desired terminus of the well bore is reached.

17 "Hydraulic fracture." A process to stimulate production in
18 oil and gas wells by inducing or propping fractures in oil and
19 gas bearing rocks using hydraulic pressure. The fluid mixtures
20 which are typically pumped down the well during this process
21 include water, sand and other specialty items.

22 "Joint operating agreement." An agreement governing the
23 actions of all participants in an established standard unit or a
24 model agreement generally recognized in the extraction industry
25 and all schedules and exhibits pertaining thereto.

26 "Lateral." The portion of a well bore that deviates from
27 approximate vertical orientation to approximate horizontal
28 orientation and all well bores beyond such deviation to total
29 depth or terminus.

30 "Nonconsenting party." A person participating in an

1 established standard unit who elects not to participate in its
2 pro rata share of the costs of a well drilled upon that unit and
3 who will pay a risk avoidance under the joint operating
4 agreement.

5 "Perforated segment." The entire perforated length of each
6 lateral well bore, as shown on a directional survey or
7 predrilled unsurveyed plan, projected vertically to the surface.
8 In the event of the use of a form of completion that does not
9 involve cementing and perforating, the term shall mean the
10 entire length of each lateral from penetration point of the
11 target reservoir to the terminus of the well bore.

12 "Plat." A map, drawing or print showing the proposed or
13 existing location of a well or a unit.

14 "Royalty interests." An interest in oil or gas or rights
15 expressly stated to be royalty interests, overriding royalty
16 interests or rights to participate in a share of production but
17 that do not provide a right to conduct exploration, drilling or
18 production.

19 "Standard unit." A unit for the production of oil or natural
20 gas that is not more than 640 acres in area, plus 10% tolerance
21 for possible survey error or other acreage discrepancies, and
22 that, absent interference by an adjacent preexisting voluntary
23 unit, includes all interests in the oil and gas within the
24 boundaries of the proposed standard unit. Acreage in excess of
25 the 640-acre maximum and 10% tolerance may be included in a
26 standard unit if necessary to:

27 (1) Avoid the creation of stranded acreage.

28 (2) Prevent the loss of the use and benefit of potential
29 recoverable oil and gas.

30 (3) More efficiently recover oil or gas.

1 "Stranded acreage." Land that cannot be developed for
2 production of oil or gas from unconventional reservoirs because
3 of the 250 feet minimum setback requirements under this chapter
4 when applied to the boundaries of standard units.

5 "Unconventional reservoir." A formation below the base of
6 the Elk Sandstone or its geologic equivalent stratigraphic
7 interval that contains or produces oil or gas that generally
8 cannot be economically produced at flow rates or in volumes
9 except by hydraulic fracturing, horizontal or multi-lateral well
10 bores or other techniques to expose the reservoir to the well
11 bore.

12 "Unit." A consolidation of interests of persons actively
13 engaged in the business of extracting oil or gas from land owned
14 or leased by the persons within a defined geographic area to
15 facilitate the drilling of wells from one or more unconventional
16 reservoirs.

17 "Voluntary unit." A unit created under a lease or other
18 voluntary agreement of the owners and lessees of all interests
19 in the oil or gas in the unit.

20 "Waste." The unnecessary loss of potentially recoverable oil
21 or gas.

22 "Working interest owner." An owner of the right to develop,
23 operate and produce the oil or gas sought to be produced, except
24 where specifically provided in a joint operating agreement
25 governing a standard unit.

26 SUBCHAPTER B

27 (Reserved)

28 SUBCHAPTER C

29 ESTABLISHMENT OF STANDARD UNITS

30 Sec.

1 3421. Standard unit order.

2 3422. Technical assistance.

3 § 3421. Standard unit order.

4 (a) Authorization.--A person actively engaged in the
5 business of extracting oil or gas who owns or leases at least
6 65% of the oil or gas working interests in a proposed unit that
7 does not have a voluntary agreement to extract oil or gas from
8 the entire area may apply to the commission for an order to
9 establish a standard unit under this chapter to integrate the
10 interests controlled by another person actively engaged in the
11 business of extracting oil or gas who owns or leases the
12 remaining land in the proposed unit.

13 (b) Approval.--If a person does not own or control at least
14 65% of the oil or gas working interests in a proposed standard
15 unit but demonstrates by written evidence that it has an
16 agreement with collaborating owners who control interests within
17 the proposed unit that total 65% of the unit, the person may
18 apply for the establishment of a standard unit.

19 (c) Other interests.--Interests of a person actively engaged
20 in the business of extracting oil or gas that may be combined
21 under subsection (a) into a standard unit may include interests
22 of the other working interest owners and royalty interests.

23 (d) Integration.--Upon the grant of an order by the
24 commission establishing a standard unit, all oil and gas
25 interests within the unit shall be integrated in accordance with
26 this chapter.

27 (e) Scope.--This chapter shall apply to interests of owners
28 engaged in the business of extracting oil or gas.

29 § 3422. Technical assistance.

30 The Bureau of Topographic and Geologic Survey of the

1 Department of Conservation and Natural Resources shall provide
2 technical and other assistance to the commission as requested by
3 the commission.

4 SUBCHAPTER D

5 PROCEDURE

6 Sec.

7 3431. Process.

8 3431.1. Powers of commission.

9 3432. Standard unit protest.

10 3433. Standard of review.

11 3434. Hearings and appeals.

12 3435. Final action.

13 3436. Appellate jurisdiction of Commonwealth Court.

14 § 3431. Process.

15 (a) Filing.--An applicant for an order to establish a
16 standard unit under this chapter shall file the application with
17 the commission. The commission shall review the application for
18 completeness and notify the applicant of any deficiencies and
19 refer a completed application to the Office of Administrative
20 Law Judge within five business days of submission.

21 (b) Voluntary unit.--An order of the commission shall not be
22 required for working interest owners or standard units to
23 establish a voluntary unit under a lease or other agreement.

24 (1) Lessees that provide the establishment of voluntary
25 units may proceed under the terms of their leases and no
26 proceedings under this chapter shall be required.

27 (2) A lessee may file to establish a unit under this
28 chapter. If the application is approved, this chapter shall
29 supersede the terms of the leases relating to pooling and
30 utilization with respect to the lands included in the unit.

1 (c) Application.--A standard unit application shall be in a
2 form approved by the commission and shall include:

3 (1) Information regarding all working interest owners
4 proposed to be included in the standard unit that are
5 controlled and that are not controlled by the applicant.
6 Working interests shall include all leases, mortgages,
7 judgments and other liens and encumbrances of record upon any
8 interest in the proposed unit. The list shall include:

9 (i) The name and address of each owner of an
10 interest proposed to be integrated.

11 (ii) The type of interest held by each owner.

12 (iii) The extent of the interest held.

13 (2) A plat that:

14 (i) Depicts the boundaries of the proposed standard
15 unit, the total acreage and the location and acreage of
16 each tract included in the proposed standard unit.

17 (ii) Identifies the location of all initial proposed
18 wells and laterals.

19 (iii) Identifies the stratigraphic interval proposed
20 for integration.

21 (3) A statement of the allocation of interests in the
22 proposed standard unit.

23 (4) Proof that notice of the filing of the standard unit
24 application has been given to the following:

25 (i) The owners of interests not controlled by the
26 applicant that are proposed to be included in the
27 standard unit.

28 (ii) The owners of all land adjacent to the proposed
29 standard unit.

30 (5) Proof of notice of the filing of the standard unit

1 application. The notice shall identify all parcels and parts
2 of parcels proposed to be included using the existing tax and
3 property records of the county.

4 (6) A statement of the estimated well costs that
5 includes an industry form for authorizing expenditures with
6 detailed tangible and intangible drilling costs.

7 (7) A joint operating agreement with an attached
8 proposed lease and all relevant schedules.

9 (d) Review.--Applications shall be referred to the Office of
10 Administrative Law Judge for review within five days of a
11 determination that the application is complete.

12 (e) Protests.--

13 (1) A protest shall be filed within 20 days of the
14 filing of the application. If no protest is filed within 20
15 days of the filing of the application, the application shall
16 be deemed approved and a notice shall be transmitted to the
17 commission. If the commission takes no action on the
18 application within 30 days of its filing, the application
19 shall be deemed approved and a letter closing the docket
20 shall be filed.

21 (2) The commission may reject the application if it
22 fails to meet the requirements of section 3433 (relating to
23 standard of review). If a protest is filed within 20 days of
24 the filing of the application, the administrative law judge
25 shall schedule a hearing to be held within 20 days of the
26 close of the protest period. The hearing may be held at a
27 later date if the applicant and protestants agree to an
28 extension of time.

29 (3) Following the hearing, the staff shall prepare a
30 recommendation for submission to the commission. A

1 recommendation may include proposed amendments to the
2 application or joint operating agreement or conditions to
3 protect correlative rights. The recommendation and
4 certification of the evidentiary record shall be forwarded to
5 the commission.

6 (f) Decision.--The commission shall rule on protested
7 applications within 45 days of the hearing.

8 § 3431.1. Powers of commission.

9 (a) Authority.--The commission may promulgate regulations
10 and policy statements and issue orders to carry out its duties
11 under this chapter.

12 (b) Temporary regulations.--The commission may promulgate
13 regulations in order to promptly implement this chapter. The
14 regulations shall be deemed temporary regulations and shall
15 expire no later than two years following their adoption. The
16 temporary regulations shall not be subject to:

17 (1) Sections 201, 202 and 203 of the act of July 31,
18 1968 (P.L.769, No.240), referred to as the Commonwealth
19 Documents Law.

20 (2) The act of June 25, 1982 (P.L.633, No.181), known as
21 the Regulatory Review Act.

22 (c) Expiration of authority.--The authority of the
23 commission to adopt temporary regulations under subsection (b)
24 shall expire two years from the effective date of this
25 subsection. Regulations adopted after this period shall be
26 promulgated as provided by law. Permanent regulations shall be
27 published within 12 months following the effective date of this
28 section.

29 (d) Compliance.--Every person subject to the provisions of
30 this chapter shall comply with the regulations and orders of the

1 commission and their terms and conditions.

2 (e) Employees.--The commission may appoint employees,
3 attorneys, consultants and other individuals as necessary to
4 carry out the purposes of this chapter. Employees under this
5 subsection shall serve at the pleasure of the commission.

6 (f) Fees and costs.--The commission shall adopt a reasonable
7 filing fee for applications under this chapter. Additional
8 process costs of the Office of Administrative Law Judge may be
9 assessed on the application.

10 § 3432. Standard unit protest.

11 (a) Parties with standing.--Parties with standing to protest
12 a proposed standard unit application are the following:

13 (1) The owners of a working interest subject to
14 integration in the standard unit who have not entered into a
15 voluntary agreement with the applicant.

16 (2) The owners of oil and gas in land directly adjacent
17 to but outside the proposed standard unit.

18 (3) The owners of interests in potentially stranded
19 acreage who have not entered into a voluntary agreement with
20 the applicant.

21 (4) The owner of the mineral rights that are proposed to
22 be integrated.

23 (b) Notice.--Applicants shall employ reasonable methods to
24 determine the identity of persons entitled to notice as follows:

25 (1) An applicant shall send a notice of the filing of a
26 standard unit order application to all persons with standing
27 to object.

28 (2) All notices shall state the date intended for the
29 filing of an application.

30 (3) Notices shall be sent via United States certified

1 mail with return receipt requested or other mail or delivery
2 service providing a proof of delivery.

3 (4) Notices shall be sent at least five business days
4 before the filing of a standard unit application.

5 (5) An applicant may arrange for personal service of a
6 notice required under this chapter if proof of service is
7 provided.

8 (6) Notices to persons who cannot be identified or
9 located shall be given in accordance with the requirements of
10 Pa.R.C.P. No. 430 (relating to service pursuant to special
11 order of court. publication).

12 § 3433. Standard of review.

13 (a) Standard of review.--The commission shall order the
14 establishment of the proposed standard unit if the applicant
15 shows by a preponderance of the evidence that the plan for the
16 establishment of the unit will minimize surface disruption or
17 impact to property or other environmental impact and:

18 (1) prevent the unnecessary loss of the use and benefits
19 of potentially recoverable oil or gas to a person or the
20 Commonwealth; or

21 (2) protect the rights of owners of oil or gas interests
22 in a manner that ensures the fair and reasonable ability to
23 obtain an equitable share of oil and gas.

24 (b) Determination.--In making a determination under
25 subsection (a), the commission may consider whether the
26 establishment of the unit will permit the optimal development of
27 oil and gas resources in this Commonwealth consistent with the
28 protection of the health, safety, environment and property of
29 its citizens.

30 (c) Protests.--Protests to applications for a standard unit

1 may be filed only for the following reasons:

2 (1) The application fails to comply with the
3 requirements of this subsection.

4 (2) The terms of the proposed joint operating agreement,
5 including royalty payments, are not reasonable or the
6 applicant failed to act in good faith.

7 (3) An owner or lessor of a working interest proposed to
8 be integrated into the unit has or will have the capacity and
9 resources and plan to develop their respective acreage
10 outside the proposed unit in a manner that is consistent with
11 oil and gas conservation principles. In determining whether a
12 protest under this paragraph shall result in denial or
13 modification of the application as to the acreage subject to
14 the objection, the commission shall consider the following:

15 (i) The timing of the proposed development of the
16 applicant and the protestant.

17 (ii) The investment of the parties in their
18 respective acreage.

19 (iii) The impact of the inclusion or exclusion of
20 the contested parcel on the long-term development plans
21 of the applicant and the objector.

22 (iv) The scope of the proposed development of the
23 applicant and the protestant.

24 (v) The type of commitments each applicant is
25 willing to make to develop the contested land.

26 (vi) Whether inclusion of the acreage that is the
27 subject of the protest meets the objectives of section
28 3402 (relating to legislative intent).

29 (vii) Any other relevant factors the commission
30 reasonably determines to be appropriate.

1 (4) The proposed standard unit fails to protect the
2 correlative rights of an owner of adjacent oil or gas
3 interests, the owner of potentially stranded acreage or the
4 integrated mineral owner. This objection must be filed by the
5 owner.

6 (d) Other protests.--Protests by persons other than those
7 specified with standing or authorized under section 3432(d)
8 (relating to standard unit protest) shall not be considered.

9 (e) Averments.--Averments of a party relied upon by the
10 commission in evaluating a protest under this section shall be
11 made part of the joint operation agreement.

12 (f) Expansion.--The commission may order expansion of
13 proposed standard units to avoid the potential for stranded
14 acreage.

15 § 3434. Hearings and appeals.

16 (a) Nature of proceedings.--Proceedings at all hearings
17 shall be conducted in accordance with this chapter and rules
18 adopted by the commission.

19 (b) Proposed findings and conclusions.--Before submission of
20 a recommendation to the commission, the parties are entitled to
21 a reasonable opportunity to submit for consideration:

22 (1) proposed findings and conclusions to be included in
23 the recommendations submitted to the commission; and

24 (2) supporting reasons for the proposed findings or
25 conclusions.

26 (c) Action by commission.--If the commission determines that
27 an applicant failed to make a good faith effort to reach a
28 voluntary agreement to establish a unit comprised of land owned
29 or leased by a business actively engaged in the extraction of
30 oil or gas for control of all unleased oil and gas interest

1 owners and all working interests to be integrated into the unit,
2 the commission may exclude the property subject to that
3 determination from the proposed unit and the applicant shall
4 have the option of proceeding with the unit as modified or of
5 withdrawing its application for the unit.

6 § 3435. Final action.

7 The decisions of the commission shall constitute the final
8 action of the commission with respect to the matters subject to
9 the hearing.

10 § 3436. Appellate jurisdiction of Commonwealth Court.

11 Appeals from decisions of the commission shall be heard by
12 the Commonwealth Court. The court shall consider appeals on the
13 record of the proceedings before the commission and shall apply
14 a narrow certiorari review standard.

15 SUBCHAPTER E

16 EFFECT OF ORDER

17 Sec.

18 3441. Establishment of units.

19 3442. (Reserved).

20 3443. Integration of working interests.

21 3444. Additional considerations.

22 3445. Joint operating agreement.

23 § 3441. Establishment of units.

24 (a) Establishment.--Upon the grant of an order establishing
25 a standard unit, all oil or gas interests within the unit shall
26 be integrated in accordance with this chapter.

27 (b) Stratigraphic intervals.--Standard units created under
28 this chapter:

29 (1) Shall be specific as to the stratigraphic intervals
30 sought to be explored and produced by the applicant.

1 (2) May be created in stratigraphic intervals in lands
2 already subject to voluntary units or to involuntary units
3 established under this chapter. To incorporate in whole or in
4 part a prior voluntary or involuntary unit of which the
5 applicant does not control at least 65% of the interests, the
6 prior units may not contain a well capable of producing from
7 that stratigraphic interval and no active drilling permit
8 exists for such a well, and, upon the creation of a unit
9 under this chapter within any part of a preexisting voluntary
10 or involuntary unit producing from a different stratigraphic
11 interval, the voluntary or involuntary unit shall not be
12 applicable to the portion of the specific stratigraphic
13 interval that is subject to the new standard unit. Otherwise,
14 the prior unit shall continue in effect as originally
15 created.

16 (c) Location of involuntary unit.--Nothing in this chapter
17 shall prohibit the commission from establishing a standard unit
18 which is located around or, in whole or in part, within a
19 voluntary unit of which the applicant controls at least 65% of
20 the interests producing from the same formation or stratigraphic
21 interval. An objection to a proposed allocation of royalty or
22 other payment from that unit may be adjusted as necessary to
23 promote fairness among all interest holders.

24 (d) Perforated segments.--A standard unit may be established
25 on lands upon which a well exists, except no perforated segment
26 of a well drilled under a later unit shall be less than 500 feet
27 from any perforated segment in the same stratigraphic interval
28 existing on the date of its establishment.

29 (e) Contiguous units.--Upon the agreement of the working
30 interest owner of at least 65% of the cost-bearing interests in

1 two or more contiguous units, wells may be drilled within 250
2 feet from the adjacent boundaries of those units and production
3 shall be allocated among the units as agreed by the working
4 interest owner.

5 (f) Royalties and interests.--Royalties and interests shall
6 be apportioned and paid to royalty interest holders based upon
7 the relative surface acreage of the interests in each unit as
8 set forth in the commission's order unless all of the owners of
9 integrated interests expressly agree in writing to deviate from
10 this chapter and adopt a different allocation method. Nothing in
11 this section shall alter the application of the rule of
12 apportionment of royalties as to oil and gas leases partially
13 included in any unit established under this chapter.

14 (g) Stranded acreage.--If an application results in stranded
15 acreage and 65% of the interests in the stranded acreage is
16 timely filed as a protest to the application, the commission may
17 order any of the following:

18 (1) Incorporation of the stranded acreage into the unit.

19 (2) Granting the protesters an exception to allow the
20 land to be developed for oil and natural gas production
21 without regard to the mandatory 250 feet setback requirements
22 under this chapter.

23 § 3442. (Reserved).

24 § 3443. Integration of working interests.

25 (a) Working interest.--A working interest owner within the
26 approved standard unit who has not entered into a voluntary
27 agreement with the applicant may elect to be treated as one of
28 the following:

29 (1) A nonconsenting party subject to the terms of the
30 joint operating agreement for the unit, entitling him to a

1 proportionate share of profits after being assessed a risk
2 fee apportioned among all nonconsenting parties at the rate
3 of 300% of their proportionate share of all of the costs
4 incurred by the designated operator.

5 (2) A consenting party subject to the terms of the joint
6 operating agreement for the unit, requiring him to contribute
7 a proportionate share of the costs of preparing, drilling,
8 completing and operating the well at the time of his election
9 under this subsection and entitling him to a proportionate
10 share of profits.

11 (b) Election.--The election under subsection (a) shall be
12 exercised by returning a signed election form to the working
13 interest owner and the Commonwealth within 14 calendar days of
14 the date of the order establishing the unit. A working interest
15 owner who fails to make an election under this subsection shall
16 be treated as a nonconsenting party under subsection (a) (1).

17 (c) Limited nature of election.--A working interest owner
18 shall be subject to the terms, conditions, rights and
19 obligations specified in the joint operating agreement. The
20 election shall apply only to the well for which the election is
21 made, with any further elections to be governed by the joint
22 operating agreement.

23 § 3444. Additional considerations.

24 (a) Additional matters.--Additional matters subject to an
25 order of the commission under this chapter shall be governed by
26 a joint operating agreement. An applicant may file a proposed
27 joint operating agreement for the unit as part of the
28 application for a standard unit order on a form approved by the
29 commission. The following shall apply to an agreement under this
30 subsection:

1 (1) A party controlling at least 15% of the working
2 interests in the unit may propose additional drilling. No
3 party owning or controlling less than 65% of interests in the
4 unit may propose the drilling of more than one well in a
5 calendar year.

6 (2) A lease attached to the joint operating agreement
7 shall be the lease currently in use by the applicant.

8 (3) The cash and royalty provided under the lease shall
9 be as provided under this chapter. The royalty shall be
10 treated as a cost shared pro rata among all consenting and
11 nonconsenting parties to the joint operating agreement.

12 (4) A risk avoidance penalty as provided under this
13 chapter.

14 (5) Parties to the joint operating agreement shall have
15 the right to take their gas in kind. Should a consenting or a
16 nonconsenting party not elect to take its share of gas in
17 kind, the operator of the unit shall have the right to market
18 the share of production along with the operator's production
19 in accordance with the terms of the joint operating
20 agreement. In no event may the nonoperator be entitled to
21 receive an amount in excess of the amount received by the
22 operator for its share of production. The joint operating
23 agreement shall include an oil and gas balancing agreement.
24 No working interest owner transporting oil or gas from a well
25 in which the working interest owner has an interest shall be
26 deemed a utility.

27 (b) Aggrieved party.--A party aggrieved by terms proposed by
28 the applicant in a joint operating agreement filed with the
29 application may protest as provided in this chapter.

30 (c) Withdrawal.--An applicant may withdraw its application

1 within ten days after an order.

2 § 3445. Joint operating agreement.

3 (a) Applicants and lessors.--A standard unit under this
4 chapter shall be operated in accordance with the terms of the
5 applicable leases, as modified by an order issued by the
6 commission, if the only interest holders in the unit are the
7 applicant and lessors.

8 (b) Other units.--All other standard units established under
9 this chapter shall be operated under the terms of applicable
10 leases, as modified by commission order and under the terms of
11 the joint operating agreement. The consenting and nonconsenting
12 parties may alter the terms of the joint operating agreement
13 only by unanimous consent or by filing a petition with the
14 commission for amendment. The commission shall approve or deny
15 the amendment within 90 days of the date of filing. An amendment
16 adopted by unanimous consent shall be filed with the commission.

17 SUBCHAPTER F

18 (Reserved)

19 SUBCHAPTER G

20 (Reserved)

21 SUBCHAPTER H

22 (Reserved)

23 SUBCHAPTER I

24 (Reserved)

25 SUBCHAPTER J

26 MISCELLANEOUS PROVISIONS

27 Sec.

28 3491. Certain rights preserved.

29 3492. Trade secrets.

30 3493. Applicability.

1 3494. Well setback.

2 3495. Voluntary establishment of a standard unit.

3 3496. Drilling permit not required.

4 § 3491. Certain rights preserved.

5 (a) Policy statement.--Voluntary units implemented in
6 accordance with the terms of executed oil and gas leases for the
7 bona fide purpose of promoting the development of unconventional
8 natural gas resources are declared to be necessary and
9 reasonable for the development of unconventional gas resources
10 in accordance with reasonable conservation principles and to
11 reasonably protect affected correlative rights. Units created
12 under a voluntary unitization agreement are declared to be per
13 se reasonable and subject to modification only in accordance
14 with the terms of the applicable leases or the express terms of
15 this chapter.

16 (b) Common law rights.--Except as expressly provided under
17 this chapter and in orders issued by the commission, this
18 chapter does not supersede any common law rights of any person
19 before or after the effective date of this chapter recognized by
20 the courts of this Commonwealth.

21 (c) Successors in interest.--All rights related to units
22 created under this chapter and all leases integrated in the
23 units, in whole or in part, shall be binding upon the heirs,
24 successors and assigns of all parties, including a party taking
25 title to the property as the result of judicial sale, mortgage
26 foreclosure, tax sale or by other operation of law and shall be
27 binding upon and shall run with the land. No action by an owner
28 of any interest in a lien, judgment, mortgage or other
29 encumbrance shall extinguish or impair the establishment of a
30 standard unit under this chapter.

1 § 3492. Trade secrets.

2 (a) Right to privacy.--Confidential proprietary information
3 or trade secrets submitted by parties during proceedings under
4 this chapter may not be disclosed by the commission or any other
5 parties privy to such information or secrets. The information
6 may be submitted under seal for review by the administrative law
7 judge only and shall be exempt from the act of February 14, 2008
8 (P.L.6, No.3), known as the Right-to-Know Law.

9 (b) Violations.--A violation of this section shall
10 constitute a violation of this chapter and also a violation of
11 12 Pa.C.S. Ch. 53 (relating to trade secrets), for which relief
12 may be sought by an aggrieved party under and in accordance with
13 the terms of 12 Pa.C.S. Ch. 53.

14 § 3493. Applicability.

15 (a) Sandstone extractions.--This chapter shall apply to all
16 wells drilled after the effective date of this chapter into and
17 producing from unconventional oil and natural gas reservoirs
18 below the base of the Elk Sandstone or its geologic equivalent
19 stratigraphic interval in this Commonwealth other than coal bed
20 methane.

21 (b) Vertical wells.--The only provision of this chapter that
22 shall apply to vertical wells is the 250 feet setback
23 requirement from lease or unit lines and from other wells
24 seeking production from the same stratigraphic interval. In the
25 event of a preexisting vertical well on land subject to an
26 integrated unit proceeding, a setback of 250 feet around the
27 bore of that well shall be maintained in all operations upon a
28 unit created under this chapter. The acreage within that setback
29 area shall not be acreage within the unit. For horizontal wells,
30 the 250 feet setback requirement from lease and unit lines

1 imposed under section 3421(c) (relating to standard unit order)
2 shall apply to wells drilled after the effective date of this
3 chapter.

4 § 3494. Well setback.

5 No perforated segment of any well drilled to be produced from
6 an unconventional reservoir shall be located at any point less
7 than 250 feet from the boundary of:

8 (1) a lease not included in a proposed voluntary unit or
9 unit applied for or established under this chapter;

10 (2) a voluntary unit formed for the well; or

11 (3) any unit applied for or established under this
12 chapter for the well.

13 § 3495. Voluntary establishment of a standard unit.

14 An order of the commission shall not be required for the
15 voluntary establishment of a standard unit.

16 § 3496. Drilling permit not required.

17 The commission may not require an applicant to obtain a
18 drilling permit to qualify for the establishment of a standard
19 unit.

20 Section 2. Repeals are as follows:

21 (1) The General Assembly declares that the repeal under
22 paragraph (2) is necessary to effectuate the addition of 58
23 Pa.C.S. Ch. 34.

24 (2) The act of July 25, 1961 (P.L.825, No.359), known as
25 the Oil and Gas Conservation Law, is repealed.

26 Section 3. The addition of 58 Pa.C.S. Ch. 34 is a
27 continuation of the act of July 25, 1961 (P.L.825, No.359),
28 known as the Oil and Gas Conservation Law. The following apply:

29 (1) Except as otherwise provided in 58 Pa.C.S. Pt. III
30 Ch. 34, all activities initiated under the Oil and Gas

1 Conservation Law shall continue and remain in full force and
2 effect and may be completed under 58 Pa.C.S. Ch. 34. Orders,
3 regulations, rules and decisions which were made under the
4 Oil and Gas Conservation Law and which are in effect on the
5 effective date of section 2(2) of this act shall remain in
6 full force and effect until revoked, vacated or modified
7 under 58 Pa.C.S. Ch. 34. Contracts, obligations and
8 collective bargaining agreements entered into under the Oil
9 and Gas Conservation Law are not affected nor impaired by the
10 repeal of the Oil and Gas Conservation Law.

11 (2) Except as set forth in paragraph (3), any difference
12 in language between 58 Pa.C.S. Ch. 34 and the Oil and Gas
13 Conservation Law is intended only to conform to the style of
14 the Pennsylvania Consolidated Statutes and is not intended to
15 change or affect the legislative intent, judicial
16 construction or administration and implementation of the Oil
17 and Gas Conservation Law.

18 (3) Paragraph (2) does not apply to the addition of the
19 following provisions:

20 (i) The following definitions in section 3403:

21 (A) "Nonconsenting party."

22 (B) "Unit."

23 (ii) Section 3421(a) and (c).

24 (iii) Section 3431.1(a) and (c).

25 (iv) Section 3433(c) (2) and (3).

26 (v) Section 3434(c).

27 (vi) Section 3441(c).

28 (vii) Section 3443(a) introductory paragraph.

29 Section 4. This act shall take effect immediately.