

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1100 Session of 2011

INTRODUCED BY SCARNATI, CORMAN, BROWNE, VOGEL, SMUCKER, D. WHITE, BRUBAKER, PIPPY, MENSCH, YAW AND PICCOLA, MAY 16, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, OCTOBER 26, 2011

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, imposing a natural gas impact fee and CONSOLIDATING ←
3 THE OIL AND GAS ACT WITH MODIFICATIONS RELATING TO
4 DEFINITIONS, WELL PERMITS, WELL LOCATION RESTRICTIONS,
5 PROTECTION OF WATER SUPPLIES, WELL REPORTING REQUIREMENTS,
6 BONDING, ENFORCEMENT ORDERS, PENALTIES, CIVIL PENALTIES AND
7 LOCAL ORDINANCES; PROVIDING FOR CONTAINMENT, FOR
8 TRANSPORTATION REGULATIONS, FOR EMERGENCY RESPONSE
9 INFORMATION AND FOR MODEL ORDINANCE; providing for a model ←
10 zoning ordinance; AND MAKING A RELATED REPEAL.

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

13 Section 1. Title 58 of the Pennsylvania Consolidated
14 Statutes is amended by adding a part PARTS to read: ←

15 PART I ←
16 UNCONVENTIONAL GAS WELLS

17 Chapter
18 23. Impact Fee
19 25. Model Ordinance

20 CHAPTER 23
21 IMPACT FEE

1 ~~Sec.~~

2 ~~2301. Definitions.~~

3 ~~2302. Shale Impact Fee.~~

4 ~~2303. Shale impact fee housing credit.~~

5 ~~2304. Administration.~~

6 ~~2305. Well information.~~

7 ~~2306. Duties of department.~~

8 ~~2307. Commission.~~

9 ~~2308. Enforcement.~~

10 ~~2309. Regulations.~~

11 ~~2310. Recordkeeping.~~

12 ~~2311. Examinations.~~

13 ~~2312. Local distribution of fee.~~

14 ~~2313. Environmental initiatives distribution of fee.~~

15 ~~2314. Expiration.~~

16 ~~§ 2301. Definitions.~~

17 ~~The following words and phrases when used in this chapter~~
18 ~~shall have the meanings given to them in this section unless the~~
19 ~~context clearly indicates otherwise:~~

20 ~~"Account." The Shale Impact Account.~~

21 ~~"Barrel." A barrel of 42 U.S. gallons of natural gas~~
22 ~~liquids.~~

23 ~~"Commission." The Pennsylvania Public Utility Commission.~~

24 ~~"Department." The Department of Environmental Protection of~~
25 ~~the Commonwealth.~~

26 ~~"Eligible applicants." A county, municipality, council of~~
27 ~~governments, watershed organization, institution of higher~~
28 ~~education, nonprofit organization, Pennsylvania Fish and Boat~~
29 ~~Commission or an authorized organization as defined in 27-~~
30 ~~Pa.C.S. § 6103 (relating to definitions).~~

1 ~~"Fee." The Shale Impact Fee imposed under section 2302~~
2 ~~(relating to Shale Impact Fee).~~

3 ~~"Highway mileage." The number of miles of public roads and~~
4 ~~streets most recently certified by the Department of~~
5 ~~Transportation as eligible for distribution of liquid fuels~~
6 ~~funds under the act of June 1, 1956 (1955 P.L.1944, No.655),~~
7 ~~referred to as the Liquid Fuels Tax Municipal Allocation Law.~~

8 ~~"Marginal gas well." An unconventional gas well incapable of~~
9 ~~producing more than 90,000 cubic feet of gas per day during a~~
10 ~~calendar month, including production from the zones and~~
11 ~~multilateral well bores at a single well, regardless of whether~~
12 ~~the production is metered separately.~~

13 ~~"Municipality." A borough, city, town or township.~~

14 ~~"Natural gas." A fossil fuel consisting of a mixture of~~
15 ~~hydrocarbon gases, primarily methane, and possibly including~~
16 ~~ethane, propane, butane, pentane, carbon dioxide, oxygen,~~
17 ~~nitrogen and hydrogen sulfide and other gas species. The term~~
18 ~~includes natural gas from oil fields known as associated gas or~~
19 ~~casing head gas, natural gas fields known as nonassociated gas,~~
20 ~~coal beds, shale beds and other formations. The term does not~~
21 ~~include coal bed methane.~~

22 ~~"Natural gas liquids." Hydrocarbons in natural gas which are~~
23 ~~separated from the gas as liquids through the process of~~
24 ~~absorption, condensation, adsorption or other methods in gas~~
25 ~~processing of cycling plants.~~

26 ~~"Number of producing unconventional wells." The most recent~~
27 ~~numerical count of producing unconventional wells on the~~
28 ~~inventory maintained and provided to the commission by the~~
29 ~~department as of the last day of each month.~~

30 ~~"Producer." A person or its subsidiary, affiliate or holding~~

1 ~~company that holds a permit or other authorization to engage in~~
2 ~~the business of producing natural gas for sale, profit or~~
3 ~~commercial use from an unconventional well in this Commonwealth.~~
4 ~~The term shall not include a producer that removes natural gas~~
5 ~~from a site used to store natural gas that did not originate~~
6 ~~from the site.~~

7 ~~"Shale impact fee housing credit." The credit provided under~~
8 ~~this chapter for a producer, who has a permit from the~~
9 ~~department to drill for natural gas other than marginal gas in~~
10 ~~this Commonwealth, upon acceptance of a donation to an optional~~
11 ~~county affordable housing fund under 53 Pa.C.S. Ch .60 (relating~~
12 ~~to optional affordable housing funding) of a county in which a~~
13 ~~producer has active unconventional wells or a nonprofit~~
14 ~~organization under section 501(c)(3) of the Internal Revenue~~
15 ~~Code of 1986 (Public Law 99 514, 26 U.S.C. § 501(c)(3)) which is~~
16 ~~committed to providing low and moderate income housing in a~~
17 ~~county in which a producer has active unconventional wells.~~

18 ~~"Unconventional well." A bore hole drilled or being drilled~~
19 ~~for the purpose of or to be used for producing oil or gas from a~~
20 ~~geological formation existing below the base of the Elk~~
21 ~~Sandstone or its geologic equivalent stratigraphic interval~~
22 ~~where oil or gas generally cannot be produced at economic flow~~
23 ~~rates or in economic volumes except by vertical or horizontal~~
24 ~~well bores stimulated by hydraulic fracture treatments or by~~
25 ~~using multilateral well bores or other techniques to expose more~~
26 ~~of the formation of the well bore.~~

27 ~~"Vertical gas well." An unconventional well which begins as~~
28 ~~a vertical linear bore and is not intentionally deviated from~~
29 ~~the vertical.~~

30 ~~§ 2302. Shale Impact Fee.~~

1 ~~(a) Imposition. Except as provided under subsection (c),~~
2 ~~beginning January 1, 2010, there shall be imposed a Shale Impact~~
3 ~~Fee on each unconventional well producing gas in this~~
4 ~~Commonwealth.~~

5 ~~(b) Fee. The fee shall consist of a fee for each~~
6 ~~unconventional well as follows:~~

7 ~~(1) For the first year of production, the fee shall be~~
8 ~~\$40,000.~~

9 ~~(2) For the second year of production, the fee shall be~~
10 ~~\$30,000.~~

11 ~~(3) For the third year of production, the fee shall be~~
12 ~~\$20,000.~~

13 ~~(4) For the fourth year of production through the tenth~~
14 ~~year of production, the fee shall be \$10,000.~~

15 ~~(c) Exemption. The fee under subsection (a) shall not be~~
16 ~~imposed on marginal gas wells.~~

17 ~~§ 2303. Shale impact fee housing credit.~~

18 ~~(a) General rule. A producer who has a permit from the~~
19 ~~department to drill for natural gas, other than marginal gas, in~~
20 ~~this Commonwealth may apply for a shale impact fee credit upon~~
21 ~~acceptance of a donation to an optional county affordable~~
22 ~~housing fund under 53 Pa.C.S. Ch 60 (relating to optional~~
23 ~~affordable housing funding) of a county in which a producer has~~
24 ~~active unconventional wells.~~

25 ~~(b) Application. An application shall be developed by the~~
26 ~~commission.~~

27 ~~(c) Maximum amount. A producer may claim a credit of no~~
28 ~~greater than 30% of the producer's impact fee liability under~~
29 ~~this chapter.~~

30 ~~(d) Eligible activities. A county accepting a donation to~~

1 ~~the optional county affordable housing fund may utilize the~~
2 ~~funding for the following purposes:~~

3 ~~(1) To provide support to projects that meet eligibility~~
4 ~~criteria as set forth in the programs administered by the~~
5 ~~Pennsylvania Housing Finance Agency.~~

6 ~~(2) To provide support to projects that increase the~~
7 ~~availability of quality, safe, affordable housing for low-~~
8 ~~income and moderate income individuals or families, persons~~
9 ~~with disabilities or elderly persons.~~

10 ~~(3) To provide rental assistance to persons or families~~
11 ~~whose household income does not exceed the area median~~
12 ~~income.~~

13 ~~§ 2304. Administration.~~

14 ~~(a) Report. By March 1, 2012, and each March 1 thereafter,~~
15 ~~each producer shall submit a report and payment of the fee with~~
16 ~~the commission on a form prescribed by the commission for the~~
17 ~~previous calendar year. The report shall include the following:~~

18 ~~(1) Annual units of production severed by the producer~~
19 ~~for each unconventional well for the reporting period.~~

20 ~~(2) The number of producing unconventional wells of a~~
21 ~~producer in each county and municipality.~~

22 ~~(b) Report and fee for 2010. For calendar year 2010, a~~
23 ~~report pursuant to subsection (a)(1) and (2) shall be filed by~~
24 ~~August 1, 2011, and the fee due shall be paid as follows:~~

25 ~~(1) Fifty percent of the fee shall be paid by August 1,~~
26 ~~2011.~~

27 ~~(2) Fifty percent of the fee shall be paid by November~~
28 ~~1, 2011.~~

29 ~~(c) Fee due date. Except as provided under subsection (b)~~
30 ~~(2), the fee shall be due on the day the report is required to~~

1 ~~be filed. The fee shall become delinquent if not remitted to the~~
2 ~~commission on the reporting date.~~

3 ~~(d) Cost. Beginning March 2, 2012, and each March 2~~
4 ~~thereafter, the commission shall determine the reasonable annual~~
5 ~~cost to collect and distribute the fee in accordance with this~~
6 ~~chapter and shall deduct that amount from the total amount of~~
7 ~~fees collected under this chapter. On August 1, 2011, the amount~~
8 ~~to collect and distribute the fee may be deducted from the total~~
9 ~~amount of fees collected for 2010. Fees collected under this~~
10 ~~section are hereby annually appropriated to the commission to~~
11 ~~carry out its duties under this chapter.~~

12 ~~§ 2305. Well information.~~

13 ~~(a) List. The department shall provide the commission with~~
14 ~~a list of all unconventional wells that have received a drilling~~
15 ~~permit from the department. The list shall be updated on a~~
16 ~~monthly basis.~~

17 ~~(b) Updates. A producer subject to the fee shall notify the~~
18 ~~commission within 30 days after a calendar month in which the~~
19 ~~initiation of production at a well or the removal of a well from~~
20 ~~production occurs.~~

21 ~~§ 2306. Duties of department.~~

22 ~~(a) Confirmation of payment. Prior to issuing a permit to~~
23 ~~drill an unconventional well in this Commonwealth, the~~
24 ~~department shall determine whether the producer has paid all~~
25 ~~fees owed under section 2302 (relating to Shale Impact Fee).~~

26 ~~(b) Prohibition. The department shall not issue a permit to~~
27 ~~drill an unconventional well until all fees owed under section~~
28 ~~2302 that are not in dispute have been paid to the commission.~~

29 ~~§ 2307. Commission.~~

30 ~~(a) Powers. The commission shall have the authority to make~~

1 ~~all inquiries and determinations necessary to calculate and~~
2 ~~collect the fee imposed under this chapter, including, if~~
3 ~~applicable, interest and penalties.~~

4 ~~(b) Notice. If the commission determines that the fee has~~
5 ~~not been paid in full, it may issue a notice of the amount due~~
6 ~~and demand for payment and shall set forth the basis for the~~
7 ~~determination.~~

8 ~~(c) Address. Notice of failure to pay the correct fee shall~~
9 ~~be sent to the producer at its registered address via certified~~
10 ~~mail.~~

11 ~~(d) Time period. The commission may challenge the amount of~~
12 ~~a fee paid under this chapter within three years after the date~~
13 ~~the report under section 2304(d) (relating to administration) is~~
14 ~~filed.~~

15 ~~(e) Intent. If no report is filed or a producer files a~~
16 ~~false or fraudulent return with the intent to evade the fee, an~~
17 ~~assessment of the amount owed may be made at any time.~~

18 ~~§ 2308. Enforcement.~~

19 ~~(a) Assessment. The commission shall assess interest on any~~
20 ~~delinquent fee at the rate prescribed under section 806 of the~~
21 ~~act of April 9, 1929 (P.L.343, No.176), known as The Fiscal~~
22 ~~Code.~~

23 ~~(b) Penalty. In addition to the interest under subsection~~
24 ~~(a), if a producer fails to make timely payment of the fee,~~
25 ~~there shall be added to the amount of the fee due a penalty of~~
26 ~~5% of the amount of the fee if failure to file a timely payment~~
27 ~~is for not more than one month, with an additional 5% penalty~~
28 ~~for each additional month, or fraction of a month, during which~~
29 ~~the failure continues, not to exceed 25% in the aggregate.~~

30 ~~(c) Timely payment. If the commission determines that a~~

1 ~~producer has not made a timely payment of the fee, the~~
2 ~~commission shall send a written notice of the amount of the~~
3 ~~deficiency to the producer within 30 days from the date of~~
4 ~~determining the deficiency. If the producer has not provided a~~
5 ~~complete and accurate statement of the volume of gas extracted~~
6 ~~for the payment period, the commission may estimate the volume~~
7 ~~in its deficiency notice.~~

8 ~~(d) Remedies. The remedies provided under this chapter are~~
9 ~~in addition to any other remedies provided at law or in equity.~~

10 ~~(e) Lien. Fines, fees, interest and penalties shall be~~
11 ~~collectible in the manner provided by law for the collection of~~
12 ~~debts. If the producer liable to pay any amount neglects or~~
13 ~~refuses to pay the amount after demand, the amount, together~~
14 ~~with costs which may accrue, shall be a judgment in favor of the~~
15 ~~Commonwealth upon the property of the producer, but only after~~
16 ~~the judgment has been entered and docketed of record by the~~
17 ~~prothonotary of the county where the property is situated. The~~
18 ~~Commonwealth may transmit to the prothonotaries of the~~
19 ~~respective counties certified copies of the judgments, and it~~
20 ~~shall be the duty of each prothonotary to enter and docket the~~
21 ~~same of record in his office and to index each judgment, without~~
22 ~~requiring the payment of costs as a condition precedent to the~~
23 ~~entry of the judgment.~~

24 ~~§ 2309. Regulations.~~

25 ~~The commission shall promulgate regulations necessary to~~
26 ~~enforce this chapter.~~

27 ~~§ 2310. Recordkeeping.~~

28 ~~A producer liable for the fee imposed under this chapter~~
29 ~~shall keep records, make reports and comply with regulations of~~
30 ~~the commission. If necessary, the commission may require a~~

1 ~~producer to make reports, render statements or keep records as~~
2 ~~the commission deems sufficient to determine liability for the~~
3 ~~fee.~~

4 ~~§ 2311. Examinations.~~

5 ~~(a) Access. The commission or its authorized agents or~~
6 ~~representatives shall:~~

7 ~~(1) Have access to the books, papers and records of any~~
8 ~~producer in order to verify the accuracy and completeness of~~
9 ~~a report filed or fee paid under this chapter.~~

10 ~~(2) Require the preservation of all books, papers and~~
11 ~~records for any period deemed proper not to exceed three~~
12 ~~years from the end of the calendar year to which the records~~
13 ~~relate.~~

14 ~~(3) Examine any employee of a producer under oath~~
15 ~~concerning the severing of natural gas subject to a fee or~~
16 ~~any matter relating to the enforcement of this chapter.~~

17 ~~(4) Compel the production of books, papers and records~~
18 ~~and the attendance of all individuals who the commission~~
19 ~~believes to have knowledge of relevant matters in accordance~~
20 ~~with 66 Pa.C.S. (relating to public utilities).~~

21 ~~(b) Unauthorized disclosure. Any information obtained by~~
22 ~~the commission as a result of any report, examination,~~
23 ~~investigation or hearing under this chapter shall be~~
24 ~~confidential, except for official purposes, in accordance with~~
25 ~~judicial order or as otherwise provided by law. An individual~~
26 ~~unlawfully divulging the information commits a misdemeanor and~~
27 ~~shall, upon conviction, be sentenced to pay a fine or not more~~
28 ~~than \$1,000 and costs of prosecution or to imprisonment for not~~
29 ~~more than one year, or both.~~

30 ~~§ 2312. Local distribution of fee.~~

1 ~~(a) Establishment. There is hereby established a restricted~~
2 ~~receipts account to be known as the Shale Impact Account to be~~
3 ~~administered by the commission.~~

4 ~~(b) Deposit. All fees imposed shall be deposited into the~~
5 ~~account.~~

6 ~~(c) Conservation districts.~~

7 ~~(1) For 2010, \$2,500,000 from the account shall be~~
8 ~~transferred to the Conservation District Fund to be~~
9 ~~distributed to county conservation districts by the State~~
10 ~~Conservation Commission.~~

11 ~~(2) For 2011, \$5,000,000 from the account shall be~~
12 ~~transferred to the Conservation District Fund to be~~
13 ~~distributed to county conservation districts by the State~~
14 ~~Conservation Commission.~~

15 ~~(3) For 2012, and every year thereafter, \$7,500,000 from~~
16 ~~the account shall be transferred to the Conservation District~~
17 ~~Fund to be distributed to county conservation districts by~~
18 ~~the State Conservation Commission.~~

19 ~~(4) Funds under paragraphs (1), (2) and (3) shall be~~
20 ~~distributed in accordance with the following:~~

21 ~~(i) One half shall be distributed by dividing the~~
22 ~~amount equally among conservation districts for any use~~
23 ~~consistent with the act of May 15, 1945 (P.L.547,~~
24 ~~No.217), known as the Conservation District Law.~~

25 ~~(ii) One half shall be distributed by the State~~
26 ~~Conservation Commission in a manner consistent with the~~
27 ~~Conservation District Law and the provisions of the State~~
28 ~~Conservation Commission's Conservation District Fund~~
29 ~~Allocation Program Statement of Policy under 25 Pa. Code~~
30 ~~Ch. 83 Subch. B (relating to Conservation District Fund~~

1 ~~Allocation Program Statement of Policy).~~

2 ~~(c.1) Office of State Fire Commissioner.~~

3 ~~(1) For year 2012, and each year thereafter, \$1,000,000~~
4 ~~shall be annually distributed to the Office of the State Fire~~
5 ~~Commissioner.~~

6 ~~(2) Funds under paragraph (1) shall be used for the~~
7 ~~following purposes:~~

8 ~~(i) To support training programs for emergency~~
9 ~~responders located in regions of this Commonwealth where~~
10 ~~drilling of Marcellus Shale or other unconventional~~
11 ~~resources occurs.~~

12 ~~(ii) To provide grants to fire departments for the~~
13 ~~purchase of special equipment required to respond to~~
14 ~~fires and other emergencies related to natural gas~~
15 ~~drilling activity.~~

16 ~~(d) Distribution. Following distribution under subsection~~
17 ~~(c), 60% of the revenues remaining in the account are hereby~~
18 ~~appropriated for the purposes authorized under this section.~~
19 ~~Local governments are encouraged, where appropriate, to jointly~~
20 ~~fund projects that cross jurisdictional lines. The commission~~
21 ~~shall distribute the funds appropriated under this subsection as~~
22 ~~follows within 45 days after the date the fee is remitted:~~

23 ~~(1) Thirty six percent shall be distributed to counties~~
24 ~~in which producing unconventional gas wells are located. The~~
25 ~~amount for each county shall be determined using a formula~~
26 ~~that divides the number of producing unconventional gas wells~~
27 ~~in the county by the number of producing unconventional gas~~
28 ~~wells in this Commonwealth and multiplies the resulting~~
29 ~~percentage by the amount available for distribution under~~
30 ~~this paragraph.~~

1 ~~(2) Thirty seven percent shall be distributed to~~
2 ~~municipalities in which producing unconventional gas wells~~
3 ~~are located. The amount for each municipality shall be~~
4 ~~determined using a formula that divides the number of~~
5 ~~producing unconventional gas wells in the municipality by the~~
6 ~~number of producing unconventional gas wells in this~~
7 ~~Commonwealth and multiplies the resulting percentage by the~~
8 ~~amount available for distribution under this paragraph.~~

9 ~~(3) Twenty seven percent shall be distributed to~~
10 ~~municipalities located in a county in which producing~~
11 ~~unconventional gas wells are located. The amount available~~
12 ~~for distribution in each county shall be determined by~~
13 ~~dividing the number of producing unconventional gas wells in~~
14 ~~the county by the number of producing unconventional gas~~
15 ~~wells in this Commonwealth and multiplying the resulting~~
16 ~~percentage by the amount available for distribution under~~
17 ~~this paragraph. The resulting amount available for~~
18 ~~distribution in each county in which producing unconventional~~
19 ~~gas wells are located shall be distributed to each~~
20 ~~municipality in the county regardless of whether an~~
21 ~~unconventional gas well is located in the municipality as~~
22 ~~follows:~~

23 ~~(i) One half shall be distributed to each~~
24 ~~municipality using a formula that divides the population~~
25 ~~of the municipality within the county by the total~~
26 ~~population of the county and multiplies the resulting~~
27 ~~percentage by the amount available for distribution to~~
28 ~~the county under this subparagraph.~~

29 ~~(ii) One half shall be distributed to each~~
30 ~~municipality using a formula that divides the highway~~

~~1 mileage of the municipality within the county by the~~
~~2 total highway mileage of the county and multiplies the~~
~~3 resulting percentage by the amount available for~~
~~4 distribution to the county under this subparagraph.~~

~~5 (e) Use of funds. A county or municipality receiving funds~~
~~6 under this subsection shall make use of funds received only for~~
~~7 the following purposes:~~

~~8 (1) Construction, reconstruction, maintenance and repair~~
~~9 of roadways, bridges and public infrastructure.~~

~~10 (2) Water, storm water and sewer systems, including~~
~~11 construction, reconstruction, maintenance and repair.~~

~~12 (3) Emergency preparedness and public safety, including~~
~~13 police and fire services.~~

~~14 (4) Preservation and reclamation of surface and~~
~~15 subsurface waters and water supplies.~~

~~16 (5) Tax reductions, including homestead exclusions.~~

~~17 (6) Records management, geographic information systems~~
~~18 and information technology.~~

~~19 (7) To provide for a project, approved by the governing~~
~~20 body of a county or municipality, that increases the~~
~~21 availability of quality affordable housing, either for sale~~
~~22 or rental, to residents whose annual income is less than the~~
~~23 area median income.~~

~~24 (f) Annual reports.—~~

~~25 (1) The commission shall submit an annual report on all~~
~~26 distributions of funds in the Shale Impact Account under this~~
~~27 section. The report shall be submitted to the chairman and~~
~~28 minority chairman of the Appropriations Committee of the~~
~~29 Senate, the chairman and minority chairman of the~~
~~30 Appropriations Committee of the House of Representatives, the~~

~~1 chairman and minority chairman of the Environmental Resources
2 and Energy Committee of the Senate and the chairman and
3 minority chairman of the Environmental Resources and Energy
4 Committee of the House of Representatives. The report shall
5 be submitted by August 31, 2012, and by August 31 of each
6 year thereafter.~~

~~7 (2) All counties and municipalities receiving
8 distributions of funds from the Shale Impact Account under
9 this section shall submit information to the commission on a
10 form prepared by the commission that sets forth the amount
11 and use of the funds received in the prior calendar year.
12 The form shall set forth whether the funds received were
13 committed to a specific project or use as allowed in this
14 section.~~

~~15 (3) Every county and municipality receiving funds under
16 this section shall publish a report, which at a minimum shall
17 include the amount of funds received under this section and
18 the purposes for which the funds were expended. The reports
19 shall be published on the county or municipality's publicly
20 accessible Internet website at least annually.~~

~~21 § 2313. Environmental initiatives distribution of fee.~~

~~22 (a) Deposit and distribution. Following distribution under
23 section 2312(c), 40% of the revenues in the account are hereby
24 appropriated for distribution by the commission as follows:~~

~~25 (1) Sixty percent to the Commonwealth Financing
26 Authority to be utilized for grants to eligible applicants
27 for the following purposes:~~

~~28 (i) To implement acid mine drainage abatement and
29 cleanup efforts and mine reclamation with a priority
30 given to those projects that recycle and treat mine~~

~~drainage water for use in drilling operations.~~

~~(ii) To plug abandoned and orphaned oil and gas wells.~~

~~(iii) Grants for watershed protection as defined in 27 Pa.C.S. § 6103 (relating to definitions).~~

~~(iv) Planning and enforcement authorized under section 6 of the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.~~

~~(v) Water, storm water and sewer systems, including construction, reconstruction, maintenance and repair.~~

~~(2) Twenty percent to the Motor License Fund.~~

~~(3) Twenty percent to the Hazardous Sites Cleanup Fund.~~

~~(4) No more than 40% of the revenue generated under this section shall be used for the purposes listed under paragraph (1)(v).~~

~~(b) Restriction on use of proceeds.~~

~~(1) Funds shall not be granted to an eligible applicant for the purpose of public relations, outreach, communications, lobbying or litigation.~~

~~(2) No property purchased using revenue generated under this section may be conveyed or resold to another entity without approval from the Department of Conservation and Natural Resources.~~

~~(3) Grants may not be used by an authorized organization as defined in 27 Pa.C.S. § 6103 for land acquisition unless the authorized organization has obtained the written consent of the county and municipality in which the land is situated.~~

~~(c) Coordination with other agencies. The department and the Department of Conservation and Natural Resources shall review applications for funding as requested by the Commonwealth~~

1 ~~Financing Authority and provide recommendations on priority of~~
2 ~~projects and project approval for consideration by the~~
3 ~~Commonwealth Financing Authority.~~

4 ~~§ 2314. Expiration.~~

5 ~~(a) Notice. The Secretary of State shall, upon the~~
6 ~~imposition of a severance tax on each unconventional well~~
7 ~~producing gas in this Commonwealth, submit for publication in~~
8 ~~the Pennsylvania Bulletin notice of the imposition.~~

9 ~~(b) Date. This chapter shall expire on the date of the~~
10 ~~publication of the notice under subsection (a).~~

11 ~~CHAPTER 25~~

12 ~~MODEL ORDINANCE~~

13 ~~Sec.~~

14 ~~2501. Model municipal ordinance.~~

15 ~~2502. Local ordinance.~~

16 ~~§ 2501. Model municipal ordinance.~~

17 ~~(a) Purposes. The purposes of this section are as follows:~~

18 ~~(1) To optimize the development and use of this~~
19 ~~Commonwealth's oil and gas reserves by increasing reasonable~~
20 ~~consistency in zoning and other municipal regulation.~~

21 ~~(2) To foster expeditious and efficient handling of~~
22 ~~municipal oil and gas permitting procedures.~~

23 ~~(3) To allow municipalities to enact regulations under~~
24 ~~the act of July 31, 1968 (P.L.805, No.247), known as the~~
25 ~~Pennsylvania Municipalities Planning Code, and the act of~~
26 ~~October 4, 1978 (P.L.851, No.166), known as the Flood Plain~~
27 ~~Management Act, insofar as the regulation is authorized by~~
28 ~~section 2502 (relating to local ordinance) and this section.~~

29 ~~(b) Authority. The commission shall develop and adopt a~~
30 ~~model ordinance to fulfill the purposes of this section.~~

1 ~~(c) Adoption of provisions.~~

2 ~~(1) Within 120 days of the effective date of this~~
3 ~~section, the commission shall, by majority vote, adopt a~~
4 ~~model ordinance for counties and municipalities pertaining to~~
5 ~~oil and gas drilling activities in accordance with the~~
6 ~~Pennsylvania Municipalities Planning Code, as applicable, the~~
7 ~~Flood Plain Management Act and this section.~~

8 ~~(2) The model zoning ordinance shall do all of the~~
9 ~~following:~~

10 ~~(i) Authorize oil and gas development as a permitted~~
11 ~~use by right in all zoning districts except residential~~
12 ~~districts. The commission may develop a model zoning~~
13 ~~ordinance that allows oil and gas development in~~
14 ~~residential zoning districts by conditional use or~~
15 ~~special exception with conditions dependent on the~~
16 ~~density of existing uses within the district and the~~
17 ~~isolation distances achievable in each residential~~
18 ~~district.~~

19 ~~(ii) Authorize natural gas compression stations:~~

20 ~~(A) as a permitted use by right in all~~
21 ~~agricultural, industrial and commercial districts;~~
22 ~~and~~

23 ~~(B) as a conditional use in all other zoning~~
24 ~~districts.~~

25 ~~(iii) Authorize natural gas processing plants:~~

26 ~~(A) as a permitted use by right in all~~
27 ~~industrial districts; and~~

28 ~~(B) as a conditional use or special exception in~~
29 ~~agricultural districts.~~

30 ~~(3) The model zoning ordinance shall not do any of the~~

1 following:

2 ~~(i) Impose limitations on the hours of operation on~~
3 ~~drilling operations.~~

4 ~~(ii) Impose limitations on noise, light, height or~~
5 ~~security or fencing on drilling operations, natural gas~~
6 ~~compressor stations or natural gas processing plants if~~
7 ~~the limitations are more stringent than limitations~~
8 ~~imposed on construction activities for other similar land~~
9 ~~uses. The model zoning ordinance may include limitations~~
10 ~~on noise, light, height and security and fencing for~~
11 ~~equipment or processes which are unique to the gas~~
12 ~~industry and which are rational, nondiscriminatory and~~
13 ~~reasonably defensible in the particular zone where they~~
14 ~~apply.~~

15 ~~(iii) Have a permit review period for uses by right~~
16 ~~that exceeds 30 days for complete and responsive~~
17 ~~submissions.~~

18 ~~(iv) Impose restrictions on vehicular access routes~~
19 ~~for overweight vehicles except as authorized under:~~

20 ~~(A) 75 Pa.C.S. (relating to vehicles); or~~

21 ~~(B) the Pennsylvania Municipalities Planning~~
22 ~~Code.~~

23 ~~(v) Regulate storm water, erosion and sedimentation~~
24 ~~control or grading where the use is subject to regulation~~
25 ~~by the department through an Erosion and Sedimentation~~
26 ~~Control General Permit or similar permit.~~

27 ~~(4) Nothing in this subsection shall limit or preempt a~~
28 ~~county or municipality from action pursuant to the act of~~
29 ~~October 4, 1978 (P.L.864, No.167), known as the Storm Water~~
30 ~~Management Act.~~

1 ~~(d) Effect of model ordinance. An ordinance adopted by a~~
2 ~~county or municipality to regulate oil and gas shall not contain~~
3 ~~more stringent standards than the model ordinance adopted by the~~
4 ~~commission.~~

5 ~~(e) Timing. The commission shall publish the adopted model~~
6 ~~ordinance in the Pennsylvania Bulletin immediately after its~~
7 ~~adoption and shall disseminate information about the model~~
8 ~~ordinance through the Department of Community and Economic~~
9 ~~Development, municipal associations and other means as the~~
10 ~~commission shall deem appropriate. The costs of the notification~~
11 ~~shall be borne by the Department of Community and Economic~~
12 ~~Development.~~

13 ~~(f) Miscellaneous. The commission shall review the model~~
14 ~~ordinance annually. Proposed amendments shall be published in~~
15 ~~the Pennsylvania Bulletin within 30 days after their adoption.~~

16 ~~(g) Ordinance. If an ordinance adopted by a county or~~
17 ~~municipality contains more stringent standards than the model~~
18 ~~ordinance, the county or municipality shall be ineligible to~~
19 ~~receive funding under sections 2312 (relating to local~~
20 ~~distribution of fee) and 2313 (relating to environmental~~
21 ~~initiatives distribution of fee).~~

22 ~~(h) Effective date of model ordinance. The model ordinance~~
23 ~~shall take effect 70 days following the commission's publication~~
24 ~~of the ordinance in the Pennsylvania Bulletin under this~~
25 ~~section.~~

26 ~~§ 2502. Local ordinance.~~

27 ~~Nothing in this chapter shall impair or infringe upon the~~
28 ~~preemption or supersedure of the regulation of gas wells under~~
29 ~~section 602 of the act of December 19, 1984 (P.L.1140, No.223),~~
30 ~~known as the Oil and Gas Act.~~

1 ~~Section 2. This act shall take effect as follows:~~

2 ~~(1) This section shall take effect immediately.~~

3 ~~(2) The addition of 58 Pa.C.S. § 2501 shall take effect~~
4 ~~immediately.~~

5 ~~(3) The remainder of this act shall take effect in 30~~
6 ~~days.~~

7 PART I

8 (RESERVED)

9 PART II

10 OVERSIGHT AND DEVELOPMENT

11 CHAPTER

12 31. (RESERVED)

13 32. REGULATION

14 33. MODEL ORDINANCE

15 CHAPTER 31

16 (RESERVED)

17 CHAPTER 32

18 REGULATION

19 SUBCHAPTER

20 A. PRELIMINARY PROVISIONS

21 B. GENERAL REQUIREMENTS

22 C. UNDERGROUND GAS STORAGE

23 D. EMINENT DOMAIN

24 E. ENFORCEMENT AND REMEDIES

25 F. (RESERVED)

26 G. MISCELLANEOUS PROVISIONS

27 SUBCHAPTER A

28 PRELIMINARY PROVISIONS

29 SEC.

30 3201. SCOPE OF CHAPTER.



1 3202. DECLARATION OF PURPOSE.

2 3203. DEFINITIONS.

3 § 3201. SCOPE OF CHAPTER.

4 THIS CHAPTER RELATES TO OIL AND GAS.

5 § 3202. DECLARATION OF PURPOSE.

6 THE PURPOSES OF THIS CHAPTER ARE TO:

7 (1) PERMIT OPTIMAL DEVELOPMENT OF OIL AND GAS RESOURCES
8 OF THIS COMMONWEALTH CONSISTENT WITH PROTECTION OF THE
9 HEALTH, SAFETY, ENVIRONMENT AND PROPERTY OF PENNSYLVANIA
10 CITIZENS.

11 (2) PROTECT THE SAFETY OF PERSONNEL AND FACILITIES
12 EMPLOYED IN COAL MINING OR EXPLORATION, DEVELOPMENT, STORAGE
13 AND PRODUCTION OF NATURAL GAS OR OIL.

14 (3) PROTECT THE SAFETY AND PROPERTY RIGHTS OF PERSONS
15 RESIDING IN AREAS WHERE MINING, EXPLORATION, DEVELOPMENT,
16 STORAGE OR PRODUCTION OCCURS.

17 (4) PROTECT THE NATURAL RESOURCES, ENVIRONMENTAL RIGHTS
18 AND VALUES SECURED BY THE CONSTITUTION OF PENNSYLVANIA.

19 § 3203. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "ABANDONED WELL." ANY OF THE FOLLOWING:

24 (1) A WELL:

25 (I) THAT HAS NOT BEEN USED TO PRODUCE, EXTRACT OR
26 INJECT ANY GAS, PETROLEUM OR OTHER LIQUID WITHIN THE
27 PRECEDING 12 MONTHS;

28 (II) FOR WHICH EQUIPMENT NECESSARY FOR PRODUCTION,
29 EXTRACTION OR INJECTION HAS BEEN REMOVED; OR

30 (III) CONSIDERED DRY AND NOT EQUIPPED FOR PRODUCTION

1 WITHIN 60 DAYS AFTER DRILLING, REDRILLING OR DEEPENING.

2 (2) THE TERM DOES NOT INCLUDE WELLS GRANTED INACTIVE
3 STATUS.

4 "ALTERATION." AN OPERATION WHICH CHANGES THE PHYSICAL
5 CHARACTERISTICS OF A WELL BORE, INCLUDING STIMULATION OR
6 REMOVING, REPAIRING OR CHANGING THE CASING. FOR THE PURPOSE OF
7 THIS CHAPTER, THE TERM DOES NOT INCLUDE:

8 (1) REPAIRING OR REPLACING OF THE CASING IF THE
9 OPERATION DOES NOT AFFECT THE DEPTH OR DIAMETER OF THE WELL
10 BORE, THE USE OR PURPOSE OF THE WELL DOES NOT CHANGE AND THE
11 ACTIVITY COMPLIES WITH REGULATIONS PROMULGATED UNDER THIS
12 CHAPTER. THIS PARAGRAPH SHALL NOT APPLY:

13 (I) TO PRODUCTION CASINGS IN COAL AREAS WHEN THE
14 PRODUCTION CASINGS ARE ALSO THE COAL PROTECTION CASINGS;
15 OR

16 (II) WHEN THE METHOD OF REPAIRING OR REPLACING THE
17 CASING WOULD AFFECT THE COAL PROTECTION CASING.

18 (2) STIMULATION OF A WELL.

19 "BOARD." THE OIL AND GAS TECHNICAL ADVISORY BOARD.

20 "BRIDGE." AN OBSTRUCTION PLACED IN A WELL AT ANY DEPTH.

21 "BUILDING." AN OCCUPIED STRUCTURE WITH WALLS AND ROOF WITHIN
22 WHICH PERSONS LIVE OR CUSTOMARILY WORK.

23 "CASING." A STRING OR STRINGS OF PIPE COMMONLY PLACED IN
24 WELLS DRILLED FOR NATURAL GAS OR PETROLEUM.

25 "CEMENT" OR "CEMENT GROUT." ANY OF THE FOLLOWING:

26 (1) HYDRAULIC CEMENT PROPERLY MIXED WITH WATER ONLY.

27 (2) A MIXTURE OF MATERIALS ADEQUATE FOR BONDING OR
28 SEALING OF WELL BORES AS APPROVED BY REGULATIONS PROMULGATED
29 UNDER THIS CHAPTER.

30 "COAL MINE." ANY OF THE FOLLOWING:

1 (1) OPERATIONS IN A COAL SEAM, INCLUDING EXCAVATED
2 PORTIONS, ABANDONED PORTIONS AND PLACES ACTUALLY BEING
3 WORKED.

4 (2) UNDERGROUND WORKINGS AND SHAFTS, SLOPES, TUNNELS AND
5 OTHER WAYS AND OPENINGS, INCLUDING THOSE WHICH ARE IN THE
6 COURSE OF BEING SUNK OR DRIVEN, ALONG WITH ALL ROADS AND
7 FACILITIES CONNECTED WITH THEM BELOW THE SURFACE.

8 "COAL OPERATOR." A PERSON THAT OPERATES OR PROPOSES TO
9 OPERATE A COAL MINE AS AN OWNER OR LESSEE.

10 "COMPLETION OF A WELL." THE DATE AFTER TREATMENT, IF ANY,
11 THAT THE WELL IS PROPERLY EQUIPPED FOR PRODUCTION OF OIL OR GAS,
12 OR, IF THE WELL IS DRY, THE DATE THAT THE WELL IS ABANDONED.

13 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
14 THE COMMONWEALTH.

15 "DRILLING." THE DRILLING OR REDRILLING OF A WELL OR THE
16 DEEPENING OF AN EXISTING WELL.

17 "FRESH GROUNDWATER." WATER IN THAT PORTION OF THE GENERALLY
18 RECOGNIZED HYDROLOGIC CYCLE WHICH OCCUPIES THE PORE SPACES AND
19 FRACTURES OF SATURATED SUBSURFACE MATERIALS.

20 "GAS." ANY OF THE FOLLOWING:

21 (1) A FLUID, COMBUSTIBLE OR NONCOMBUSTIBLE, WHICH IS
22 PRODUCED IN A NATURAL STATE FROM THE EARTH AND MAINTAINS A
23 GASEOUS OR RARIFIED STATE AT STANDARD TEMPERATURE OF 60
24 DEGREES FAHRENHEIT AND PRESSURE 14.7 PSIA.

25 (2) ANY MANUFACTURED GAS, BYPRODUCT GAS OR MIXTURE OF
26 GASES.

27 "INACTIVATE." TO SHUT OFF THE VERTICAL MOVEMENT OF GAS IN A
28 GAS STORAGE WELL BY MEANS OF A TEMPORARY PLUG OR OTHER SUITABLE
29 DEVICE OR BY INJECTING BENTONITIC MUD OR OTHER EQUALLY NONPOROUS
30 MATERIAL INTO THE WELL.

1 "LINEAR FOOT." A UNIT OR MEASUREMENT IN A STRAIGHT LINE ON A
2 HORIZONTAL PLANE.

3 "OIL." HYDROCARBONS IN LIQUID FORM AT STANDARD TEMPERATURE
4 OF 60 DEGREES FAHRENHEIT AND PRESSURE 14.7 PSIA, ALSO REFERRED
5 TO AS PETROLEUM.

6 "OPERATING COAL MINE." ANY OF THE FOLLOWING:

7 (1) AN UNDERGROUND COAL MINE WHICH IS PRODUCING COAL OR
8 HAS BEEN IN PRODUCTION OF COAL AT ANY TIME DURING THE 12
9 MONTHS IMMEDIATELY PRECEDING THE DATE ITS STATUS IS PUT IN
10 QUESTION, INCLUDING CONTIGUOUS WORKED-OUT OR ABANDONED COAL
11 MINES TO WHICH IT IS CONNECTED UNDERGROUND.

12 (2) AN UNDERGROUND COAL MINE TO BE ESTABLISHED OR
13 REESTABLISHED UNDER PARAGRAPH (1).

14 "OPERATING WELL." A WELL THAT IS NOT PLUGGED AND ABANDONED.

15 "ORPHAN WELL." A WELL ABANDONED PRIOR TO APRIL 18, 1985,
16 THAT HAS NOT BEEN AFFECTED OR OPERATED BY THE PRESENT OWNER OR
17 OPERATOR AND FROM WHICH THE PRESENT OWNER, OPERATOR OR LESSEE
18 HAS RECEIVED NO ECONOMIC BENEFIT OTHER THAN AS A LANDOWNER OR
19 RECIPIENT OF A ROYALTY INTEREST FROM THE WELL.

20 "OUTSIDE COAL BOUNDARIES." WHEN USED IN CONJUNCTION WITH THE
21 TERM "OPERATING COAL MINE," THE BOUNDARIES OF THE COAL ACREAGE
22 ASSIGNED TO THE COAL MINE UNDER AN UNDERGROUND MINE PERMIT
23 ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

24 "OWNER." A PERSON WHO OWNS, MANAGES, LEASES, CONTROLS OR
25 POSSESSES A WELL OR COAL PROPERTY. THE TERM DOES NOT APPLY TO
26 ORPHAN WELLS, EXCEPT WHERE THE DEPARTMENT OF ENVIRONMENTAL
27 PROTECTION DETERMINES A PRIOR OWNER OR OPERATOR BENEFITED FROM
28 THE WELL AS PROVIDED IN SECTION 3220 (A) (RELATING TO PLUGGING
29 REQUIREMENTS).

30 "PERSON." AN INDIVIDUAL, ASSOCIATION, PARTNERSHIP,

1 CORPORATION, POLITICAL SUBDIVISION OR AGENCY OF THE FEDERAL
2 GOVERNMENT, STATE GOVERNMENT OR OTHER LEGAL ENTITY.

3 "PETROLEUM." HYDROCARBONS IN LIQUID FORM AT STANDARD
4 TEMPERATURE OF 60 DEGREES FAHRENHEIT AND PRESSURE 14.7 PSIA,
5 ALSO REFERRED TO AS OIL.

6 "PILLAR." A SOLID BLOCK OF COAL SURROUNDED BY EITHER ACTIVE
7 MINE WORKINGS OR A MINED-OUT AREA.

8 "PLAT." A MAP, DRAWING OR PRINT ACCURATELY DRAWN TO SCALE
9 SHOWING THE PROPOSED OR EXISTING LOCATION OF A WELL OR WELLS.

10 "RESERVOIR PROTECTIVE AREA." THE AREA SURROUNDING A STORAGE
11 RESERVOIR BOUNDARY, BUT WITHIN 2,000 LINEAR FEET OF THE STORAGE
12 RESERVOIR BOUNDARY, UNLESS AN ALTERNATE AREA HAS BEEN DESIGNATED
13 BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, WHICH IS DEEMED
14 REASONABLY NECESSARY TO AFFORD PROTECTION TO THE RESERVOIR,
15 UNDER A CONFERENCE HELD IN ACCORDANCE WITH SECTION 3251
16 (RELATING TO CONFERENCES).

17 "RETREAT MINING." REMOVAL OF COAL PILLARS, RIBS AND STUMPS
18 REMAINING AFTER DEVELOPMENT MINING HAS BEEN COMPLETED IN THAT
19 SECTION OF A COAL MINE.

20 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL PROTECTION OF
21 THE COMMONWEALTH.

22 "STORAGE OPERATOR." A PERSON WHO OPERATES OR PROPOSES TO
23 OPERATE A STORAGE RESERVOIR AS AN OWNER OR LESSEE.

24 "STORAGE RESERVOIR." THAT PORTION OF A SUBSURFACE GEOLOGICAL
25 STRATUM INTO WHICH GAS IS OR MAY BE INJECTED FOR STORAGE
26 PURPOSES OR TO TEST SUITABILITY OF THE STRATUM FOR STORAGE.

27 "UNCONVENTIONAL FORMATION." A GEOLOGICAL FORMATION EXISTING
28 BELOW THE BASE OF THE ELK SANDSTONE OR ITS GEOLOGIC EQUIVALENT
29 STRATIGRAPHIC INTERVAL WHERE NATURAL GAS GENERALLY CANNOT BE
30 PRODUCED AT ECONOMIC FLOW RATES OR IN ECONOMIC VOLUMES EXCEPT BY

1 VERTICAL OR HORIZONTAL WELL BORES STIMULATED BY HYDRAULIC
2 FRACTURE TREATMENTS OR BY USING MULTILATERAL WELL BORES OR OTHER
3 TECHNIQUES TO EXPOSE MORE OF THE FORMATION OF THE WELL BORE.

4 "UNCONVENTIONAL WELL." A BORE HOLE DRILLED OR BEING DRILLED
5 FOR THE PURPOSE OF OR TO BE USED FOR THE PRODUCTION OF NATURAL
6 GAS FROM AN UNCONVENTIONAL FORMATION.

7 "WELL." A BORE HOLE DRILLED OR BEING DRILLED FOR THE PURPOSE
8 OF, OR TO BE USED FOR, PRODUCING, EXTRACTING OR INJECTING GAS,
9 PETROLEUM OR ANOTHER LIQUID RELATED TO OIL OR GAS PRODUCTION OR
10 STORAGE, INCLUDING BRINE DISPOSAL, BUT EXCLUDING A BORE HOLE
11 DRILLED TO PRODUCE POTABLE WATER. THE TERM DOES NOT INCLUDE A
12 BORE HOLE DRILLED OR BEING DRILLED FOR THE PURPOSE OF, OR TO BE
13 USED FOR:

14 (1) SYSTEMS OF MONITORING, PRODUCING OR EXTRACTING GAS
15 FROM SOLID WASTE DISPOSAL FACILITIES, IF THE BORE HOLE IS A
16 WELL SUBJECT TO THE ACT OF JULY 7, 1980 (P.L.380, NO.97),
17 KNOWN AS THE SOLID WASTE MANAGEMENT ACT, WHICH DOES NOT
18 PENETRATE A WORKABLE COAL SEAM.

19 (2) DEGASIFYING COAL SEAMS, IF THE BORE HOLE IS:

20 (I) USED TO VENT METHANE TO THE OUTSIDE ATMOSPHERE
21 FROM AN OPERATING COAL MINE; REGULATED AS PART OF THE
22 MINING PERMIT UNDER THE ACT OF JUNE 22, 1937 (P.L.1987,
23 NO.394), KNOWN AS THE CLEAN STREAMS LAW, AND THE ACT OF
24 MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS THE SURFACE
25 MINING CONSERVATION AND RECLAMATION ACT; AND DRILLED BY
26 THE OPERATOR OF THE OPERATING COAL MINE FOR THE PURPOSE
27 OF INCREASED SAFETY; OR

28 (II) USED TO VENT METHANE TO THE OUTSIDE ATMOSPHERE
29 UNDER A FEDERALLY FUNDED OR STATE-FUNDED ABANDONED MINE
30 RECLAMATION PROJECT.

1 "WELL OPERATOR" OR "OPERATOR." ANY OF THE FOLLOWING:

2 (1) THE PERSON DESIGNATED AS OPERATOR OR WELL OPERATOR
3 ON THE PERMIT APPLICATION OR WELL REGISTRATION.

4 (2) IF A PERMIT OR WELL REGISTRATION WAS NOT ISSUED, A
5 PERSON WHO LOCATES, DRILLS, OPERATES, ALTERS OR PLUGS A WELL
6 OR RECONDITIONS A WELL WITH THE PURPOSE OF PRODUCTION FROM
7 THE WELL.

8 (3) IF A WELL IS USED IN CONNECTION WITH UNDERGROUND
9 STORAGE OF GAS, A STORAGE OPERATOR.

10 "WETLAND." AREAS INUNDATED OR SATURATED BY SURFACE OR
11 GROUNDWATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT,
12 AND WHICH NORMALLY SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY
13 ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS, INCLUDING SWAMPS,
14 MARSHES, BOGS AND SIMILAR AREAS.

15 "WORKABLE COAL SEAMS." A COAL SEAM WHICH:

16 (1) IS ACTUALLY BEING MINED IN THE AREA IN QUESTION
17 UNDER THIS CHAPTER BY UNDERGROUND METHODS; OR

18 (2) IN THE JUDGMENT OF THE DEPARTMENT OF ENVIRONMENTAL
19 PROTECTION, CAN REASONABLY BE EXPECTED TO BE MINED BY
20 UNDERGROUND METHODS.

21 SUBCHAPTER B

22 GENERAL REQUIREMENTS

23 SEC.

24 3211. WELL PERMITS.

25 3212. PERMIT OBJECTIONS.

26 3213. WELL REGISTRATION AND IDENTIFICATION.

27 3214. INACTIVE STATUS.

28 3215. WELL LOCATION RESTRICTIONS.

29 3216. WELL SITE RESTORATION.

30 3217. PROTECTION OF FRESH GROUNDWATER AND CASING REQUIREMENTS.

1 3218. PROTECTION OF WATER SUPPLIES.
2 3218.1. CONTAINMENT FOR UNCONVENTIONAL WELLS.
3 3218.2. TRANSPORTATION RECORDS REGARDING WASTEWATER FLUIDS.
4 3218.3. EMERGENCY RESPONSE INFORMATION.
5 3219. USE OF SAFETY DEVICES.
6 3220. PLUGGING REQUIREMENTS.
7 3221. ALTERNATIVE METHODS.
8 3222. WELL REPORTING REQUIREMENTS.
9 3223. NOTIFICATION AND EFFECT OF WELL TRANSFER.
10 3224. COAL OPERATOR RESPONSIBILITIES.
11 3225. BONDING.
12 3226. OIL AND GAS TECHNICAL ADVISORY BOARD.
13 § 3211. WELL PERMITS.

14 (A) PERMIT REQUIRED.--NO PERSON SHALL DRILL A WELL OR ALTER
15 AN EXISTING WELL, EXCEPT FOR ALTERATIONS WHICH SATISFY THE
16 REQUIREMENTS OF SUBSECTION (J), WITHOUT HAVING FIRST OBTAINED A
17 WELL PERMIT UNDER SUBSECTIONS (B), (C), (D) AND (E). A COPY OF
18 THE PERMIT SHALL BE KEPT AT THE WELL SITE DURING PREPARATION AND
19 CONSTRUCTION OF THE WELL SITE OR ACCESS ROAD, DRILLING,
20 OPERATION OR ALTERATION OF THE WELL. NO PERSON SHALL BE REQUIRED
21 TO OBTAIN A PERMIT TO REDRILL A NONPRODUCING WELL IF THE
22 REDRILLING:

23 (1) HAS BEEN EVALUATED AND APPROVED AS PART OF AN ORDER
24 FROM THE DEPARTMENT AUTHORIZING CLEANING OUT AND PLUGGING OR
25 REPLUGGING A NONPRODUCING WELL UNDER SECTION 13(C) OF THE ACT
26 OF DECEMBER 18, 1984 (P.L.1069, NO.214), KNOWN AS THE COAL
27 AND GAS RESOURCE COORDINATION ACT; AND

28 (2) IS INCIDENTAL TO A PLUGGING OR REPLUGGING OPERATION
29 AND THE WELL IS PLUGGED WITHIN 15 DAYS OF REDRILLING.

30 (B) PLAT.--THE PERMIT APPLICATION SHALL BE ACCOMPANIED BY A

1 PLAT PREPARED BY A COMPETENT ENGINEER OR A COMPETENT SURVEYOR,
2 ON FORMS FURNISHED BY THE DEPARTMENT, SHOWING THE POLITICAL
3 SUBDIVISION AND COUNTY IN WHICH THE TRACT OF LAND UPON WHICH THE
4 WELL TO BE DRILLED, OPERATED OR ALTERED, IS LOCATED, THE NAME OF
5 THE SURFACE LANDOWNER OF RECORD AND LESSOR, THE NAME OF ALL
6 SURFACE LANDOWNERS OR WATER PURVEYORS WHOSE WATER SUPPLIES ARE
7 WITHIN 1,000 FEET, OR IN THE CASE OF AN UNCONVENTIONAL WELL
8 WITHIN 3,000 FEET FROM THE WELL BORE, THE NAME OF THE OWNER OF
9 RECORD OR OPERATOR OF ALL KNOWN UNDERLYING WORKABLE COAL SEAMS,
10 THE ACREAGE IN THE TRACT TO BE DRILLED, THE PROPOSED LOCATION OF
11 THE WELL DETERMINED BY SURVEY, COURSES AND DISTANCES OF THE
12 LOCATION FROM TWO OR MORE PERMANENT IDENTIFIABLE POINTS OR
13 LANDMARKS ON THE TRACT BOUNDARY CORNERS, THE PROPOSED ANGLE AND
14 DIRECTION OF THE WELL IF THE WELL IS TO BE DEVIATED
15 SUBSTANTIALLY FROM A VERTICAL COURSE, THE NUMBER OR OTHER
16 IDENTIFICATION TO BE GIVEN THE WELL, WORKABLE COAL SEAMS
17 UNDERLYING THE TRACT OF LAND UPON WHICH THE WELL IS TO BE
18 DRILLED, OPERATED OR ALTERED AND WHICH SHALL BE CASED OFF UNDER
19 SECTION 3217 (RELATING TO PROTECTION OF FRESH GROUNDWATER AND
20 CASING REQUIREMENTS) AND ANY OTHER INFORMATION NEEDED BY THE
21 DEPARTMENT TO ADMINISTER THIS CHAPTER. THE APPLICANT SHALL
22 FORWARD BY CERTIFIED MAIL A COPY OF THE PLAT TO THE FOLLOWING:

23 (1) THE SURFACE LANDOWNER.

24 (2) ALL SURFACE LANDOWNERS OR WATER PURVEYORS WHOSE
25 WATER SUPPLIES ARE WITHIN 1,000 FEET OF THE PROPOSED WELL
26 LOCATION OR, IN THE CASE OF AN UNCONVENTIONAL WELL, WITHIN
27 3,000 FEET OF THE WELL BORE.

28 (3) THE OWNER AND LESSEE, IF ANY, OF ANY WORKABLE COAL
29 SEAMS AND EVERY COAL OPERATOR REQUIRED TO BE IDENTIFIED ON
30 THE WELL PERMIT APPLICATION AND SHALL SUBMIT PROOF OF SUCH

1 NOTIFICATION WITH THE WELL PERMIT APPLICATION.

2 (4) THE MUNICIPALITY WHERE THE PROPOSED UNCONVENTIONAL
3 WELL IS LOCATED AND A MUNICIPALITY WITHIN 3,000 FEET OF THE
4 PROPOSED UNCONVENTIONAL WELL BORE.

5 (B.1) NOTIFICATION.--NOTIFICATION OF SURFACE OWNERS SHALL BE
6 PERFORMED BY SENDING NOTICE TO THOSE PERSONS TO WHOM THE TAX
7 NOTICES FOR THE SURFACE PROPERTY ARE SENT, AS INDICATED IN THE
8 ASSESSMENT BOOKS IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED.
9 NOTIFICATION OF SURFACE LANDOWNERS OR WATER PURVEYORS WHOSE
10 WATER SUPPLIES ARE WITHIN 1,000 FEET, OR IN THE CASE OF AN
11 UNCONVENTIONAL WELL WITHIN 3,000 FEET OF THE WELL BORE SHALL BE
12 ON FORMS, AND IN A MANNER PRESCRIBED BY THE DEPARTMENT,
13 SUFFICIENT TO IDENTIFY THE RIGHTS AFFORDED THOSE PERSONS UNDER
14 SECTION 3218 (RELATING TO PROTECTION OF WATER SUPPLIES) AND
15 ADVISE THEM OF THE ADVISABILITY OF TAKING THEIR OWN PREDRILLING
16 OR PREALTERATION SURVEY. THE APPLICANT SHALL SUBMIT PROOF OF
17 COMPLIANCE WITH THIS SUBSECTION WITH THE WELL PERMIT
18 APPLICATION.

19 (B.2) APPROVAL.--IF THE APPLICANT SUBMITS TO THE DEPARTMENT
20 WRITTEN APPROVAL OF THE PROPOSED WELL LOCATION BY THE SURFACE
21 LANDOWNER AND THE COAL OPERATOR, LESSEE OR OWNER OF ANY COAL
22 UNDERLYING THE PROPOSED WELL LOCATION AND NO OBJECTIONS ARE
23 RAISED BY THE DEPARTMENT WITHIN 15 DAYS OF FILING, OR IF NO
24 APPROVAL HAS BEEN SUBMITTED AND NO OBJECTIONS ARE MADE TO THE
25 PROPOSED WELL LOCATION WITHIN 15 DAYS FROM RECEIPT OF NOTICE BY
26 THE DEPARTMENT, LESSEE OR OWNER, THE WRITTEN APPROVAL SHALL BE
27 FILED AND BECOME A PERMANENT RECORD OF THE WELL LOCATION,
28 SUBJECT TO INSPECTION AT ANY TIME BY ANY INTERESTED PERSON. THE
29 APPLICATION FORM TO OPERATE AN ABANDONED OR ORPHAN WELL SHALL
30 PROVIDE NOTIFICATION TO THE APPLICANT OF ITS RESPONSIBILITIES TO

1 PLUG THE WELL UPON ABANDONMENT.

2 (C) APPLICANTS.--IF THE APPLICANT FOR A WELL PERMIT IS A
3 CORPORATION, PARTNERSHIP OR PERSON THAT IS NOT A RESIDENT OF
4 THIS COMMONWEALTH, THE APPLICANT SHALL DESIGNATE THE NAME AND
5 ADDRESS OF AN AGENT FOR THE OPERATOR WHO SHALL BE THE ATTORNEY-
6 IN-FACT FOR THE OPERATOR AND WHO SHALL BE A RESIDENT OF THIS
7 COMMONWEALTH UPON WHOM NOTICES, ORDERS OR OTHER COMMUNICATIONS
8 ISSUED UNDER THIS CHAPTER MAY BE SERVED AND UPON WHOM PROCESS
9 MAY BE SERVED. EACH WELL OPERATOR REQUIRED TO DESIGNATE AN AGENT
10 UNDER THIS SECTION SHALL, WITHIN FIVE DAYS AFTER TERMINATION OF
11 THE DESIGNATION, NOTIFY THE DEPARTMENT OF THE TERMINATION AND
12 DESIGNATE A NEW AGENT.

13 (D) PERMIT FEE.--EACH APPLICATION FOR A WELL PERMIT SHALL BE
14 ACCOMPANIED BY A PERMIT FEE, ESTABLISHED BY REGULATION OF THE
15 ENVIRONMENTAL QUALITY BOARD, WHICH BEARS A REASONABLE
16 RELATIONSHIP TO THE COST OF ADMINISTERING THIS CHAPTER.

17 (E) ISSUANCE OF PERMIT.--THE DEPARTMENT SHALL ISSUE A PERMIT
18 WITHIN 45 DAYS OF SUBMISSION OF AN APPLICATION UNLESS THE
19 DEPARTMENT DENIES THE PERMIT APPLICATION FOR ANY OF THE REASONS
20 SET FORTH IN SUBSECTION (E.1), EXCEPT THAT THE DEPARTMENT SHALL
21 HAVE THE RIGHT TO EXTEND THE PERIOD FOR 15 DAYS FOR CAUSE SHOWN
22 UPON NOTIFICATION TO THE APPLICANT OF THE REASONS FOR THE
23 EXTENSION. THE DEPARTMENT MAY IMPOSE PERMIT TERMS AND CONDITIONS
24 NECESSARY TO ASSURE COMPLIANCE WITH THIS CHAPTER OR OTHER LAWS
25 ADMINISTERED BY THE DEPARTMENT.

26 (E.1) DENIAL OF PERMIT.--THE DEPARTMENT MAY DENY A PERMIT
27 FOR ANY OF THE FOLLOWING REASONS:

28 (1) THE WELL SITE FOR WHICH A PERMIT IS REQUESTED IS IN
29 VIOLATION OF THIS CHAPTER OR ISSUANCE OF THE PERMIT WOULD
30 RESULT IN A VIOLATION OF THIS CHAPTER OR OTHER APPLICABLE

1 LAW.

2 (2) THE PERMIT APPLICATION IS INCOMPLETE.

3 (3) UNRESOLVED OBJECTIONS TO THE WELL LOCATION BY COAL
4 MINE OWNER OR OPERATOR REMAIN.

5 (4) THE REQUIREMENTS OF SECTION 3225 (RELATING TO
6 BONDING) HAVE NOT BEEN MET.

7 (5) THE APPLICANT, WITH RESPECT TO ANY OTHER WELL
8 OPERATED BY THE APPLICANT, IS IN CONTINUING VIOLATION OF THIS
9 CHAPTER OR OTHER APPLICABLE LAW ADMINISTERED BY THE
10 DEPARTMENT AND THE LIKELY RESULT OF THE VIOLATION IS AN
11 UNSAFE OPERATION OR ENVIRONMENTAL DAMAGE. IF A FINAL
12 DETERMINATION HAS BEEN MADE IN THE APPLICANT'S FAVOR, THE
13 PERMIT DENIED SHALL BE RECONSIDERED AND THE VIOLATION SHALL
14 NOT BE A CONSIDERATION IN THE AWARDING OF THE PERMIT. THE
15 DEPARTMENT MAY NOT COLLECT AN APPLICATION FEE FOR THE
16 RECONSIDERATION.

17 (6) THE APPLICANT FAILED TO PAY OR FILE A REPORT UNDER
18 SECTION 2303(D) AND (E) (RELATING TO ADMINISTRATION), UNLESS
19 A VALID APPEAL IS IN PROCESS. THE COMMISSION SHALL NOTIFY THE
20 DEPARTMENT OF ANY APPLICANT WHO HAS FAILED TO PAY OR FILE A
21 RETURN AND WHO DOES NOT HAVE A VALID APPEAL PENDING.

22 (7) AN APPLICANT TO DRILL AN UNCONVENTIONAL WELL DOES
23 NOT HAVE A REASONABLE WRITTEN PLAN TO REUSE AT LEAST 30% OF
24 THE TOTAL WATER THAT WILL BE USED TO HYDRAULICALLY FRACTURE
25 THE WELL.

26 (F) DRILLING.--UPON ISSUANCE OF A PERMIT, THE WELL OPERATOR
27 MAY PROCEED TO DRILL, OPERATE OR ALTER THE WELL AT THE EXACT
28 LOCATION SHOWN ON THE PLAT AFTER PROVIDING THE DEPARTMENT, THE
29 SURFACE LANDOWNER AND THE LOCAL POLITICAL SUBDIVISION IN WHICH
30 THE WELL IS TO BE LOCATED 24 HOURS' NOTICE OF THE DATE THAT

1 DRILLING WILL COMMENCE. IN NONCOAL AREAS WHERE MORE THAN ONE
2 WELL IS TO BE DRILLED AS PART OF THE SAME DEVELOPMENT PROJECT,
3 ONLY THE FIRST WELL OF THE PROJECT NEED BE LOCATED BY SURVEY.
4 REMAINING WELLS OF THE PROJECT SHALL BE SHOWN ON THE PLAT IN A
5 MANNER PRESCRIBED BY REGULATION. PRIOR TO DRILLING EACH
6 ADDITIONAL PROJECT WELL, THE WELL OPERATOR SHALL NOTIFY THE
7 DEPARTMENT AND PROVIDE REASONABLE NOTICE OF THE DATE ON WHICH
8 DRILLING WILL COMMENCE. WHENEVER, BEFORE OR DURING THE DRILLING
9 OF A WELL NOT WITHIN THE BOUNDARIES OF AN OPERATING COAL MINE,
10 THE WELL OPERATOR ENCOUNTERS CONDITIONS OF A NATURE WHICH
11 RENDERS DRILLING OF THE BORE HOLE OR A PORTION THEREOF
12 IMPOSSIBLE, OR MORE HAZARDOUS THAN USUAL, THE WELL OPERATOR,
13 UPON VERBAL NOTICE TO THE DEPARTMENT, MAY IMMEDIATELY PLUG ALL
14 OR PART OF THE BORE HOLE, IF DRILLING HAS OCCURRED, AND COMMENCE
15 A NEW BORE HOLE NOT MORE THAN 50 FEET FROM THE OLD BORE HOLE IF
16 THE LOCATION OF THE NEW BORE HOLE DOES NOT VIOLATE SECTION 3215
17 (RELATING TO WELL LOCATION RESTRICTIONS) AND, IN THE CASE OF A
18 WELL SUBJECT TO ACT OF JULY 25, 1961 (P.L.825, NO.359), KNOWN AS
19 THE OIL AND GAS CONSERVATION LAW, IF THE NEW LOCATION COMPLIES
20 WITH EXISTING LAWS, REGULATIONS AND SPACING ORDERS AND THE NEW
21 BORE HOLE IS AT LEAST 330 FEET FROM THE NEAREST LEASE BOUNDARY.
22 WITHIN TEN DAYS OF COMMENCEMENT OF THE NEW BORE HOLE, THE WELL
23 OPERATOR SHALL FILE WITH THE DEPARTMENT A WRITTEN NOTICE OF
24 INTENTION TO PLUG, A WELL RECORD, A COMPLETION REPORT, A
25 PLUGGING CERTIFICATE FOR THE ORIGINAL BORE HOLE AND AN AMENDED
26 PLAT FOR THE NEW BORE HOLE. THE WELL OPERATOR SHALL FORWARD A
27 COPY OF THE AMENDED PLAT TO THE SURFACE LANDOWNER IDENTIFIED ON
28 THE WELL PERMIT APPLICATION WITHIN TEN DAYS OF COMMENCEMENT OF
29 THE NEW WELL BORE.
30 (G) POSTING.--THE WELL PERMIT NUMBER AND OPERATOR'S NAME,

1 ADDRESS AND TELEPHONE NUMBER SHALL BE CONSPICUOUSLY POSTED AT
2 THE DRILLING SITE PRIOR TO INITIATING PREPARATION AND DURING
3 CONSTRUCTION OF THE WELL SITE OR ACCESS ROAD, DRILLING,
4 OPERATION OR ALTERATION OF THE WELL.

5 (H) LABELING.--THE WELL OPERATOR SHALL INSTALL THE PERMIT
6 NUMBER ISSUED BY THE DEPARTMENT IN A LEGIBLE, VISIBLE AND
7 PERMANENT MANNER ON THE WELL UPON COMPLETION.

8 (I) EXPIRATION.--WELL PERMITS ISSUED FOR DRILLING WELLS
9 UNDER THIS CHAPTER SHALL EXPIRE ONE YEAR AFTER ISSUANCE UNLESS
10 OPERATIONS FOR DRILLING THE WELL ARE COMMENCED WITHIN THE PERIOD
11 AND PURSUED WITH DUE DILIGENCE OR UNLESS THE PERMIT IS RENEWED
12 IN ACCORDANCE WITH REGULATIONS OF THE DEPARTMENT. IF DRILLING IS
13 COMMENCED DURING THE ONE-YEAR PERIOD, THE WELL PERMIT SHALL
14 REMAIN IN FORCE UNTIL THE WELL IS PLUGGED IN ACCORDANCE WITH
15 SECTION 3220 (RELATING TO PLUGGING REQUIREMENTS) OR THE PERMIT
16 IS REVOKED. A DRILLING PERMIT ISSUED PRIOR TO APRIL 18, 1985,
17 FOR A WELL WHICH IS AN OPERATING WELL ON APRIL 18, 1985, SHALL
18 REMAIN IN FORCE AS A WELL PERMIT UNTIL THE WELL IS PLUGGED IN
19 ACCORDANCE WITH SECTION 3220. NOTHING IN THIS SUBSECTION SHALL
20 BE CONSTRUED TO RESCIND THE PROVISIONS PERTAINING TO DRILLING
21 PERMITS CONTAINED IN THE OIL AND GAS CONSERVATION LAW.

22 (J) EXCEPTIONS.--THE ENVIRONMENTAL QUALITY BOARD MAY
23 ESTABLISH BY REGULATION CERTAIN CATEGORIES OF ALTERATIONS OF
24 PERMITTED OR REGISTERED WELLS FOR WHICH PERMITTING REQUIREMENTS
25 OF THIS SECTION SHALL NOT APPLY. A WELL OPERATOR OR OWNER WHO
26 PROPOSES TO CONDUCT THE ALTERATION ACTIVITY SHALL FIRST OBTAIN A
27 PERMIT OR REGISTRATION MODIFICATION FROM THE DEPARTMENT. THE
28 ENVIRONMENTAL QUALITY BOARD SHALL PROMULGATE REGULATIONS AS TO
29 THE REQUIREMENTS FOR MODIFICATIONS.

30 (K) NO TRANSFER PERMITTED.--NO PERMIT ISSUED UNDER THIS

1 SECTION OR REGISTRATION ISSUED UNDER SECTION 3213 (RELATING TO
2 WELL REGISTRATION AND IDENTIFICATION) MAY BE TRANSFERRED WITHOUT
3 PRIOR APPROVAL OF THE DEPARTMENT. A REQUEST FOR APPROVAL OF A
4 TRANSFER SHALL BE ON THE FORMS, AND IN THE MANNER, PRESCRIBED BY
5 THE DEPARTMENT. THE DEPARTMENT SHALL APPROVE OR DENY A TRANSFER
6 REQUEST WITHIN 45 DAYS OF RECEIPT OF A COMPLETE AND ACCURATE
7 APPLICATION. THE DEPARTMENT MAY DENY A REQUEST ONLY FOR REASONS
8 SET FORTH IN SUBSECTION (E.1) (4), (5) AND (6). APPROVAL OF A
9 TRANSFER REQUEST SHALL PERMANENTLY TRANSFER RESPONSIBILITY TO
10 PLUG THE WELL UNDER SECTION 3220 TO THE RECIPIENT OF THE
11 TRANSFERRED PERMIT OR REGISTRATION. THE DEPARTMENT MAY ESTABLISH
12 A PROCEDURE FOR ACCELERATED APPROVAL OF WELL PERMIT APPLICATIONS
13 IN HARDSHIP CASES, AS DEFINED BY REGULATION OF THE ENVIRONMENTAL
14 QUALITY BOARD, CONSISTENT WITH THE REQUIREMENTS OF THIS CHAPTER.
15 § 3212. PERMIT OBJECTIONS.

16 (A) GENERAL RULE.--IF A WELL REFERRED TO IN SECTION 3211(B)
17 (RELATING TO WELL PERMITS) WILL BE LOCATED ON A TRACT WHOSE
18 SURFACE IS OWNED BY A PERSON OTHER THAN THE WELL OPERATOR, THE
19 SURFACE LANDOWNER AFFECTED SHALL BE NOTIFIED OF THE INTENT TO
20 DRILL AND MAY FILE OBJECTIONS, IN ACCORDANCE WITH SECTION 3251
21 (RELATING TO CONFERENCES), BASED ON THE ASSERTION THAT THE WELL
22 LOCATION VIOLATES SECTION 3215 (RELATING TO WELL LOCATION
23 RESTRICTIONS) OR THAT INFORMATION IN THE APPLICATION IS UNTRUE
24 IN ANY MATERIAL RESPECT, WITHIN 15 DAYS OF THE RECEIPT BY THE
25 SURFACE OWNER OF THE PLAT UNDER SECTION 3211(B). RECEIPT OF
26 NOTICE BY THE SURFACE OWNER SHALL BE PRESUMED TO HAVE OCCURRED
27 15 DAYS FROM THE DATE OF THE CERTIFIED MAILING WHEN THE WELL
28 OPERATOR SUBMITS A COPY OF THE CERTIFIED MAIL RECEIPT SENT TO
29 THE SURFACE OWNER AND AN AFFIDAVIT CERTIFYING THAT THE ADDRESS
30 OF THE SURFACE OWNER TO WHICH NOTICE WAS SENT IS THE SAME AS THE

1 ADDRESS LISTED IN THE ASSESSMENT BOOKS IN THE COUNTY WHERE THE
2 PROPERTY IS LOCATED. IF NO OBJECTION IS FILED OR NONE IS RAISED
3 BY THE DEPARTMENT WITHIN 15 DAYS AFTER RECEIPT OF THE PLAT BY
4 THE SURFACE LANDOWNER, OR IF WRITTEN APPROVAL BY THE SURFACE
5 LANDOWNER IS FILED WITH THE DEPARTMENT AND NO OBJECTION IS
6 RAISED BY THE DEPARTMENT WITHIN 15 DAYS OF FILING, THE
7 DEPARTMENT SHALL PROCEED TO ISSUE OR DENY THE PERMIT.

8 (B) SPECIAL CIRCUMSTANCES.--IF A WELL REFERRED TO IN SECTION
9 3211(B) WILL PENETRATE WITHIN THE OUTSIDE COAL BOUNDARIES OF AN
10 OPERATING COAL MINE OR A COAL MINE ALREADY PROJECTED AND PLATTED
11 BUT NOT YET BEING OPERATED, OR WITHIN 1,000 LINEAR FEET BEYOND
12 THOSE BOUNDARIES, AND, IN THE OPINION OF THE COAL OWNER OR
13 OPERATOR, THE WELL OR A PILLAR OF COAL ABOUT THE WELL WILL
14 UNDULY INTERFERE WITH OR ENDANGER THE MINE, THE COAL OWNER OR
15 OPERATOR AFFECTED MAY FILE OBJECTIONS UNDER SECTION 3251 TO THE
16 PROPOSED LOCATION WITHIN 15 DAYS OF THE RECEIPT BY THE COAL
17 OPERATOR OF THE PLAT UNDER SECTION 3211(B). IF POSSIBLE, AN
18 ALTERNATIVE LOCATION AT WHICH THE PROPOSED WELL COULD BE DRILLED
19 TO OVERCOME THE OBJECTIONS SHALL BE INDICATED. IF NO OBJECTION
20 TO THE PROPOSED LOCATION IS FILED OR IF NONE IS RAISED BY THE
21 DEPARTMENT WITHIN 15 DAYS AFTER RECEIPT OF THE PLAT BY THE COAL
22 OPERATOR OR OWNER, OR IF WRITTEN APPROVAL BY THE COAL OPERATOR
23 OR OWNER OF THE LOCATION IS FILED WITH THE DEPARTMENT AND NO
24 OBJECTION IS RAISED BY THE DEPARTMENT WITHIN 15 DAYS OF FILING,
25 THE DEPARTMENT SHALL PROCEED TO ISSUE OR DENY THE PERMIT.

26 (C) PROCEDURE UPON OBJECTION.--IF AN OBJECTION IS FILED BY A
27 COAL OPERATOR OR OWNER OR MADE BY THE DEPARTMENT, THE DEPARTMENT
28 SHALL FIX A TIME AND PLACE FOR A CONFERENCE UNDER SECTION 3251
29 NOT MORE THAN TEN DAYS FROM THE DATE OF SERVICE OF THE OBJECTION
30 TO ALLOW THE PARTIES TO CONSIDER THE OBJECTION AND ATTEMPT TO

1 AGREE ON A LOCATION. IF THEY FAIL TO AGREE, THE DEPARTMENT, BY
2 AN APPROPRIATE ORDER, SHALL DETERMINE A LOCATION ON THE TRACT OF
3 LAND AS NEAR TO THE ORIGINAL LOCATION AS POSSIBLE WHERE, IN THE
4 JUDGMENT OF THE DEPARTMENT, THE WELL CAN BE SAFELY DRILLED
5 WITHOUT UNDULY INTERFERING WITH OR ENDANGERING THE MINE AS
6 DEFINED IN SUBSECTION (B). THE NEW LOCATION AGREED UPON BY THE
7 PARTIES OR DETERMINED BY THE DEPARTMENT SHALL BE INDICATED ON
8 THE PLAT ON FILE WITH THE DEPARTMENT AND BECOME A PERMANENT
9 RECORD UPON WHICH THE DEPARTMENT SHALL PROCEED TO ISSUE OR DENY
10 THE PERMIT.

11 (D) SURVEY.--WITHIN 120 DAYS AFTER COMMENCEMENT OF DRILLING
12 OPERATIONS, THE COAL OPERATOR SHALL ACCURATELY LOCATE THE WELL
13 BY A CLOSED SURVEY ON THE SAME DATUM AS THE MINE WORKINGS OR
14 COAL BOUNDARIES ARE MAPPED, FILE THE RESULTS OF THE SURVEY WITH
15 THE DEPARTMENT AND FORWARD A COPY BY CERTIFIED MAIL TO THE WELL
16 OPERATOR.

17 § 3213. WELL REGISTRATION AND IDENTIFICATION.

18 (A) GENERAL RULE.--ON OR BEFORE JULY 5, 1996, EACH PERSON
19 WHO OWNED OR OPERATED A WELL IN EXISTENCE PRIOR TO APRIL 18,
20 1985, WHICH HAS NOT BEEN REGISTERED WITH THE DEPARTMENT AND FOR
21 WHICH NO DRILLING PERMIT HAS BEEN ISSUED BY THE DEPARTMENT,
22 SHALL REGISTER THE WELL WITH THE DEPARTMENT. A WELL OWNER OR
23 OPERATOR WHO REGISTERS UNDER THIS SUBSECTION AND A WELL OWNER OR
24 OPERATOR WHO HAS PREVIOUSLY REGISTERED A WELL UNDER THIS CHAPTER
25 SHALL, ON OR BEFORE JULY 5, 1996, IDENTIFY ANY ABANDONED WELL ON
26 PROPERTY WHICH THE WELL OWNER OR OPERATOR OWNS OR LEASES AND
27 REQUEST APPROVAL FROM THE DEPARTMENT FOR CLASSIFICATION OF THE
28 WELL AS AN ORPHAN WELL. INFORMATION REGARDING WELLS TO BE
29 REGISTERED OR IDENTIFIED SHALL BE PROVIDED ON A FORM, OR IN A
30 MANNER, PRESCRIBED BY THE DEPARTMENT AND SHALL INCLUDE:

1 (1) THE NAME AND ADDRESS OF THE WELL OPERATOR AND, IF
2 THE WELL OPERATOR IS A CORPORATION, PARTNERSHIP OR PERSON
3 NONRESIDENT OF THIS COMMONWEALTH, THE NAME AND ADDRESS OF AN
4 AGENT FOR THE OPERATOR UPON WHOM NOTICES, ORDERS, PROCESS OR
5 OTHER COMMUNICATIONS ISSUED UNDER THIS CHAPTER MAY BE SERVED.

6 (2) THE WELL NAME AND THE LOCATION OF THE WELL INDICATED
7 BY A POINT ON A 7 1/2 MINUTE UNITED STATES GEOLOGICAL SURVEY
8 TOPOGRAPHIC MAP OR ANY OTHER LOCATION DESCRIPTION SUFFICIENT
9 TO ENABLE THE DEPARTMENT TO LOCATE THE WELL ON THE GROUND.

10 (3) THE APPROXIMATE DATE OF DRILLING AND COMPLETING THE
11 WELL, ITS APPROXIMATE DEPTH AND PRODUCING HORIZONS, WELL
12 CONSTRUCTION INFORMATION AND, IF AVAILABLE, DRILLER'S LOGS.

13 (4) AN INDEMNITY BOND, AN ALTERNATIVE FEE IN LIEU OF
14 BONDING OR OTHER EVIDENCE OF FINANCIAL SECURITY SUBMITTED BY
15 THE WELL OPERATOR AND DEEMED APPROPRIATE BY THE DEPARTMENT
16 AND SATISFYING THE REQUIREMENTS OF SECTION 3225 (RELATING TO
17 BONDING). NO BOND, ALTERNATIVE FEE OR OTHER EVIDENCE OF
18 FINANCIAL SECURITY SHALL BE REQUIRED FOR IDENTIFICATION OF AN
19 ORPHAN WELL. FOR WELLS DRILLED PRIOR TO JANUARY 30, 1956,
20 WHICH HAVE NOT BEEN BONDED, THE WELL OPERATOR SHALL HAVE FIVE
21 YEARS TO COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH.

22 (5) A REGISTRATION FEE OF \$15 PER WELL OR BLANKET
23 REGISTRATION FEE OF \$250 FOR MULTIPLE WELL REGISTRATION
24 APPLICATIONS SUBMITTED SIMULTANEOUSLY. THE REGISTRATION FEE
25 SHALL BE WAIVED UNTIL JULY 5, 1996, AND NO FEE SHALL BE
26 CHARGED FOR IDENTIFICATION OF AN ORPHAN WELL.

27 (A.1) ORPHAN WELLS.--AFTER JULY 5, 1996, A WELL OWNER, WELL
28 OPERATOR OR OTHER PERSON DISCOVERING AN ABANDONED WELL ON
29 PROPERTY PURCHASED OR LEASED BY THE WELL OWNER, WELL OPERATOR OR
30 OTHER PERSON SHALL IDENTIFY IT TO THE DEPARTMENT WITHIN 60 DAYS

1 OF DISCOVERY AND ADVISE THE DEPARTMENT THAT HE IS SEEKING
2 CLASSIFICATION OF THE WELL AS AN ORPHAN WELL. NO FEE SHALL BE
3 REQUIRED FOR IDENTIFICATION.

4 (B) EXTENSION.--THE DEPARTMENT MAY EXTEND THE ONE-YEAR TIME
5 PERIOD UNDER SUBSECTION (A) FOR GOOD CAUSE SHOWN. THE EXTENSION
6 MAY NOT EXCEED A PERIOD ENDING TWO YEARS FROM APRIL 18, 1985.
7 THE DEPARTMENT MAY ADOPT AND PROMULGATE GUIDELINES DESIGNED TO
8 ENSURE A FAIR IMPLEMENTATION OF THIS SECTION, RECOGNIZING THE
9 PRACTICAL DIFFICULTIES OF LOCATING UNPERMITTED WELLS AND
10 COMPLYING WITH THE REPORTING REQUIREMENTS OF THIS CHAPTER.

11 (C) INSTALLATION OF REGISTRATION NUMBER.--THE WELL OPERATOR
12 SHALL INSTALL THE REGISTRATION NUMBER ISSUED BY THE DEPARTMENT
13 IN A LEGIBLE, CONSPICUOUS AND PERMANENT MANNER ON THE WELL
14 WITHIN 60 DAYS OF ISSUANCE.

15 (D) DEFINITION.--FOR PURPOSES OF SUBSECTION (A) (4) AND (5),
16 THE TERM "OWNER" DOES NOT INCLUDE AN OWNER OR POSSESSOR OF
17 SURFACE REAL PROPERTY, ON WHICH AN ABANDONED WELL IS LOCATED,
18 WHO DID NOT PARTICIPATE OR INCUR COSTS IN, AND HAD NO RIGHT OF
19 CONTROL OVER, THE DRILLING OR EXTRACTION OPERATION OF THE
20 ABANDONED WELL.

21 § 3214. INACTIVE STATUS.

22 (A) GENERAL RULE.--UPON APPLICATION, THE DEPARTMENT SHALL
23 GRANT INACTIVE STATUS FOR A PERIOD OF FIVE YEARS FOR A PERMITTED
24 OR REGISTERED WELL, IF THE FOLLOWING REQUIREMENTS ARE MET:

25 (1) THE CONDITION OF THE WELL IS SUFFICIENT TO PREVENT
26 DAMAGE TO THE PRODUCING ZONE OR CONTAMINATION OF FRESH WATER
27 OR OTHER NATURAL RESOURCES OR SURFACE LEAKAGE OF ANY
28 SUBSTANCE;

29 (2) THE CONDITION OF THE WELL IS SUFFICIENT TO STOP THE
30 VERTICAL FLOW OF FLUIDS OR GAS WITHIN THE WELL BORE AND IS

1 ADEQUATE TO PROTECT FRESHWATER AQUIFERS, UNLESS THE
2 DEPARTMENT DETERMINES THE WELL POSES A THREAT TO THE HEALTH
3 AND SAFETY OF PERSONS OR PROPERTY OR TO THE ENVIRONMENT;

4 (3) THE OPERATOR ANTICIPATES CONSTRUCTION OF A PIPELINE
5 OR FUTURE USE OF THE WELL FOR PRIMARY OR ENHANCED RECOVERY,
6 GAS STORAGE, APPROVED DISPOSAL OR OTHER APPROPRIATE USES
7 RELATED TO OIL AND GAS WELL PRODUCTION; AND

8 (4) THE APPLICANT SATISFIES THE BONDING REQUIREMENTS OF
9 SECTIONS 3213 (RELATING TO WELL REGISTRATION AND
10 IDENTIFICATION) AND 3225 (RELATING TO BONDING), EXCEPT THAT
11 THE DEPARTMENT MAY REQUIRE ADDITIONAL FINANCIAL SECURITY FOR
12 A WELL ON WHICH AN ALTERNATIVE FEE IS BEING PAID IN LIEU OF
13 BONDING UNDER SECTION 3225 (D).

14 (B) MONITORING.--THE OWNER OR OPERATOR OF A WELL GRANTED
15 INACTIVE STATUS SHALL BE RESPONSIBLE FOR MONITORING THE
16 MECHANICAL INTEGRITY OF THE WELL TO ENSURE THAT THE REQUIREMENTS
17 OF SUBSECTION (A) (1) AND (2) ARE MET AND SHALL REPORT THE SAME
18 ON AN ANNUAL BASIS TO THE DEPARTMENT IN THE MANNER AND FORM
19 PRESCRIBED BY DEPARTMENTAL REGULATIONS.

20 (C) (RESERVED).

21 (D) RETURN TO ACTIVE STATUS.--A WELL GRANTED INACTIVE STATUS
22 UNDER SUBSECTION (A) SHALL BE PLUGGED IN ACCORDANCE WITH SECTION
23 3220 (RELATING TO PLUGGING REQUIREMENTS) OR RETURNED TO ACTIVE
24 STATUS WITHIN FIVE YEARS OF THE DATE INACTIVE STATUS WAS
25 GRANTED, UNLESS THE OWNER OR OPERATOR APPLIES FOR AN EXTENSION
26 OF INACTIVE STATUS WHICH MAY BE GRANTED ON A YEAR-TO-YEAR BASIS
27 IF THE DEPARTMENT DETERMINES THAT THE OWNER OR OPERATOR HAS
28 DEMONSTRATED ABILITY TO CONTINUE MEETING THE REQUIREMENTS OF
29 THIS SECTION AND THE OWNER OR OPERATOR CERTIFIES THAT THE WELL
30 WILL BE OF FUTURE USE WITHIN A REASONABLE PERIOD OF TIME. AN

1 OWNER OR OPERATOR WHO HAS BEEN GRANTED INACTIVE STATUS FOR A
2 WELL WHICH IS RETURNED TO ACTIVE STATUS PRIOR TO EXPIRATION OF
3 THE FIVE-YEAR PERIOD SET FORTH IN SUBSECTION (A) SHALL NOTIFY
4 THE DEPARTMENT THAT THE WELL HAS BEEN RETURNED TO ACTIVE STATUS
5 AND SHALL NOT BE PERMITTED TO APPLY FOR ANOTHER AUTOMATIC FIVE-
6 YEAR PERIOD OF INACTIVE STATUS FOR THE WELL. THE OWNER OR
7 OPERATOR MAY MAKE APPLICATION TO RETURN THE WELL TO INACTIVE
8 STATUS, AND THE APPLICATION MAY BE APPROVED ON A YEAR-TO-YEAR
9 BASIS IF THE DEPARTMENT DETERMINES THAT THE OWNER OR OPERATOR
10 HAS DEMONSTRATED AN ABILITY TO CONTINUE MEETING THE REQUIREMENTS
11 OF THIS SECTION AND THE OWNER OR OPERATOR CERTIFIES THAT THE
12 WELL WILL BE OF FUTURE USE WITHIN A REASONABLE PERIOD OF TIME.
13 THE DEPARTMENT SHALL APPROVE OR DENY AN APPLICATION TO EXTEND A
14 PERIOD OF INACTIVE STATUS OR TO RETURN A WELL TO INACTIVE STATUS
15 WITHIN 60 DAYS OF RECEIPT OF THE APPLICATION, AND THE
16 APPLICATION SHALL NOT BE UNREASONABLY DENIED. IF THE DEPARTMENT
17 HAS NOT COMPLETED ITS REVIEW OF THE APPLICATION WITHIN 60 DAYS,
18 THE INACTIVE STATUS SHALL CONTINUE UNTIL THE DEPARTMENT HAS MADE
19 A DETERMINATION ON THE REQUEST. IF THE DEPARTMENT DENIES AN
20 APPLICATION TO EXTEND THE PERIOD OF INACTIVE STATUS OR TO RETURN
21 A WELL TO INACTIVE STATUS, A WELL OWNER OR OPERATOR AGGRIEVED BY
22 THE DENIAL SHALL HAVE THE RIGHT TO APPEAL THE DENIAL TO THE
23 ENVIRONMENTAL HEARING BOARD WITHIN 30 DAYS OF RECEIPT OF THE
24 DENIAL. UPON CAUSE SHOWN BY A WELL OWNER OR OPERATOR, THE BOARD
25 MAY GRANT A SUPERSEDEAS UNDER SECTION 4 OF THE ACT OF JULY 13,
26 1988 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING BOARD
27 ACT, SO THAT THE WELL IN QUESTION MAY RETAIN INACTIVE STATUS
28 DURING THE PERIOD OF THE APPEAL.

29 (E) REVOCATION OF INACTIVE STATUS.--THE DEPARTMENT MAY
30 REVOKE INACTIVE STATUS AND ORDER IMMEDIATE PLUGGING OF A WELL IF

1 THE WELL IS IN VIOLATION OF THIS CHAPTER OR RULES OR REGULATIONS
2 PROMULGATED UNDER THIS CHAPTER OR IF THE OWNER OR OPERATOR
3 DEMONSTRATES INABILITY TO PERFORM OBLIGATIONS UNDER THIS CHAPTER
4 OR BECOMES FINANCIALLY INSOLVENT, OR UPON RECEIPT BY THE
5 DEPARTMENT OF NOTICE OF BANKRUPTCY PROCEEDINGS BY THE PERMITTEE.
6 § 3215. WELL LOCATION RESTRICTIONS.

7 (A) GENERAL RULE.--WELLS MAY NOT BE DRILLED WITHIN 200 FEET,
8 OR IN THE CASE OF AN UNCONVENTIONAL WELL WITHIN 500 FEET,
9 MEASURED HORIZONTALLY FROM ANY EXISTING BUILDING OR EXISTING
10 WATER WELL WITHOUT WRITTEN CONSENT OF THE OWNER OF THE BUILDING
11 OR WATER WELL. IF THE DISTANCE RESTRICTION WOULD DEPRIVE THE
12 OWNER OF THE OIL AND GAS RIGHTS OF THE RIGHT TO PRODUCE OR SHARE
13 IN THE OIL OR GAS UNDERLYING THE SURFACE TRACT, THE WELL
14 OPERATOR MAY BE GRANTED A VARIANCE FROM THE DISTANCE RESTRICTION
15 UPON SUBMISSION OF A PLAN IDENTIFYING THE ADDITIONAL MEASURES,
16 FACILITIES OR PRACTICES TO BE EMPLOYED DURING WELL SITE
17 CONSTRUCTION, DRILLING AND OPERATIONS. THE VARIANCE, IF GRANTED,
18 SHALL INCLUDE ADDITIONAL TERMS AND CONDITIONS REQUIRED BY THE
19 DEPARTMENT TO ENSURE SAFETY AND PROTECTION OF AFFECTED PERSONS
20 AND PROPERTY, INCLUDING INSURANCE, BONDING, INDEMNIFICATION AND
21 TECHNICAL REQUIREMENTS.

22 (B) LIMITATION.--NO WELL SITE MAY BE PREPARED OR WELL
23 DRILLED WITHIN 100 FEET, OR IN THE CASE OF AN UNCONVENTIONAL
24 WELL WITHIN 300 FEET, MEASURED HORIZONTALLY FROM ANY STREAM,
25 SPRING OR BODY OF WATER AS IDENTIFIED ON THE MOST CURRENT 7 1/2
26 MINUTE TOPOGRAPHIC QUADRANGLE MAP OF THE UNITED STATES
27 GEOLOGICAL SURVEY OR WITHIN 100 FEET OF ANY WETLANDS GREATER
28 THAN ONE ACRE IN SIZE. NO UNCONVENTIONAL WELL MAY BE LOCATED
29 WITHIN 1,000 FEET FROM A PUBLIC WATER SUPPLY SOURCE AS DEFINED
30 IN THE SAFE DRINKING WATER ACT (PUBLIC LAW 93-523, 21 U.S.C. §

1 349 AND 42 U.S.C. §§ 201 AND 300F ET SEQ.). THE DEPARTMENT MAY
2 WAIVE THE DISTANCE RESTRICTIONS UPON SUBMISSION OF A PLAN
3 IDENTIFYING ADDITIONAL MEASURES, FACILITIES OR PRACTICES TO BE
4 EMPLOYED DURING WELL SITE CONSTRUCTION, DRILLING AND OPERATIONS.
5 THE WAIVER, IF GRANTED, SHALL IMPOSE PERMIT CONDITIONS NECESSARY
6 TO PROTECT THE WATERS OF THE COMMONWEALTH.

7 (C) IMPACT.--ON MAKING A DETERMINATION ON A WELL PERMIT, THE
8 DEPARTMENT SHALL CONSIDER AND MAY DENY OR CONDITION A WELL
9 PERMIT BASED ON THE IMPACT OF THE PROPOSED WELL ON PUBLIC
10 RESOURCES, INCLUDING, BUT NOT LIMITED TO:

11 (1) PUBLICLY OWNED PARKS, FORESTS, GAME LANDS AND
12 WILDLIFE AREAS.

13 (2) NATIONAL OR STATE SCENIC RIVERS.

14 (3) NATIONAL NATURAL LANDMARKS.

15 (4) HABITATS OF RARE AND ENDANGERED FLORA AND FAUNA AND
16 OTHER CRITICAL COMMUNITIES.

17 (5) HISTORICAL AND ARCHAEOLOGICAL SITES LISTED ON THE
18 FEDERAL OR STATE LIST OF HISTORIC PLACES.

19 (6) SOURCES USED FOR PUBLIC DRINKING WATER SUPPLIES.

20 (7) WHETHER THE PROPOSED WELL LOCATION IS WITHIN A
21 FLOODPLAIN.

22 (D) ADDITIONAL PROTECTIVE MEASURES.--THE DEPARTMENT MAY
23 ESTABLISH ADDITIONAL PROTECTIVE MEASURES FOR STORAGE OF
24 HAZARDOUS CHEMICALS AND MATERIALS INTENDED TO BE USED, OR THAT
25 HAVE BEEN USED, ON AN UNCONVENTIONAL WELL DRILLING SITE WITHIN
26 750 FEET OF A STREAM, SPRING OR BODY OF WATER IDENTIFIED ON THE
27 MOST CURRENT 7 1/2 MINUTE TOPOGRAPHIC QUADRANGLE MAP OF THE
28 UNITED STATES GEOLOGICAL SURVEY.

29 § 3216. WELL SITE RESTORATION.

30 (A) GENERAL RULE.--EACH OIL OR GAS WELL OWNER OR OPERATOR

1 SHALL RESTORE THE LAND SURFACE WITHIN THE AREA DISTURBED IN
2 SITING, DRILLING, COMPLETING AND PRODUCING THE WELL.

3 (B) PLAN.--DURING AND AFTER EARTHMOVING OR SOIL DISTURBING
4 ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, ACTIVITIES RELATED TO
5 SITING, DRILLING, COMPLETING, PRODUCING AND PLUGGING THE WELL,
6 EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE IMPLEMENTED
7 IN ACCORDANCE WITH AN EROSION AND SEDIMENTATION CONTROL PLAN
8 PREPARED IN ACCORDANCE WITH THE ACT OF JUNE 22, 1937 (P.L.1987,
9 NO.394), KNOWN AS THE CLEAN STREAMS LAW.

10 (C) PITS, DRILLING SUPPLIES AND EQUIPMENT.--WITHIN NINE
11 MONTHS AFTER COMPLETION OF DRILLING OF A WELL, THE OWNER OR
12 OPERATOR SHALL RESTORE THE WELL SITE, REMOVE OR FILL ALL PITS
13 USED TO CONTAIN PRODUCED FLUIDS OR INDUSTRIAL WASTES AND REMOVE
14 ALL DRILLING SUPPLIES AND EQUIPMENT NOT NEEDED FOR PRODUCTION.
15 DRILLING SUPPLIES AND EQUIPMENT NOT NEEDED FOR PRODUCTION MAY BE
16 STORED ON THE WELL SITE IF EXPRESS WRITTEN CONSENT OF THE
17 SURFACE LANDOWNER IS OBTAINED.

18 (D) ITEMS RELATED TO PRODUCTION OR STORAGE.--WITHIN NINE
19 MONTHS AFTER PLUGGING A WELL, THE OWNER OR OPERATOR SHALL REMOVE
20 ALL PRODUCTION OR STORAGE FACILITIES, SUPPLIES AND EQUIPMENT AND
21 RESTORE THE WELL SITE.

22 (E) CLEAN STREAMS LAW.--RESTORATION ACTIVITIES REQUIRED BY
23 THIS CHAPTER OR IN REGULATIONS PROMULGATED UNDER THIS CHAPTER
24 SHALL ALSO COMPLY WITH ALL APPLICABLE PROVISIONS OF THE CLEAN
25 STREAMS LAW.

26 (F) VIOLATION OF CHAPTER.--FAILURE TO RESTORE THE WELL SITE
27 AS REQUIRED IN THIS CHAPTER OR REGULATIONS PROMULGATED UNDER
28 THIS CHAPTER CONSTITUTES A VIOLATION OF THIS CHAPTER.

29 (G) EXTENSION.--THE RESTORATION PERIOD MAY BE EXTENDED BY
30 THE DEPARTMENT FOR AN ADDITIONAL SIX MONTHS UPON APPLICATION OF

1 THE WELL OWNER OR OPERATOR UPON EVIDENCE OF INABILITY TO COMPLY
2 DUE TO ADVERSE WEATHER CONDITIONS OR LACK OF ESSENTIAL FUEL,
3 EQUIPMENT OR LABOR.

4 § 3217. PROTECTION OF FRESH GROUNDWATER AND CASING
5 REQUIREMENTS.

6 (A) GENERAL RULE.--TO AID IN PROTECTION OF FRESH
7 GROUNDWATER, WELL OPERATORS SHALL CONTROL AND DISPOSE OF BRINES
8 PRODUCED FROM THE DRILLING, ALTERATION OR OPERATION OF AN OIL OR
9 GAS WELL IN A MANNER CONSISTENT WITH THE ACT OF JUNE 22, 1937
10 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, OR ANY RULE
11 OR REGULATION PROMULGATED UNDER THE CLEAN STREAMS LAW.

12 (B) CASING.--TO PREVENT MIGRATION OF GAS OR FLUIDS INTO
13 SOURCES OF FRESH GROUNDWATER AND POLLUTION OR DIMINUTION OF
14 FRESH GROUNDWATER, A STRING OR STRINGS OF CASING SHALL BE RUN
15 AND PERMANENTLY CEMENTED IN EACH WELL DRILLED THROUGH THE FRESH
16 WATER-BEARING STRATA TO A DEPTH AND IN A MANNER PRESCRIBED BY
17 REGULATION BY THE DEPARTMENT.

18 (C) PROCEDURE WHEN COAL HAS BEEN REMOVED.--IF A WELL IS
19 DRILLED AT A LOCATION WHERE COAL HAS BEEN REMOVED FROM ONE OR
20 MORE COAL SEAMS, THE WELL SHALL BE DRILLED AND CASED TO PREVENT
21 MIGRATION OF GAS OR FLUIDS INTO THE SEAM FROM WHICH COAL HAS
22 BEEN REMOVED, IN A MANNER PRESCRIBED BY REGULATION OF THE
23 DEPARTMENT. THE DEPARTMENT AND THE COAL OPERATOR, OWNER OR
24 LESSEE SHALL BE GIVEN AT LEAST 72 HOURS' NOTICE PRIOR TO
25 COMMENCEMENT OF WORK PROTECTING THE MINE.

26 (D) PROCEDURE WHEN COAL HAS NOT BEEN REMOVED.--IF A WELL IS
27 DRILLED AT A LOCATION WHERE THE COAL SEAM HAS NOT BEEN REMOVED,
28 THE WELL SHALL BE DRILLED TO A DEPTH AND OF A SIZE SUFFICIENT TO
29 PERMIT PLACEMENT OF CASING, PACKERS IN AND VENTS ON THE HOLE AT
30 THE POINTS AND IN THE MANNER PRESCRIBED BY REGULATION TO EXCLUDE

1 GAS OR FLUIDS FROM THE COAL SEAM, EXCEPT GAS OR FLUIDS FOUND
2 NATURALLY IN THE SEAM ITSELF, AND TO ENABLE MONITORING THE
3 INTEGRITY OF THE PRODUCTION CASING.

4 § 3218. PROTECTION OF WATER SUPPLIES.

5 (A) GENERAL RULE.--IN ADDITION TO THE REQUIREMENTS OF
6 SUBSECTION (C.1), A WELL OPERATOR WHO AFFECTS A PUBLIC OR
7 PRIVATE WATER SUPPLY BY POLLUTION OR DIMINUTION SHALL RESTORE OR
8 REPLACE THE AFFECTED SUPPLY WITH AN ALTERNATE SOURCE OF WATER
9 ADEQUATE IN QUANTITY OR QUALITY FOR THE PURPOSES SERVED BY THE
10 SUPPLY. THE DEPARTMENT SHALL ENSURE THE RESTORED OR REPLACED
11 WATER SUPPLY MEETS THE APPLICABLE WATER QUALITY STANDARDS
12 CONSISTENT WITH THE SAFE DRINKING WATER ACT (PUBLIC LAW 93-523,
13 21 U.S.C. § 349 AND 42 U.S.C. §§ 201 AND 300F ET SEQ.), THE ACT
14 OF MAY 1, 1984 (P.L.206, NO.43), KNOWN AS THE PENNSYLVANIA SAFE
15 DRINKING WATER ACT, AND PREDRILLING OR ALTERATION WATER QUANTITY
16 STANDARDS AS DETERMINED BY THE DEPARTMENT. THE ENVIRONMENTAL
17 QUALITY BOARD SHALL PROMULGATE REGULATIONS NECESSARY TO MEET THE
18 REQUIREMENTS OF THIS SUBSECTION.

19 (B) POLLUTION OR DIMINUTION OF WATER SUPPLY.--A LANDOWNER OR
20 WATER PURVEYOR SUFFERING POLLUTION OR DIMINUTION OF A WATER
21 SUPPLY AS A RESULT OF THE DRILLING, ALTERATION OR OPERATION OF
22 AN OIL OR GAS WELL MAY SO NOTIFY THE DEPARTMENT AND REQUEST THAT
23 AN INVESTIGATION BE CONDUCTED. WITHIN TEN DAYS OF NOTIFICATION,
24 THE DEPARTMENT SHALL INVESTIGATE THE CLAIM AND MAKE A
25 DETERMINATION WITHIN 45 DAYS FOLLOWING NOTIFICATION. IF THE
26 DEPARTMENT FINDS THAT THE POLLUTION OR DIMINUTION WAS CAUSED BY
27 DRILLING, ALTERATION OR OPERATION ACTIVITIES OR IF IT PRESUMES
28 THE WELL OPERATOR RESPONSIBLE FOR POLLUTION UNDER SUBSECTION
29 (C), THE DEPARTMENT SHALL ISSUE ORDERS TO THE WELL OPERATOR
30 NECESSARY TO ASSURE COMPLIANCE WITH SUBSECTION (A), INCLUDING

1 ORDERS REQUIRING TEMPORARY REPLACEMENT OF A WATER SUPPLY WHERE
2 IT IS DETERMINED THAT POLLUTION OR DIMINUTION MAY BE OF LIMITED
3 DURATION.

4 (B.1) TOLL-FREE TELEPHONE NUMBER.--THE DEPARTMENT SHALL
5 ESTABLISH A SINGLE STATEWIDE TOLL-FREE TELEPHONE NUMBER THAT
6 PERSONS MAY USE TO REPORT CASES OF WATER CONTAMINATION. THE
7 STATEWIDE TOLL-FREE TELEPHONE NUMBER SHALL BE PROVIDED IN A
8 CONSPICUOUS MANNER IN THE NOTIFICATION REQUIRED UNDER SECTION
9 3211(B.1) (RELATING TO WELL PERMITS) AND ON THE DEPARTMENT'S
10 INTERNET WEBSITE.

11 (B.2) RESPONSES TO CALLS.--THE DEPARTMENT SHALL DEVELOP
12 APPROPRIATE ADMINISTRATIVE RESPONSES TO CALLS RECEIVED ON THE
13 STATEWIDE TOLL-FREE TELEPHONE NUMBER FOR WATER CONTAMINATION.

14 (C) PRESUMPTION.--UNLESS REBUTTED BY A DEFENSE ESTABLISHED
15 IN SUBSECTION (D), IT SHALL BE PRESUMED THAT A WELL OPERATOR IS
16 RESPONSIBLE FOR POLLUTION OF A WATER SUPPLY THAT IS WITHIN 1,000
17 FEET, OR IN THE CASE OF AN UNCONVENTIONAL WELL WITHIN 3,000
18 FEET, OF AN OIL OR GAS WELL, IF POLLUTION OCCURRED WITHIN 12
19 MONTHS AFTER STIMULATION OR ALTERATION OF THE WELL.

20 (C.1) REQUIREMENT.--IF THE AFFECTED WATER SUPPLY IS WITHIN
21 THE REBUTTABLE PRESUMPTION AREA AS PROVIDED IN SUBSECTION (C)
22 AND THE REBUTTABLE PRESUMPTION APPLIES AND THE WATER USER IS
23 WITHOUT A READILY AVAILABLE ALTERNATIVE SOURCE OF WATER, THE
24 OPERATOR SHALL PROVIDE A TEMPORARY WATER SUPPLY. THE TEMPORARY
25 WATER SUPPLY PROVIDED UNDER THIS SUBSECTION SHALL BE ADEQUATE IN
26 QUANTITY AND QUALITY FOR THE PURPOSES SERVED BY THE SUPPLY.

27 (D) DEFENSES.--TO REBUT THE PRESUMPTION ESTABLISHED UNDER
28 SUBSECTION (C), A WELL OPERATOR MUST AFFIRMATIVELY PROVE ANY OF
29 THE FOLLOWING:

30 (1) THE POLLUTION EXISTED PRIOR TO THE DRILLING,

1 STIMULATION OR ALTERATION ACTIVITIES AS DETERMINED BY A
2 PREDRILLING OR PREALTERATION SURVEY.

3 (2) THE LANDOWNER OR WATER PURVEYOR REFUSED TO ALLOW THE
4 OPERATOR ACCESS TO CONDUCT A PREDRILLING OR PREALTERATION
5 SURVEY.

6 (3) THE WATER SUPPLY IS NOT WITHIN 1,000 FEET, OR IN THE
7 CASE OF AN UNCONVENTIONAL WELL WITHIN 3,000 FEET, OF THE
8 WELL.

9 (4) THE POLLUTION OCCURRED MORE THAN 12 MONTHS AFTER
10 DRILLING, STIMULATION OR ALTERATION ACTIVITIES.

11 (5) THE POLLUTION OCCURRED AS THE RESULT OF A CAUSE
12 OTHER THAN THE DRILLING, STIMULATION OR ALTERATION ACTIVITY.

13 (E) INDEPENDENT CERTIFIED LABORATORY.--AN OPERATOR ELECTING
14 TO PRESERVE A DEFENSE UNDER SUBSECTION (D) (1) OR (2) SHALL
15 RETAIN AN INDEPENDENT CERTIFIED LABORATORY TO CONDUCT A
16 PREDRILLING OR PREALTERATION SURVEY OF THE WATER SUPPLY. A COPY
17 OF SURVEY RESULTS SHALL BE SUBMITTED TO THE DEPARTMENT AND THE
18 LANDOWNER OR WATER PURVEYOR IN THE MANNER PRESCRIBED BY THE
19 DEPARTMENT.

20 (F) OTHER REMEDIES PRESERVED.--NOTHING IN THIS SECTION SHALL
21 PREVENT A LANDOWNER OR WATER PURVEYOR CLAIMING POLLUTION OR
22 DIMINUTION OF A WATER SUPPLY FROM SEEKING ANY OTHER REMEDY AT
23 LAW OR IN EQUITY.

24 (G) FACILITY OPERATION QUALIFICATIONS.--THE DEPARTMENT SHALL
25 ENSURE THAT A FACILITY WHICH SEEKS A NATIONAL POLLUTANT
26 DISCHARGE ELIMINATION SYSTEM PERMIT FOR THE PURPOSES OF TREATING
27 AND DISCHARGING WASTEWATER ORIGINATING FROM OIL AND GAS
28 ACTIVITIES INTO WATERS OF THIS COMMONWEALTH IS OPERATED BY A
29 COMPETENT AND QUALIFIED INDIVIDUAL.

30 § 3218.1. CONTAINMENT FOR UNCONVENTIONAL WELLS.

1 (A) SITES.--UNCONVENTIONAL WELL PAD SITES SHALL BE DESIGNED
2 AND CONSTRUCTED TO PREVENT SPILLS TO THE GROUND SURFACE OR
3 SPILLS OFF THE WELL PAD AREA. CONTAINMENT PRACTICES SHALL MEET
4 ALL OF THE FOLLOWING:

5 (1) BE INSTITUTED ON THE PAD DURING BOTH DRILLING AND
6 HYDRAULIC FRACTURING OPERATIONS.

7 (2) BE SUFFICIENTLY IMPERVIOUS AND ABLE TO CONTAIN
8 SPIILLED MATERIAL OR WASTE UNTIL IT CAN BE REMOVED OR TREATED.

9 (3) BE COMPATIBLE WITH THE WASTE MATERIAL OR WASTE
10 STORED OR USED WITHIN THE CONTAINMENT.

11 (B) PLAN.--THE APPLICANT SHALL SUBMIT A PLAN TO THE
12 DEPARTMENT DESCRIBING THE CONTAINMENT PRACTICES TO BE UTILIZED
13 AND THE AREA OF THE WELL PAD WHERE CONTAINMENT SYSTEMS WILL BE
14 EMPLOYED. THE PLAN SHALL INCLUDE A DESCRIPTION OF THE EQUIPMENT
15 TO BE KEPT ONSITE DURING DRILLING AND HYDRAULIC FRACTURING
16 OPERATIONS TO PREVENT A SPILL FROM LEAVING THE WELL PAD.

17 (C) MATERIALS STORED.--CONTAINMENT SYSTEMS SHALL BE USED
18 WHEREVER ANY OF THE FOLLOWING ARE STORED:

19 (1) DRILLING MUD.

20 (2) HYDRAULIC OIL.

21 (3) DIESEL FUEL.

22 (4) DRILLING MUD ADDITIVES.

23 (5) HYDRAULIC FRACTURING ADDITIVES.

24 (6) HYDRAULIC FRACTURING FLOWBACK.

25 (D) CAPACITY.--AREAS WHERE ANY ADDITIVES, CHEMICALS, OILS OR
26 FUELS ARE TO BE STORED MUST HAVE SUFFICIENT CONTAINMENT CAPACITY
27 TO HOLD THE VOLUME OF THE LARGEST CONTAINER STORED IN THE AREA
28 PLUS 10% TO ALLOW FOR PRECIPITATION, UNLESS THE CONTAINER IS
29 EQUIPPED WITH INDIVIDUAL SECONDARY CONTAINMENT.

30 § 3218.2. TRANSPORTATION RECORDS REGARDING WASTEWATER FLUIDS.

1 (A) REQUIREMENTS.--A WELL OPERATOR THAT TRANSPORTS
2 WASTEWATER FLUIDS SHALL DO ALL OF THE FOLLOWING:

3 (1) MAINTAIN RECORDS FOR FIVE YEARS, IN ACCORDANCE WITH
4 REGULATIONS UNDER SUBSECTION (B) AND ON A FORM APPROVED BY
5 THE DEPARTMENT, OF THE AMOUNT AND DESTINATION OF THE FLUIDS
6 TRANSPORTED.

7 (2) MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT UPON
8 REQUEST.

9 (B) RECORDKEEPING.--RECORDKEEPING REQUIREMENTS SHALL BE
10 DETERMINED BY THE DEPARTMENT AND SHALL INCLUDE THE FOLLOWING:

11 (1) THE NUMBER OF GALLONS OF WASTEWATER FLUIDS PRODUCED
12 IN THE DRILLING, STIMULATION OR ALTERATION OF A WELL.

13 (2) UPON COMPLETION OF THE WELL, THE NAME OF THE PERSON
14 OR COMPANY THAT TRANSPORTED THE WASTEWATER FLUIDS TO A
15 DISPOSAL SITE OR TO A LOCATION OTHER THAN THE WELL SITE.

16 (3) EACH LOCATION WHERE WASTEWATER FLUIDS WERE DISPOSED
17 OF OR TRANSPORTED AND THE VOLUMES THAT WERE DISPOSED OF AT
18 THE LOCATION.

19 (4) THE METHOD OF DISPOSAL.

20 § 3218.3. EMERGENCY RESPONSE INFORMATION.

21 THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY AND THE
22 DEPARTMENT SHALL ADOPT EMERGENCY REGULATIONS DIRECTING THE
23 OPERATORS OF ALL UNCONVENTIONAL WELLS TO DO ALL OF THE
24 FOLLOWING:

25 (1) ADOPT A UNIQUE GPS COORDINATE ADDRESS FOR EACH
26 UNCONVENTIONAL WELL AT BOTH THE ACCESS ROAD ENTRANCE AND WELL
27 PAD SITE.

28 (2) REGISTER THAT ADDRESS WITH THE AGENCY, THE
29 DEPARTMENT AND THE COUNTY EMERGENCY MANAGEMENT ORGANIZATION
30 WITHIN THE COUNTY WHERE THE UNCONVENTIONAL WELL IS LOCATED.

1 (3) REQUIRE THE DEVELOPMENT OF AN EMERGENCY RESPONSE
2 PLAN AND FILE THAT PLAN WITH THE AGENCY, THE DEPARTMENT AND
3 THE COUNTY EMERGENCY MANAGEMENT ORGANIZATION WITH
4 JURISDICTION OVER THE UNCONVENTIONAL WELL. THE COUNTY SHALL
5 DISSEMINATE THE GPS ADDRESS AND EMERGENCY RESPONSE PLAN TO
6 THE LOCAL EMERGENCY MANAGEMENT ORGANIZATION IN WHICH THE
7 UNCONVENTIONAL WELL IS LOCATED.

8 (4) POST A REFLECTIVE SIGN AT THE ENTRANCE TO EACH WELL
9 SITE WITH THE SPECIFIC ADDRESS OF THAT SITE, THE COORDINATES
10 FOR THE SITE, THE EMERGENCY CONTACT NUMBER FOR THE OPERATOR
11 AND ANY OTHER INFORMATION AS THE AGENCY OR THE DEPARTMENT
12 DEEMS NECESSARY.

13 § 3219. USE OF SAFETY DEVICES.

14 ANY PERSON ENGAGED IN DRILLING AN OIL OR GAS WELL SHALL EQUIP
15 IT WITH CASINGS OF SUFFICIENT STRENGTH, AND OTHER SAFETY DEVICES
16 AS ARE NECESSARY, IN THE MANNER PRESCRIBED BY REGULATION OF THE
17 DEPARTMENT, AND SHALL USE EVERY EFFORT AND ENDEAVOR EFFECTIVELY
18 TO PREVENT BLOWOUTS, EXPLOSIONS AND FIRES.

19 § 3220. PLUGGING REQUIREMENTS.

20 (A) GENERAL RULE.--UPON ABANDONING A WELL, THE OWNER OR
21 OPERATOR SHALL PLUG IT IN THE MANNER PRESCRIBED BY REGULATION OF
22 THE DEPARTMENT TO STOP VERTICAL FLOW OF FLUIDS OR GAS WITHIN THE
23 WELL BORE, UNLESS THE DEPARTMENT HAS GRANTED INACTIVE STATUS FOR
24 THE WELL OR IT HAS BEEN APPROVED BY THE DEPARTMENT AS AN ORPHAN
25 WELL. IF THE DEPARTMENT DETERMINES THAT A PRIOR OWNER OR
26 OPERATOR RECEIVED ECONOMIC BENEFIT, OTHER THAN ECONOMIC BENEFIT
27 DERIVED ONLY AS A LANDOWNER OR FROM A ROYALTY INTEREST, AFTER
28 APRIL 18, 1979, FROM AN ORPHAN WELL OR AN UNREGISTERED WELL, THE
29 OWNER OR OPERATOR SHALL BE RESPONSIBLE FOR PLUGGING THE WELL. IN
30 THE CASE OF A GAS WELL PENETRATING A WORKABLE COAL SEAM WHICH

1 WAS DRILLED PRIOR TO JANUARY 30, 1956, OR WHICH WAS PERMITTED
2 AFTER THAT DATE BUT NOT PLUGGED IN ACCORDANCE WITH THIS CHAPTER,
3 IF THE OWNER OR OPERATOR OR A COAL OPERATOR OR AN AGENT PROPOSES
4 TO PLUG THE WELL TO ALLOW MINING THROUGH OF IT, THE GAS WELL
5 SHALL BE CLEANED TO A DEPTH OF AT LEAST 200 FEET BELOW THE COAL
6 SEAM THROUGH WHICH MINING IS PROPOSED AND, UNLESS IMPRACTICABLE,
7 TO A POINT 200 FEET BELOW THE DEEPEST MINEABLE COAL SEAM. THE
8 GAS WELL SHALL BE PLUGGED FROM THAT DEPTH IN ACCORDANCE WITH
9 SECTION 13 OF THE ACT OF DECEMBER 18, 1984 (P.L.1069, NO.214),
10 KNOWN AS THE COAL AND GAS RESOURCE COORDINATION ACT, AND THE
11 REGULATIONS OF THE DEPARTMENT.

12 (B) AREAS UNDERLAIN BY COAL.--PRIOR TO THE PLUGGING AND
13 ABANDONMENT OF A WELL IN AN AREA UNDERLAIN BY A WORKABLE COAL
14 SEAM, THE WELL OPERATOR OR OWNER SHALL NOTIFY THE DEPARTMENT AND
15 THE COAL OPERATOR, LESSEE OR OWNER AND SUBMIT A PLAT, ON A FORM
16 TO BE FURNISHED BY THE DEPARTMENT, SHOWING THE LOCATION OF THE
17 WELL AND FIXING THE DATE AND TIME PLUGGING WILL COMMENCE, WHICH
18 SHALL BE NOT LESS THAN THREE WORKING DAYS, NOR MORE THAN 30
19 DAYS, AFTER THE NOTICE IS RECEIVED, TO PERMIT REPRESENTATIVES OF
20 THE PERSONS NOTIFIED TO BE PRESENT AT THE PLUGGING. NOTICE AND
21 THE RIGHT TO BE PRESENT MAY BE WAIVED BY THE DEPARTMENT AND THE
22 COAL OPERATOR, LESSEE OR OWNER, BUT WAIVER BY COAL OPERATOR,
23 LESSEE OR OWNER SHALL BE IN WRITING AND A COPY SHALL BE ATTACHED
24 TO THE NOTICE OF ABANDONMENT FILED WITH THE DEPARTMENT UNDER
25 THIS SECTION. WHETHER OR NOT REPRESENTATIVES ATTEND, IF THE WELL
26 OPERATOR HAS FULLY COMPLIED WITH THIS SECTION, THE WELL OPERATOR
27 MAY PROCEED, AT THE TIME FIXED, TO PLUG THE WELL IN THE MANNER
28 PRESCRIBED BY REGULATION OF THE DEPARTMENT. WHEN PLUGGING HAS
29 BEEN COMPLETED, A CERTIFICATE SHALL BE PREPARED AND SIGNED, ON A
30 FORM TO BE FURNISHED BY THE DEPARTMENT, BY TWO EXPERIENCED AND

1 QUALIFIED PEOPLE WHO PARTICIPATED IN THE WORK SETTING FORTH THE
2 TIME AND MANNER IN WHICH THE WELL WAS PLUGGED. ONE COPY OF THE
3 CERTIFICATE SHALL BE MAILED TO EACH COAL OPERATOR, LESSEE OR
4 OWNER TO WHOM NOTICE WAS GIVEN BY CERTIFIED MAIL AND ANOTHER
5 SHALL BE MAILED TO THE DEPARTMENT.

6 (C) ABANDONED WELLS.--PRIOR TO ABANDONMENT OF A WELL, EXCEPT
7 AN UNCOMPLETED BORE HOLE PLUGGED IMMEDIATELY UPON SUSPENSION OF
8 DRILLING IN AN AREA NOT UNDERLAIN BY A WORKABLE COAL SEAM, THE
9 WELL OPERATOR SHALL NOTIFY THE DEPARTMENT OF THE INTENTION TO
10 PLUG AND ABANDON THE WELL AND SUBMIT A PLAT, ON A FORM TO BE
11 FURNISHED BY THE DEPARTMENT, SHOWING THE LOCATION OF THE WELL
12 AND FIXING THE DATE AND TIME AT WHICH PLUGGING WILL COMMENCE,
13 WHICH SHALL BE NOT LESS THAN THREE WORKING DAYS, NOR MORE THAN
14 30 DAYS, AFTER THE NOTICE IS RECEIVED, TO PERMIT A DEPARTMENT
15 REPRESENTATIVE TO BE PRESENT AT THE PLUGGING. THE NOTICE OR
16 WAITING PERIOD MAY BE VERBALLY WAIVED BY THE DEPARTMENT. IN
17 NONCOAL AREAS WHERE MORE THAN ONE WELL HAS BEEN DRILLED AS PART
18 OF THE SAME DEVELOPMENT PROJECT AND THE WELLS ARE NOW TO BE
19 PLUGGED, THE DEPARTMENT SHALL BE GIVEN THREE WORKING DAYS'
20 NOTICE PRIOR TO PLUGGING THE FIRST WELL OF THE PROJECT, SUBJECT
21 TO WAIVER OF NOTICE DESCRIBED IN SUBSECTION (B). IN THE PLUGGING
22 OF SUBSEQUENT WELLS, NO ADDITIONAL NOTICE SHALL BE REQUIRED IF
23 PLUGGING ON THE PROJECT IS CONTINUOUS. IF PLUGGING OF SUBSEQUENT
24 WELLS IS DELAYED FOR ANY REASON, NOTICE SHALL BE GIVEN TO THE
25 DEPARTMENT OF CONTINUATION OF THE PROJECT. WHETHER OR NOT A
26 REPRESENTATIVE ATTENDS, IF THE WELL OPERATOR HAS FULLY COMPLIED
27 WITH THIS SECTION, THE WELL OPERATOR MAY PROCEED, AT THE TIME
28 FIXED, TO PLUG THE WELL IN THE MANNER PRESCRIBED BY REGULATION
29 OF THE DEPARTMENT. WHEN PLUGGING HAS BEEN COMPLETED, A
30 CERTIFICATE SHALL BE PREPARED, ON A FORM TO BE FURNISHED BY THE

1 DEPARTMENT, BY TWO EXPERIENCED AND QUALIFIED PEOPLE WHO
2 PARTICIPATED IN THE WORK SETTING FORTH THE TIME AND MANNER IN
3 WHICH THE WELL WAS PLUGGED. A COPY OF THE CERTIFICATE SHALL BE
4 MAILED TO THE DEPARTMENT.

5 (D) WELLS ABANDONED UPON COMPLETION OF DRILLING.--IF A WELL
6 IS TO BE ABANDONED IMMEDIATELY AFTER COMPLETION OF DRILLING, THE
7 WELL OPERATOR SHALL GIVE AT LEAST 24 HOURS' NOTICE BY TELEPHONE,
8 CONFIRMED BY CERTIFIED MAIL, TO THE DEPARTMENT AND TO THE COAL
9 OPERATOR, LESSEE OR OWNER, IF ANY, FIXING THE DATE AND TIME WHEN
10 PLUGGING WILL COMMENCE. NOTICE AND THE RIGHT TO BE PRESENT MAY
11 BE WAIVED BY THE DEPARTMENT AND THE COAL OPERATOR, LESSEE OR
12 OWNER, IF ANY. WHETHER OR NOT REPRESENTATIVES OF THE DEPARTMENT
13 OR COAL OPERATOR, LESSEE OR OWNER, IF ANY, ATTEND, IF THE WELL
14 OPERATOR HAS FULLY COMPLIED WITH THE REQUIREMENTS OF THIS
15 SECTION, THE WELL OPERATOR MAY PROCEED, AT THE TIME FIXED, TO
16 PLUG THE WELL IN THE MANNER PROVIDED BY REGULATION OF THE
17 DEPARTMENT. THE WELL OPERATOR SHALL PREPARE THE CERTIFICATE OF
18 PLUGGING AND MAIL COPIES OF THE SAME AS PROVIDED IN SUBSECTION
19 (B).

20 (E) ORPHAN WELLS.--IF A WELL IS AN ORPHAN WELL OR ABANDONED
21 WITHOUT PLUGGING, OR IF A WELL IS IN OPERATION BUT NOT
22 REGISTERED UNDER SECTION 3213 (RELATING TO WELL REGISTRATION AND
23 IDENTIFICATION), THE DEPARTMENT MAY ENTER UPON THE WELL SITE AND
24 PLUG THE WELL AND TO SELL EQUIPMENT, CASING AND PIPE AT THE SITE
25 WHICH MAY HAVE BEEN USED IN PRODUCTION OF THE WELL IN ORDER TO
26 RECOVER THE COSTS OF PLUGGING. THE DEPARTMENT SHALL MAKE AN
27 EFFORT TO DETERMINE OWNERSHIP OF A WELL WHICH IS IN OPERATION
28 BUT HAS NOT BEEN REGISTERED AND PROVIDE WRITTEN NOTICE TO THE
29 OWNER OF PENDING ACTION UNDER THIS SUBSECTION. IF THE DEPARTMENT
30 CANNOT DETERMINE OWNERSHIP WITHIN 30 DAYS, IT MAY PROCEED UNDER

1 THIS SUBSECTION. COSTS OF PLUGGING SHALL HAVE PRIORITY OVER ALL
2 LIENS ON EQUIPMENT, CASING AND PIPE, AND THE SALE SHALL BE FREE
3 AND CLEAR OF THOSE LIENS TO THE EXTENT THAT THE COST OF PLUGGING
4 EXCEEDS THE SALE PRICE. IF THE AMOUNT OBTAINED FOR CASING AND
5 PIPE SALVAGED AT THE SITE IS INADEQUATE TO PAY FOR PLUGGING, THE
6 OWNER OR OPERATOR OF THE ABANDONED OR UNREGISTERED WELL SHALL BE
7 LIABLE FOR THE ADDITIONAL COSTS.

8 (F) DEFINITION.--FOR PURPOSES OF THIS SECTION, THE TERM
9 "OWNER" DOES NOT INCLUDE THE OWNER OR POSSESSOR OF SURFACE REAL
10 PROPERTY, ON WHICH AN ABANDONED WELL IS LOCATED, WHO DID NOT
11 PARTICIPATE OR INCUR COSTS IN AND HAD NO RIGHT OF CONTROL OVER
12 THE DRILLING OR EXTRACTION OPERATION OF THE ABANDONED WELL.

13 § 3221. ALTERNATIVE METHODS.

14 A WELL OPERATOR MAY REQUEST PERMISSION TO USE A METHOD OR
15 MATERIAL OTHER THAN THOSE REQUIRED BY THIS CHAPTER FOR CASING,
16 PLUGGING OR EQUIPPING A WELL IN AN APPLICATION TO THE DEPARTMENT
17 WHICH DESCRIBES THE PROPOSED ALTERNATIVE IN REASONABLE DETAIL
18 AND INDICATES THE MANNER IN WHICH IT WILL ACCOMPLISH THE GOALS
19 OF THIS CHAPTER. NOTICE OF FILING OF THE APPLICATION SHALL BE
20 GIVEN BY THE WELL OPERATOR BY CERTIFIED MAIL TO ANY AFFECTED
21 COAL OPERATORS, WHO MAY, WITHIN 15 DAYS AFTER THE NOTICE, FILE
22 OBJECTIONS TO THE PROPOSED ALTERNATIVE METHOD OR MATERIAL. IF NO
23 TIMELY OBJECTIONS ARE FILED OR RAISED BY THE DEPARTMENT, THE
24 DEPARTMENT SHALL DETERMINE WHETHER TO ALLOW USE OF THE PROPOSED
25 ALTERNATIVE METHOD OR MATERIAL.

26 § 3222. WELL REPORTING REQUIREMENTS.

27 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (A.1),
28 EACH WELL OPERATOR SHALL FILE WITH THE DEPARTMENT, ON A FORM
29 PROVIDED BY THE DEPARTMENT, AN ANNUAL REPORT SPECIFYING THE
30 AMOUNT OF PRODUCTION, ON THE MOST WELL-SPECIFIC BASIS AVAILABLE,

1 ALONG WITH THE STATUS OF EACH WELL, EXCEPT THAT IN SUBSEQUENT
2 YEARS ONLY CHANGES IN STATUS MUST BE REPORTED. THE COMMONWEALTH
3 MAY UTILIZE REPORTED INFORMATION IN ENFORCEMENT PROCEEDINGS, IN
4 MAKING DESIGNATIONS OR DETERMINATIONS UNDER SECTION 1927-A OF
5 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
6 ADMINISTRATIVE CODE OF 1929, OR IN AGGREGATE FORM FOR
7 STATISTICAL PURPOSES.

8 (A.1) UNCONVENTIONAL WELLS.--EACH OPERATOR OF A WELL WHICH
9 PRODUCES GAS FROM AN UNCONVENTIONAL WELL SHALL FILE WITH THE
10 DEPARTMENT, ON A FORM PROVIDED BY THE DEPARTMENT, A SEMIANNUAL
11 REPORT SPECIFYING THE AMOUNT OF PRODUCTION ON THE MOST WELL-
12 SPECIFIC BASIS AVAILABLE. THE INITIAL REPORT UNDER THIS
13 SUBSECTION SHALL BE FILED ON OR BEFORE AUGUST 15, 2010, AND
14 SHALL INCLUDE PRODUCTION DATA FROM THE PRECEDING CALENDAR YEAR
15 AND SPECIFY THE STATUS OF EACH WELL. IN SUBSEQUENT REPORTS, ONLY
16 CHANGES IN STATUS MUST BE REPORTED. SUBSEQUENT SEMIANNUAL
17 REPORTS SHALL BE FILED WITH THE DEPARTMENT ON OR BEFORE FEBRUARY
18 15 AND AUGUST 15 OF EACH YEAR AND SHALL INCLUDE PRODUCTION DATA
19 FROM THE PRECEDING REPORTING PERIOD. THE COMMONWEALTH MAY
20 UTILIZE REPORTED INFORMATION IN ENFORCEMENT PROCEEDINGS, IN
21 MAKING DESIGNATIONS OR DETERMINATIONS UNDER SECTION 1927-A OF
22 THE ADMINISTRATIVE CODE OF 1929 OR IN AGGREGATE FORM FOR
23 STATISTICAL PURPOSES. BEGINNING NOVEMBER 1, 2010, THE DEPARTMENT
24 SHALL MAKE THE REPORTS AVAILABLE ON ITS PUBLICLY ACCESSIBLE
25 INTERNET WEBSITE. COSTS INCURRED BY THE DEPARTMENT TO COMPLY
26 WITH THE REQUIREMENTS OF THIS SUBSECTION SHALL BE PAID OUT OF
27 THE FEES COLLECTED UNDER SECTION 3211(D) (RELATING TO WELL
28 PERMITS).

29 (B) COLLECTION OF DATA.--WELL OPERATORS SHALL MAINTAIN A
30 RECORD OF EACH WELL DRILLED OR ALTERED. A RECORD CONTAINING THE

1 INFORMATION REQUIRED BY THE DEPARTMENT, INCLUDING THE
2 INFORMATION REQUIRED UNDER SUBSECTION (B.1), SHALL BE FILED
3 WITHIN 30 DAYS AFTER STIMULATION OF THE WELL. A COMPLETION
4 REPORT CONTAINING ANY ADDITIONAL REQUIRED INFORMATION SHALL BE
5 FILED WITHIN 30 DAYS AFTER THE STIMULATION OF THE WELL AND SHALL
6 BE KEPT ON FILE BY THE DEPARTMENT. UPON REQUEST OF THE
7 DEPARTMENT, THE WELL OPERATOR SHALL, WITHIN 90 DAYS OF
8 COMPLETION OR RECOMPLETION OF DRILLING, SUBMIT A COPY OF ANY
9 ELECTRICAL, RADIOACTIVE OR OTHER STANDARD INDUSTRY LOGS WHICH
10 HAVE BEEN RUN AND, UPON REQUEST BY THE DEPARTMENT WITHIN ONE
11 YEAR, A COPY OF DRILL STEM TEST CHARTS, FORMATION WATER
12 ANALYSIS, POROSITY, PERMEABILITY OR FLUID SATURATION
13 MEASUREMENTS, CORE ANALYSIS AND LITHOLOGIC LOG OR SAMPLE
14 DESCRIPTION OR OTHER SIMILAR DATA AS COMPILED. NO INFORMATION
15 SHALL BE REQUIRED UNLESS THE WELL OPERATOR HAD IT COMPILED IN
16 THE ORDINARY COURSE OF BUSINESS, AND INTERPRETATION OF DATA IS
17 NOT REQUIRED TO BE FILED.

18 (B.1) REPORT CONTENTS.--THE COMPLETION REPORT SHALL CONTAIN
19 THE OPERATOR'S STIMULATION RECORD WHICH SHALL INCLUDE THE
20 FOLLOWING:

21 (1) A DESCRIPTIVE LIST OF THE CHEMICAL ADDITIVES IN THE
22 STIMULATION FLUIDS, INCLUDING ANY ACID, BIOCIDES, BREAKERS,
23 BRINE, CORROSION INHIBITORS, CROSSLINKERS, DEMULSIFIERS,
24 FRICTION REDUCERS, GELS, IRON CONTROLS, OXYGEN SCAVENGERS, PH
25 ADJUSTING AGENTS, PROPPANTS, SCALE INHIBITORS AND SURFACTANTS.

26 (2) THE PERCENT BY VOLUME OF EACH CHEMICAL ADDITIVE IN
27 THE STIMULATION FLUID.

28 (3) A LIST OF THE CHEMICALS IN THE MATERIAL SAFETY DATA
29 SHEETS, BY NAME AND CHEMICAL ABSTRACT SERVICE NUMBER,
30 CORRESPONDING TO THE APPROPRIATE CHEMICAL ADDITIVE.

1 (4) THE PERCENT BY VOLUME OF EACH CHEMICAL LIST IN THE
2 MATERIAL SAFETY DATA SHEETS.

3 (5) THE TOTAL VOLUME OF THE BASE FLUID.

4 (6) A LIST OF WATER SOURCES USED UNDER THE APPROVED
5 WATER MANAGEMENT PLAN AND THE VOLUME OF WATER USED.

6 (7) THE PUMP RATES AND PRESSURE USED IN THE WELL.

7 (8) THE TOTAL VOLUME OF RECYCLED WATER USED.

8 (B.2) TRADE SECRET OR CONFIDENTIAL PROPRIETARY
9 INFORMATION.--WHEN AN OPERATOR SUBMITS ITS STIMULATION RECORD
10 UNDER SUBSECTION (B.1), IT MAY DESIGNATE SPECIFIC PORTIONS OF
11 THE STIMULATION RECORD AS CONTAINING A TRADE SECRET OR
12 CONFIDENTIAL PROPRIETARY INFORMATION. THE DEPARTMENT SHALL
13 PREVENT DISCLOSURE OF THE DESIGNATED CONFIDENTIAL INFORMATION TO
14 THE EXTENT PERMITTED BY THE ACT OF FEBRUARY 14, 2008 (P.L.6,
15 NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, OR OTHER FEDERAL OR STATE
16 LAW.

17 (B.3) LIST OF THE CHEMICAL CONSTITUENTS.--IN ADDITION TO
18 SUBMITTING A STIMULATION RECORD TO THE DEPARTMENT UNDER
19 SUBSECTION (B.1) AND SUBJECT TO THE PROTECTIONS AFFORDED FOR
20 TRADE SECRETS AND CONFIDENTIAL PROPRIETARY INFORMATION UNDER THE
21 RIGHT-TO-KNOW LAW, THE OPERATOR SHALL PROVIDE A LIST OF THE
22 CHEMICAL CONSTITUENTS OF THE CHEMICAL ADDITIVES USED TO
23 HYDRAULICALLY FRACTURE A WELL, BY NAME AND CHEMICAL ABSTRACT
24 SERVICE NUMBER, UNLESS THE ADDITIVE DOES NOT HAVE A NUMBER, TO
25 THE DEPARTMENT UPON WRITTEN REQUEST OF THE DEPARTMENT.

26 (C) DRILL CUTTINGS AND CORE SAMPLES.--UPON NOTIFICATION BY
27 THE DEPARTMENT PRIOR TO COMMENCEMENT OF DRILLING, THE WELL
28 OPERATOR SHALL COLLECT ANY ADDITIONAL DATA SPECIFIED BY THE
29 DEPARTMENT, INCLUDING REPRESENTATIVE DRILL CUTTINGS AND SAMPLES
30 FROM CORES TAKEN AND ANY OTHER GEOLOGICAL INFORMATION THAT THE

1 OPERATOR REASONABLY CAN COMPILE. INTERPRETATION OF THE DATA IS
2 NOT REQUIRED TO BE FILED.

3 (D) RETENTION OF DATA.--DATA REQUIRED UNDER SUBSECTION (B)
4 AND DRILL CUTTINGS REQUIRED UNDER SUBSECTION (C) SHALL BE
5 RETAINED BY THE WELL OPERATOR AND FILED WITH THE DEPARTMENT NO
6 MORE THAN THREE YEARS AFTER COMPLETION OF THE WELL. UPON
7 REQUEST, THE DEPARTMENT SHALL EXTEND THE DEADLINE UP TO FIVE
8 YEARS FROM THE DATE OF COMPLETION OF THE WELL. THE DEPARTMENT
9 SHALL BE ENTITLED TO UTILIZE INFORMATION COLLECTED UNDER THIS
10 SUBSECTION IN ENFORCEMENT PROCEEDINGS, IN MAKING DESIGNATIONS OR
11 DETERMINATIONS UNDER SECTION 1927-A OF THE ADMINISTRATIVE CODE
12 OF 1929 AND IN AGGREGATE FORM FOR STATISTICAL PURPOSES.

13 § 3223. NOTIFICATION AND EFFECT OF WELL TRANSFER.

14 THE OWNER OR OPERATOR OF A WELL SHALL NOTIFY THE DEPARTMENT
15 IN WRITING WITHIN 30 DAYS, IN A FORM DIRECTED BY REGULATION, OF
16 SALE, ASSIGNMENT, TRANSFER, CONVEYANCE OR EXCHANGE BY OR TO THE
17 OWNER OF THE WELL. A TRANSFER SHALL NOT RELIEVE THE WELL OWNER
18 OR OPERATOR OF AN OBLIGATION ACCRUED UNDER THIS CHAPTER, NOR
19 SHALL IT RELIEVE THE OWNER OR OPERATOR OF AN OBLIGATION TO PLUG
20 THE WELL UNTIL THE REQUIREMENTS OF SECTION 3225 (RELATING TO
21 BONDING) HAVE BEEN MET, AT WHICH TIME THE TRANSFERRING OWNER OR
22 OPERATOR SHALL BE RELIEVED FROM ALL OBLIGATIONS UNDER THIS
23 CHAPTER, INCLUDING THE OBLIGATION TO PLUG THE WELL.

24 § 3224. COAL OPERATOR RESPONSIBILITIES.

25 (A) GENERAL RULE.--AT ANY TIME PRIOR TO REMOVING COAL OR
26 OTHER UNDERGROUND MATERIALS FROM, OR EXTENDING THE WORKINGS IN,
27 A COAL MINE WITHIN 500 FEET OF AN OIL OR GAS WELL OF WHICH THE
28 COAL OPERATOR HAS KNOWLEDGE, OR WITHIN 500 FEET OF AN APPROVED
29 WELL LOCATION OF WHICH THE COAL OPERATOR HAS KNOWLEDGE, THE COAL
30 OPERATOR, BY CERTIFIED MAIL, SHALL FORWARD TO OR FILE WITH THE

1 WELL OPERATOR AND THE DEPARTMENT A COPY OF THE RELEVANT PART OF
2 ALL MAPS AND PLANS WHICH IT IS PRESENTLY REQUIRED BY LAW TO
3 PREPARE AND FILE WITH THE DEPARTMENT, SHOWING THE PILLAR WHICH
4 THE COAL OPERATOR PROPOSES TO LEAVE IN PLACE AROUND EACH OIL OR
5 GAS WELL IN THE PROJECTED WORKINGS. THEREAFTER, THE COAL
6 OPERATOR MAY PROCEED WITH MINING OPERATIONS IN THE MANNER
7 PROJECTED ON THE MAPS AND PLANS, BUT THE OPERATOR MAY NOT REMOVE
8 COAL OR CUT A PASSAGEWAY WITHIN 150 FEET OF THE WELL OR APPROVED
9 WELL LOCATION WITHOUT WRITTEN APPROVAL UNDER THIS SECTION. IF,
10 IN THE OPINION OF THE WELL OPERATOR OR THE DEPARTMENT, THE PLAN
11 INDICATES THAT THE PROPOSED PILLAR IS INADEQUATE TO PROTECT
12 EITHER THE INTEGRITY OF THE WELL OR PUBLIC HEALTH AND SAFETY,
13 THE AFFECTED WELL OPERATOR SHALL ATTEMPT TO REACH AN AGREEMENT
14 WITH THE COAL OPERATOR ON A SUITABLE PILLAR, SUBJECT TO APPROVAL
15 OF THE DEPARTMENT. UPON FAILURE TO AGREE, THE WELL OPERATOR MAY,
16 WITHIN TEN DAYS AFTER RECEIPT OF THE PROPOSED PLAN UNDER THIS
17 SECTION, FILE OBJECTIONS UNDER SECTION 3251 (RELATING TO
18 CONFERENCES), INDICATING THE SIZE OF THE PILLAR TO BE LEFT AS TO
19 EACH WELL. IF OBJECTIONS ARE NOT TIMELY FILED AND THE DEPARTMENT
20 HAS NONE, THE DEPARTMENT SHALL GRANT APPROVAL, RECITING THAT
21 MAPS AND PLANS HAVE BEEN FILED, NO OBJECTIONS HAVE BEEN MADE
22 THERE TO AND THE PILLAR PROPOSED TO BE LEFT FOR EACH WELL IS
23 APPROVED IN THE MANNER AS PROJECTED.

24 (B) OBJECTIONS.--IF AN OBJECTION IS FILED BY THE WELL
25 OPERATOR OR RAISED BY THE DEPARTMENT, THE DEPARTMENT SHALL ORDER
26 THAT A CONFERENCE BE HELD UNDER SECTION 3251 WITHIN TEN DAYS OF
27 THE FILING OF OBJECTIONS. AT THE CONFERENCE, THE COAL OPERATOR
28 AND THE PERSON WHO HAS OBJECTED SHALL ATTEMPT TO AGREE ON A
29 PROPOSED PLAN, SHOWING THE PILLAR TO BE LEFT AROUND EACH WELL,
30 WHICH WILL SATISFY THE OBJECTIONS AND RECEIVE DEPARTMENT

1 APPROVAL. IF AN AGREEMENT IS REACHED, THE DEPARTMENT SHALL GRANT
2 APPROVAL TO THE COAL OPERATOR, RECITING THAT A PLAN HAS BEEN
3 FILED AND THE PILLAR TO BE LEFT FOR EACH WELL IS APPROVED
4 PURSUANT TO THE AGREEMENT. IF AN AGREEMENT IS NOT REACHED ON A
5 PLAN SHOWING THE PILLAR TO BE LEFT WITH RESPECT TO A WELL, THE
6 DEPARTMENT, BY APPROPRIATE ORDER, SHALL DETERMINE THE PILLAR TO
7 BE LEFT WITH RESPECT TO THE WELL. IN A PROCEEDING UNDER THIS
8 SECTION, THE DEPARTMENT SHALL FOLLOW AS NEARLY AS IS POSSIBLE
9 THE ORIGINAL PLAN FILED BY THE COAL OPERATOR. THE DEPARTMENT
10 SHALL NOT REQUIRE THE COAL OPERATOR TO LEAVE A PILLAR IN EXCESS
11 OF 100 FEET IN RADIUS, EXCEPT THAT THE DEPARTMENT MAY REQUIRE A
12 PILLAR OF UP TO 150 FEET IN RADIUS IF THE EXISTENCE OF UNUSUAL
13 CONDITIONS IS ESTABLISHED. PILLARS DETERMINED BY THE DEPARTMENT
14 SHALL BE SHOWN ON MAPS OR PLANS ON FILE WITH THE DEPARTMENT AS
15 PROVIDED IN SUBSECTION (A) AND THE DEPARTMENT SHALL APPROVE THE
16 PILLAR TO BE LEFT FOR EACH WELL.

17 (C) PILLARS OF REDUCED SIZE.--APPLICATION MAY BE MADE AT ANY
18 TIME TO THE DEPARTMENT BY THE COAL OPERATOR TO LEAVE A PILLAR OF
19 A SIZE SMALLER THAN SHOWN ON THE PLAN APPROVED OR DETERMINED BY
20 THE DEPARTMENT UNDER THIS SECTION. IF AN APPLICATION IS FILED,
21 THE DEPARTMENT SHALL:

22 (1) FOLLOW THE APPROPRIATE PROCEDURE UNDER SUBSECTION
23 (A) OR (B);

24 (2) BY APPROPRIATE ORDER, DETERMINE A PLAN INVOLVING A
25 PILLAR OF A SMALLER SIZE AS TO ANY WELL COVERED BY THE
26 APPLICATION; AND

27 (3) GRANT APPROVAL FOR THE PILLAR TO BE LEFT WITH
28 RESPECT TO EACH WELL.

29 (D) VIOLATION.--NO COAL OPERATOR, WITHOUT WRITTEN APPROVAL
30 OF THE DEPARTMENT AFTER NOTICE AND OPPORTUNITY FOR A HEARING

1 UNDER THIS SECTION, SHALL REMOVE COAL OR CUT A PASSAGEWAY SO AS
2 TO LEAVE A PILLAR OF SMALLER SIZE, WITH RESPECT TO AN OIL OR GAS
3 WELL, THAN THAT APPROVED BY THE DEPARTMENT UNDER THIS CHAPTER.

4 (E) LIMITATION.--WITH REGARD TO A COAL PILLAR REQUIRED BY
5 LAW TO BE LEFT AROUND A WELL DRILLED PRIOR TO APRIL 18, 1985,
6 NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO:

7 (1) REQUIRE A WELL OPERATOR TO PAY FOR THE COAL PILLAR;

8 (2) AFFECT A RIGHT WHICH A COAL OPERATOR MAY HAVE HAD
9 PRIOR TO APRIL 18, 1985, TO OBTAIN PAYMENT FOR THE COAL
10 PILLAR; OR

11 (3) AFFECT A DUTY OR RIGHT WHICH A STORAGE OPERATOR OR
12 LANDOWNER MAY HAVE HAD PRIOR TO APRIL 18, 1985, TO PAY OR NOT
13 PAY FOR THE COAL PILLAR.

14 (F) MINING THROUGH PLUGGED WELLS.--A COAL OPERATOR WHO
15 INTENDS TO MINE THROUGH A PLUGGED OIL OR GAS WELL OR OTHERWISE
16 COMPLETELY REMOVE ANY PILLAR FROM AROUND THAT WELL SHALL FILE A
17 PLAN UNDER SUBSECTION (A) WHICH SHALL BE SUBJECT TO ALL OF THE
18 PROVISIONS OF THIS SECTION. NO COAL OPERATOR MAY MINE THROUGH A
19 PLUGGED OIL OR GAS WELL OF WHICH HE HAS KNOWLEDGE UNTIL WRITTEN
20 APPROVAL HAS BEEN GRANTED BY THE DEPARTMENT IN ACCORDANCE WITH
21 THIS SECTION. THE BUREAU OF DEEP MINE SAFETY IN THE DEPARTMENT
22 SHALL HAVE THE AUTHORITY TO ESTABLISH CONDITIONS UNDER WHICH THE
23 DEPARTMENT MAY APPROVE A COAL OPERATOR'S PLAN TO MINE THROUGH A
24 PLUGGED OIL OR GAS WELL.

25 § 3225. BONDING.

26 (A) GENERAL RULE.--THE FOLLOWING SHALL APPLY:

27 (1) EXCEPT AS PROVIDED IN SUBSECTION (D), UPON FILING AN
28 APPLICATION FOR A WELL PERMIT, AND BEFORE CONTINUING TO
29 OPERATE AN OIL OR GAS WELL, THE OWNER OR OPERATOR OF THE WELL
30 SHALL FILE WITH THE DEPARTMENT A BOND COVERING THE WELL AND

1 WELL SITE ON A FORM TO BE PRESCRIBED AND FURNISHED BY THE
2 DEPARTMENT. A BOND FILED WITH AN APPLICATION FOR A WELL
3 PERMIT SHALL BE PAYABLE TO THE COMMONWEALTH AND CONDITIONED
4 UPON THE OPERATOR'S FAITHFUL PERFORMANCE OF ALL DRILLING,
5 WATER SUPPLY REPLACEMENT, RESTORATION AND PLUGGING
6 REQUIREMENTS OF THIS CHAPTER. A BOND FOR A WELL IN EXISTENCE
7 ON APRIL 18, 1985, SHALL BE PAYABLE TO THE COMMONWEALTH AND
8 CONDITIONED UPON THE OPERATOR'S FAITHFUL PERFORMANCE OF ALL
9 WATER SUPPLY REPLACEMENT, RESTORATION AND PLUGGING
10 REQUIREMENTS OF THIS CHAPTER. THE AMOUNT OF THE BOND REQUIRED
11 SHALL BE IN THE FOLLOWING AMOUNTS AND SHALL BE ADJUSTED BY
12 THE ENVIRONMENTAL QUALITY BOARD EVERY THREE YEARS TO REFLECT
13 THE PROJECTED COSTS TO THE COMMONWEALTH OF PLUGGING THE WELL:

14 (I) FOR A WELL WHICH IS LESS THAN 6,000 FEET IN
15 DEPTH AND WHICH IS PERMITTED PRIOR TO THE EFFECTIVE DATE
16 OF THIS SECTION, \$2,500. THE OPERATOR SHALL NOT BE
17 REQUIRED TO PROVIDE A BOND UNDER THIS PARAGRAPH WHICH
18 EXCEEDS \$25,000. THE BOND AMOUNT MAY BE ADJUSTED BY THE
19 ENVIRONMENTAL QUALITY BOARD EVERY TWO YEARS TO REFLECT
20 THE PROJECTED COSTS TO THE COMMONWEALTH OF PERFORMING
21 WELL PLUGGING.

22 (II) FOR A WELL WHICH IS LESS THAN 6,000 FEET IN
23 BORE LENGTH AND WHICH IS PERMITTED AFTER THE EFFECTIVE
24 DATE OF THIS SECTION, \$3,500. THE OPERATOR SHALL NOT BE
25 REQUIRED TO PROVIDE A BOND UNDER THIS PARAGRAPH WHICH
26 EXCEEDS \$40,000.

27 (III) FOR WELLS WITH A TOTAL WELL BORE LENGTH
28 GREATER THAN 6,000 FEET:

29 (A) FOR OPERATING UP TO 25 WELLS, \$10,000 PER
30 WELL, PROVIDED THE OPERATOR MAY NOT BE REQUIRED TO

1 PROVIDE A BOND UNDER THIS SECTION EXCEEDING \$120,000.

2 (B) FOR OPERATING 26 TO 50 WELLS, \$120,000 PLUS
3 \$10,000 PER WELL FOR EACH WELL IN EXCESS OF 25 WELLS,
4 PROVIDED THE OPERATOR MAY NOT BE REQUIRED TO PROVIDE
5 A BOND UNDER THIS SECTION EXCEEDING \$240,000.

6 (C) FOR OPERATING 51 TO 150 WELLS, \$240,000 PLUS
7 \$10,000 PER WELL FOR EACH WELL IN EXCESS OF 50 WELLS,
8 PROVIDED THE OPERATOR MAY NOT BE REQUIRED TO PROVIDE
9 A BOND UNDER THIS SECTION EXCEEDING \$360,000.

10 (D) FOR OPERATING MORE THAN 150 WELLS, \$360,000
11 PLUS \$10,000 PER WELL FOR EACH WELL IN EXCESS OF 150
12 WELLS, PROVIDED THE OPERATOR MAY NOT BE REQUIRED TO
13 PROVIDE A BOND UNDER THIS SECTION EXCEEDING \$500,000.

14 (2) IN LIEU OF INDIVIDUAL BONDS FOR EACH WELL, AN OWNER
15 OR OPERATOR MAY FILE A BLANKET BOND, FOR THE APPROPRIATE
16 AMOUNT AS INDICATED UNDER PARAGRAPH (1), ON A FORM PREPARED
17 BY THE DEPARTMENT, COVERING ALL OF ITS WELLS IN THIS
18 COMMONWEALTH, AS ENUMERATED ON THE BOND FORM.

19 (3) LIABILITY UNDER THE BOND SHALL CONTINUE UNTIL THE
20 WELL HAS BEEN PROPERLY PLUGGED IN ACCORDANCE WITH THIS
21 CHAPTER AND FOR A PERIOD OF ONE YEAR AFTER FILING OF THE
22 CERTIFICATE OF PLUGGING WITH THE DEPARTMENT. EACH BOND SHALL
23 BE EXECUTED BY THE OPERATOR AND A CORPORATE SURETY LICENSED
24 TO DO BUSINESS IN THIS COMMONWEALTH AND APPROVED BY THE
25 SECRETARY. IN LIEU OF A CORPORATE SURETY, THE OPERATOR MAY
26 DEPOSIT WITH THE DEPARTMENT:

27 (I) CASH;

28 (II) CERTIFICATES OF DEPOSIT OR AUTOMATICALLY
29 RENEWABLE IRREVOCABLE LETTERS OF CREDIT, FROM FINANCIAL
30 INSTITUTIONS CHARTERED OR AUTHORIZED TO DO BUSINESS IN

1 THIS COMMONWEALTH AND REGULATED AND EXAMINED BY THE
2 COMMONWEALTH OR A FEDERAL AGENCY, WHICH MAY BE TERMINATED
3 AT THE END OF A TERM ONLY UPON 90 DAYS' PRIOR WRITTEN
4 NOTICE BY THE FINANCIAL INSTITUTION TO THE PERMITTEE AND
5 THE DEPARTMENT;

6 (III) NEGOTIABLE BONDS OF THE UNITED STATES
7 GOVERNMENT OR THE COMMONWEALTH, THE PENNSYLVANIA TURNPIKE
8 COMMISSION, THE STATE PUBLIC SCHOOL BUILDING AUTHORITY OR
9 ANY MUNICIPALITY WITHIN THE COMMONWEALTH; OR

10 (IV) UNITED STATES TREASURY BONDS ISSUED AT A
11 DISCOUNT WITHOUT A REGULAR SCHEDULE OF INTEREST PAYMENTS
12 TO MATURITY, OTHERWISE KNOWN AS ZERO COUPON BONDS, HAVING
13 A MATURITY DATE OF NOT MORE THAN TEN YEARS AFTER THE DATE
14 OF PURCHASE AND AT THE MATURITY DATE HAVING A VALUE UNDER
15 PARAGRAPH (1). THE CASH DEPOSIT, CERTIFICATE OF DEPOSIT,
16 AMOUNT OF THE IRREVOCABLE LETTER OF CREDIT OR MARKET
17 VALUE OF THE SECURITIES SHALL BE EQUAL AT LEAST TO THE
18 SUM OF THE BOND.

19 (4) THE SECRETARY SHALL, UPON RECEIPT OF A DEPOSIT OF
20 CASH, LETTERS OF CREDIT OR NEGOTIABLE BONDS, IMMEDIATELY
21 PLACE THE SAME WITH THE STATE TREASURER, WHOSE DUTY IT SHALL
22 BE TO RECEIVE AND HOLD THE SAME IN THE NAME OF THE
23 COMMONWEALTH, IN TRUST, FOR THE PURPOSE FOR WHICH THE DEPOSIT
24 IS MADE.

25 (5) THE STATE TREASURER SHALL AT ALL TIMES BE
26 RESPONSIBLE FOR CUSTODY AND SAFEKEEPING OF DEPOSITS. THE
27 OPERATOR MAKING THE DEPOSIT SHALL BE ENTITLED FROM TIME TO
28 TIME TO DEMAND AND RECEIVE FROM THE STATE TREASURER, ON THE
29 WRITTEN ORDER OF THE SECRETARY, THE WHOLE OR ANY PORTION OF
30 COLLATERAL DEPOSITED, UPON DEPOSITING WITH THE STATE

1 TREASURER, IN LIEU OF THAT COLLATERAL, OTHER COLLATERAL OF
2 CLASSES SPECIFIED IN THIS SECTION HAVING A MARKET VALUE AT
3 LEAST EQUAL TO THE SUM OF THE BOND, AND ALSO TO DEMAND,
4 RECEIVE AND RECOVER THE INTEREST AND INCOME FROM THE
5 NEGOTIABLE BONDS AS THEY BECOME DUE AND PAYABLE.

6 (6) IF NEGOTIABLE BONDS ON DEPOSIT UNDER THIS SUBSECTION
7 MATURE OR ARE CALLED, THE STATE TREASURER, AT THE REQUEST OF
8 THE OWNER OF THE BONDS, SHALL CONVERT THEM INTO OTHER
9 NEGOTIABLE BONDS, OF CLASSES SPECIFIED IN THIS SECTION,
10 DESIGNATED BY THE OWNER.

11 (7) IF NOTICE OF INTENT TO TERMINATE A LETTER OF CREDIT
12 IS GIVEN, THE DEPARTMENT SHALL GIVE THE OPERATOR 30 DAYS'
13 WRITTEN NOTICE TO REPLACE THE LETTER OF CREDIT WITH OTHER
14 ACCEPTABLE BOND GUARANTEES AS PROVIDED IN THIS SECTION. IF
15 THE OWNER OR OPERATOR FAILS TO TIMELY REPLACE THE LETTER OF
16 CREDIT, THE DEPARTMENT SHALL DRAW UPON AND CONVERT THE LETTER
17 OF CREDIT INTO CASH AND HOLD IT AS A COLLATERAL BOND
18 GUARANTEE.

19 (B) RELEASE.--NO BOND SHALL BE FULLY RELEASED UNTIL THE
20 REQUIREMENTS OF SUBSECTION (A) AND SECTION 3223 (RELATING TO
21 NOTIFICATION AND EFFECT OF WELL TRANSFER) HAVE BEEN FULLY MET.
22 UPON RELEASE OF BONDS AND COLLATERAL UNDER THIS SECTION, THE
23 STATE TREASURER SHALL IMMEDIATELY RETURN TO THE OWNER THE
24 SPECIFIED AMOUNT OF CASH OR SECURITIES.

25 (C) NONCOMPLIANCE.--IF A WELL OWNER OR OPERATOR FAILS OR
26 REFUSES TO COMPLY WITH SUBSECTION (A), REGULATIONS PROMULGATED
27 UNDER THIS CHAPTER OR CONDITIONS OF A PERMIT RELATING TO THIS
28 CHAPTER, THE DEPARTMENT MAY DECLARE THE BOND FORFEITED AND SHALL
29 CERTIFY THE SAME TO THE ATTORNEY GENERAL, WHO SHALL PROCEED TO
30 ENFORCE AND COLLECT THE FULL AMOUNT OF THE BOND AND, IF THE WELL

1 OWNER OR OPERATOR HAS DEPOSITED CASH OR SECURITIES AS COLLATERAL
2 IN LIEU OF A CORPORATE SURETY, THE DEPARTMENT SHALL DECLARE THE
3 COLLATERAL FORFEITED AND DIRECT THE STATE TREASURER TO PAY THE
4 FULL AMOUNT OF THE FUNDS INTO THE WELL PLUGGING RESTRICTED
5 REVENUE ACCOUNT OR TO SELL THE SECURITY TO THE EXTENT FORFEITED
6 AND PAY THE PROCEEDS INTO THE WELL PLUGGING RESTRICTED REVENUE
7 ACCOUNT. IF A CORPORATE SURETY OR FINANCIAL INSTITUTION FAILS TO
8 PAY A FORFEITED BOND PROMPTLY AND IN FULL, THE CORPORATE SURETY
9 OR FINANCIAL INSTITUTION SHALL BE DISQUALIFIED FROM WRITING
10 FURTHER BONDS UNDER THIS CHAPTER OR ANY OTHER ENVIRONMENTAL LAW
11 ADMINISTERED BY THE DEPARTMENT. A PERSON AGGRIEVED BY REASON OF
12 FORFEITING THE BOND OR CONVERTING COLLATERAL, AS PROVIDED IN
13 THIS SECTION, SHALL HAVE A RIGHT TO APPEAL TO THE ENVIRONMENTAL
14 HEARING BOARD IN THE MANNER PROVIDED BY LAW. UPON FORFEITURE OF
15 A BLANKET BOND FOR A VIOLATION OCCURRING AT ONE OR MORE WELL
16 SITES, THE PERSON WHOSE BOND IS FORFEITED SHALL, WITHIN TEN DAYS
17 OF THE FORFEITURE, SUBMIT A REPLACEMENT BOND TO COVER ALL OTHER
18 WELLS OF WHICH THE PERSON IS AN OWNER OR OPERATOR. FAILURE TO
19 SUBMIT THE REPLACEMENT BOND CONSTITUTES A VIOLATION OF THIS
20 SECTION AS TO EACH OF THE WELLS OWNED OR OPERATED BY THE PERSON.

21 (D) ALTERNATIVES TO CERTAIN BONDS.--THE FOLLOWING SHALL
22 APPLY:

23 (1) AN OPERATOR OF NOT MORE THAN 200 WELLS THAT CANNOT
24 OBTAIN A BOND FOR A WELL DRILLED PRIOR TO APRIL 18, 1985, AS
25 REQUIRED UNDER SUBSECTION (A), DUE TO INABILITY TO
26 DEMONSTRATE SUFFICIENT FINANCIAL RESOURCES MAY, IN LIEU OF
27 THE BOND:

28 (I) SUBMIT TO THE DEPARTMENT A FEE IN THE AMOUNT OF
29 \$50 PER WELL, A BLANKET FEE OF \$500 FOR TEN TO 20 WELLS
30 OR A BLANKET FEE OF \$1,000 FOR MORE THAN 20 WELLS, WHICH

1 SHALL BE A NONREFUNDABLE FEE PAID EACH YEAR THAT THE
2 OPERATOR HAS NOT FILED A BOND WITH THE DEPARTMENT. ALL
3 FEEES COLLECTED IN LIEU OF A BOND UNDER THIS SUBSECTION
4 SHALL BE USED FOR THE PURPOSES AUTHORIZED BY THIS
5 CHAPTER. THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE
6 POWER, BY REGULATION, TO INCREASE THE AMOUNT OF THE FEES
7 ESTABLISHED UNDER THIS SUBSECTION.

8 (II) MAKE PHASED DEPOSITS OF COLLATERAL TO FULLY
9 COLLATERALIZE THE BOND, SUBJECT TO THE FOLLOWING:

10 (A) PAYMENT SHALL BE BASED ON THE NUMBER OF
11 WELLS OWNED OR OPERATED. THE OPERATOR SHALL MAKE AN
12 INITIAL DEPOSIT AND MAKE ANNUAL DEPOSITS IN
13 ACCORDANCE WITH THE SCHEDULE IN CLAUSE (B). INTEREST
14 ACCUMULATED BY THE COLLATERAL SHALL BECOME A PART OF
15 THE BOND UNTIL THE COLLATERAL PLUS ACCUMULATED
16 INTEREST EQUALS THE AMOUNT OF THE REQUIRED BOND. THE
17 COLLATERAL SHALL BE DEPOSITED, IN TRUST, WITH THE
18 STATE TREASURER AS PROVIDED IN THIS SUBSECTION OR
19 WITH A BANK SELECTED BY THE DEPARTMENT WHICH SHALL
20 ACT AS TRUSTEE FOR THE BENEFIT OF THE COMMONWEALTH TO
21 GUARANTEE THE OPERATOR'S COMPLIANCE WITH THE
22 DRILLING, WATER SUPPLY REPLACEMENT, RESTORATION AND
23 PLUGGING REQUIREMENTS OF THIS CHAPTER. THE OPERATOR
24 SHALL BE REQUIRED TO PAY ALL COSTS OF THE TRUST.

25 (B) AN OPERATOR OF UP TO TEN EXISTING WELLS THAT
26 DOES NOT INTEND TO OPERATE ADDITIONAL WELLS SHALL
27 DEPOSIT \$250 PER WELL AND SHALL, THEREAFTER, ANNUALLY
28 DEPOSIT \$50 PER WELL UNTIL THE OBLIGATIONS OF THIS
29 SECTION ARE FULLY MET. AN OPERATOR OF 11 TO 25 WELLS
30 OR AN OPERATOR OF UP TO TEN WELLS THAT APPLIES FOR

1 ONE OR MORE PERMITS FOR ADDITIONAL WELLS SHALL
2 DEPOSIT \$2,000 AND SHALL, THEREAFTER, ANNUALLY
3 DEPOSIT \$1,150 PLUS \$150 FOR EACH ADDITIONAL WELL TO
4 BE PERMITTED THAT YEAR UNTIL THE OBLIGATIONS OF THIS
5 SECTION ARE FULLY MET. AN OPERATOR OF 26 TO 50 WELLS
6 SHALL DEPOSIT \$3,000 AND SHALL, THEREAFTER, ANNUALLY
7 DEPOSIT \$1,300 PLUS \$400 FOR EACH ADDITIONAL WELL TO
8 BE PERMITTED THAT YEAR UNTIL THE OBLIGATIONS OF THIS
9 SECTION ARE FULLY MET. AN OPERATOR OF 51 TO 100 WELLS
10 SHALL DEPOSIT \$4,000 AND SHALL, THEREAFTER, ANNUALLY
11 DEPOSIT \$1,500 PLUS \$400 FOR EACH ADDITIONAL WELL TO
12 BE PERMITTED THAT YEAR UNTIL THE OBLIGATIONS OF THIS
13 SECTION ARE FULLY MET. OPERATORS OF 101 TO 200 WELLS
14 SHALL DEPOSIT \$8,000 AND SHALL, THEREAFTER, ANNUALLY
15 DEPOSIT \$1,600 PLUS \$1,000 FOR EACH ADDITIONAL WELL
16 TO BE PERMITTED THAT YEAR UNTIL THE OBLIGATIONS OF
17 THIS SECTION ARE FULLY MET. OPERATORS OF MORE THAN
18 200 WELLS SHALL FULLY BOND THEIR WELLS IMMEDIATELY.

19 (C) THE DEPARTMENT SHALL REDUCE THE AMOUNT OF
20 PHASED COLLATERAL PAYMENTS OR THE PERIOD OF TIME OVER
21 WHICH PHASED COLLATERAL PAYMENTS SHALL BE MADE ON
22 BEHALF OF OWNERS OR OPERATORS THAT, PRIOR TO AUGUST
23 3, 1992, HAVE PAID A FEE IN LIEU OF BOND UNDER
24 SUBPARAGRAPH (I), AND THAT, BY AUGUST 3, 1993, CHOSE
25 TO ENTER THE PHASED COLLATERAL PROGRAM UNDER THIS
26 SUBPARAGRAPH RATHER THAN CONTINUE TO MAKE PAYMENTS IN
27 LIEU OF BOND. PAYMENTS MADE PRIOR TO AUGUST 3, 1992,
28 IN LIEU OF BOND SHALL NOT BE CREDITED IN ANY OTHER
29 MANNER, AND THE DEPARTMENT SHALL NOT BE REQUIRED TO
30 REFUND THE FEES. THE ENVIRONMENTAL QUALITY BOARD, BY

1 REGULATION, MAY CHANGE THE ANNUAL DEPOSITS
2 ESTABLISHED UNDER CLAUSE (B) IF NECESSARY TO
3 ACCOMMODATE A CHANGE IN THE AMOUNT OF THE BOND
4 REQUIRED UNDER THIS SECTION.

5 (2) AN OPERATOR MAY CONTINUE TO PAY A FEE IN LIEU OF
6 BOND OR MAKE PHASED DEPOSITS OF COLLATERAL TO FULLY
7 COLLATERALIZE THE BOND SO LONG AS THE OPERATOR DOES NOT MISS
8 A PAYMENT UNDER THIS SUBSECTION AND REMAINS IN COMPLIANCE
9 WITH THIS CHAPTER. IF AN OPERATOR MISSES A PAYMENT UNDER THIS
10 SUBSECTION, THE OPERATOR SHALL IMMEDIATELY:

- 11 (I) SUBMIT THE APPROPRIATE BOND AMOUNT IN FULL; OR
12 (II) CEASE ALL OPERATIONS AND PLUG ALL WELLS.

13 (D.1) INDIVIDUALS.--THE FOLLOWING SHALL APPLY:

14 (1) AN INDIVIDUAL WHO IS UNABLE TO OBTAIN A BOND TO
15 DRILL NEW WELLS DUE TO INABILITY TO DEMONSTRATE FINANCIAL
16 RESOURCES MAY MEET THE COLLATERAL BOND REQUIREMENTS OF
17 SUBSECTION (A) BY MAKING PHASED DEPOSITS OF COLLATERAL TO
18 FULLY COLLATERALIZE THE BOND. THE INDIVIDUAL SHALL BE LIMITED
19 TO DRILLING TEN NEW WELLS PER CALENDAR YEAR AND, FOR EACH
20 WELL TO BE DRILLED, DEPOSIT \$500 AND MAKE AN ANNUAL DEPOSIT
21 OF 10% OF THE REMAINING BOND AMOUNT FOR A PERIOD OF TEN
22 YEARS. INTEREST ACCUMULATED SHALL BECOME A PART OF THE BOND
23 UNTIL THE COLLATERAL PLUS ACCUMULATED INTEREST EQUAL THE
24 AMOUNT OF THE REQUIRED BOND. THE COLLATERAL SHALL BE
25 DEPOSITED IN TRUST WITH THE STATE TREASURER UNDER SUBSECTION
26 (A) OR WITH A BANK SELECTED BY THE DEPARTMENT WHICH SHALL ACT
27 AS TRUSTEE FOR THE BENEFIT OF THE COMMONWEALTH TO GUARANTEE
28 THE INDIVIDUAL'S COMPLIANCE WITH THE DRILLING, WATER SUPPLY
29 REPLACEMENT, RESTORATION AND PLUGGING REQUIREMENTS OF THIS
30 CHAPTER. THE INDIVIDUAL SHALL PAY ALL COSTS OF THE TRUST.

1 (2) INDIVIDUALS MAY CONTINUE TO USE PHASED COLLATERAL TO
2 OBTAIN PERMITS IF THEY HAVE NOT MISSED A PAYMENT FOR A WELL
3 DRILLED UNDER THIS PROVISION AND REMAIN IN COMPLIANCE WITH
4 THIS CHAPTER. IF AN INDIVIDUAL MISSES A PAYMENT, THE
5 INDIVIDUAL SHALL:

6 (I) IMMEDIATELY SUBMIT THE APPROPRIATE BOND AMOUNT
7 IN FULL; OR

8 (II) CEASE ALL OPERATIONS AND PLUG ALL WELLS.

9 (3) FOR PURPOSES OF THIS SUBSECTION, AN "INDIVIDUAL"
10 MEANS A NATURAL PERSON DOING BUSINESS UNDER HIS OWN NAME.

11 (E) RESERVATION OF REMEDIES.--ALL REMEDIES VIOLATING THIS
12 CHAPTER, REGULATIONS ADOPTED UNDER THIS CHAPTER AND CONDITIONS
13 OF PERMITS ARE EXPRESSLY PRESERVED. NOTHING IN THIS SECTION
14 SHALL BE CONSTRUED AS AN EXCLUSIVE PENALTY OR REMEDY FOR
15 VIOLATIONS OF LAW. NO ACTION TAKEN UNDER THIS SECTION SHALL
16 WAIVE OR IMPAIR ANY OTHER REMEDY OR PENALTY PROVIDED IN LAW.

17 (F) CHANGE OF LAW.--OWNERS OR OPERATORS THAT HAVE FAILED TO
18 MEET THE REQUIREMENTS OF THIS SECTION SHALL NOT BE REQUIRED TO
19 MAKE PAYMENTS UNDER THIS SECTION ON A RETROACTIVE BASIS AS A
20 CONDITION OF OBTAINING A PERMIT UNDER THIS CHAPTER, NOR SHALL
21 THE FAILURE BE DEEMED A VIOLATION OF THIS CHAPTER.

22 § 3226. OIL AND GAS TECHNICAL ADVISORY BOARD.

23 (A) CREATION OF BOARD.--THE OIL AND GAS TECHNICAL ADVISORY
24 BOARD IS CREATED, CONSISTING OF THE FOLLOWING MEMBERS, ALL OF
25 WHOM SHALL BE CHOSEN BY THE GOVERNOR AND SHALL BE RESIDENTS OF
26 THIS COMMONWEALTH:

27 (1) THREE INDIVIDUALS, EACH OF WHOM SHALL BE:

28 (I) A PETROLEUM ENGINEER;

29 (II) A PETROLEUM GEOLOGIST; OR

30 (III) AN EXPERIENCED DRILLER REPRESENTATIVE OF THE

1 OIL AND GAS INDUSTRY WITH THREE YEARS OF EXPERIENCE IN
2 THIS COMMONWEALTH.

3 (2) ONE MINING ENGINEER FROM THE COAL INDUSTRY WITH
4 THREE YEARS OF EXPERIENCE IN THIS COMMONWEALTH.

5 (3) ONE GEOLOGIST OR PETROLEUM ENGINEER WITH THREE YEARS
6 OF EXPERIENCE IN THIS COMMONWEALTH, WHO SHALL BE CHOSEN FROM
7 A LIST OF THREE NAMES SUBMITTED BY THE CITIZENS ADVISORY
8 COUNCIL TO THE GOVERNOR AND WHO SHALL SIT AS A REPRESENTATIVE
9 OF THE PUBLIC INTEREST.

10 (B) REIMBURSEMENT.--BOARD MEMBERS SHALL NOT RECEIVE A SALARY
11 BUT SHALL BE REIMBURSED FOR ALL NECESSARY EXPENSES INCURRED IN
12 THE PERFORMANCE OF THEIR DUTIES.

13 (C) MAJORITY VOTE.--ALL ACTIONS OF THE BOARD SHALL BE BY
14 MAJORITY VOTE. THE BOARD SHALL MEET AS CALLED BY THE SECRETARY,
15 BUT NOT LESS THAN SEMIANNUALLY, TO CARRY OUT ITS DUTIES UNDER
16 THIS CHAPTER. THE BOARD SHALL SELECT A CHAIRMAN AND OTHER
17 OFFICERS DEEMED APPROPRIATE.

18 (D) CONSULTATION.--THE DEPARTMENT SHALL CONSULT WITH THE
19 BOARD IN THE FORMULATION, DRAFTING AND PRESENTATION STAGES OF
20 ALL REGULATIONS OF A TECHNICAL NATURE PROMULGATED UNDER THIS
21 CHAPTER. THE BOARD SHALL BE GIVEN A REASONABLE OPPORTUNITY TO
22 REVIEW AND COMMENT ON ALL REGULATIONS OF A TECHNICAL NATURE
23 PRIOR TO SUBMISSION TO THE ENVIRONMENTAL QUALITY BOARD FOR
24 INITIAL CONSIDERATION. THE WRITTEN REPORT OF THE BOARD SHALL BE
25 PRESENTED TO THE ENVIRONMENTAL QUALITY BOARD WITH ANY REGULATORY
26 PROPOSAL. THE CHAIRMAN OF THE BOARD SHALL BE INVITED TO
27 PARTICIPATE IN THE PRESENTATION OF ALL REGULATIONS OF A
28 TECHNICAL NATURE BEFORE THE ENVIRONMENTAL QUALITY BOARD TO THE
29 EXTENT ALLOWED BY PROCEDURES OF THE ENVIRONMENTAL QUALITY BOARD.
30 NOTHING HEREIN SHALL PRECLUDE ANY MEMBER OF THE BOARD FROM

1 FILING A PETITION FOR RULEMAKING WITH THE ENVIRONMENTAL QUALITY
2 BOARD IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE
3 ENVIRONMENTAL QUALITY BOARD.

4 SUBCHAPTER C

5 UNDERGROUND GAS STORAGE

6 SEC.

7 3231. REPORTING REQUIREMENTS FOR GAS STORAGE OPERATIONS.

8 3232. REPORTING REQUIREMENTS FOR COAL MINING OPERATIONS.

9 3233. GENERAL GAS STORAGE RESERVOIR OPERATIONS.

10 3234. GAS STORAGE RESERVOIR OPERATIONS IN COAL AREAS.

11 3235. INSPECTION OF FACILITIES AND RECORDS.

12 3236. RELIANCE ON MAPS AND BURDEN OF PROOF.

13 3237. EXEMPTIONS AND PROHIBITIONS.

14 § 3231. REPORTING REQUIREMENTS FOR GAS STORAGE OPERATIONS.

15 (A) GENERAL RULE.--THE FOLLOWING SHALL APPLY:

16 (1) A PERSON INJECTING INTO OR STORING GAS IN A STORAGE
17 RESERVOIR UNDERLYING OR WITHIN 3,000 LINEAR FEET OF A COAL
18 MINE OPERATING IN A COAL SEAM THAT EXTENDS OVER THE STORAGE
19 RESERVOIR OR RESERVOIR PROTECTIVE AREA SHALL, WITHIN 60 DAYS,
20 FILE WITH THE DEPARTMENT A COPY OF A MAP AND CERTAIN DATA IN
21 THE FORM AND MANNER PROVIDED IN THIS SUBSECTION OR AS
22 OTHERWISE PRESCRIBED BY REGULATION OF THE DEPARTMENT.

23 (2) A PERSON INJECTING GAS INTO OR STORING GAS IN A
24 STORAGE RESERVOIR WHICH IS NOT UNDER OR WITHIN 3,000 LINEAR
25 FEET OF, BUT LESS THAN 10,000 LINEAR FEET FROM, A COAL MINE
26 OPERATING IN A COAL SEAM THAT EXTENDS OVER THE STORAGE
27 RESERVOIR OR RESERVOIR PROTECTIVE AREA SHALL FILE THE MAP AND
28 DATA WITHIN 60 DAYS OR A LONGER PERIOD SET BY DEPARTMENTAL
29 REGULATION.

30 (3) A PERSON PROPOSING TO INJECT OR STORE GAS IN A

1 STORAGE RESERVOIR LOCATED AS DEFINED IN PARAGRAPH (1) OR (2)
2 SHALL FILE THE APPROPRIATE REQUIRED MAP AND DATA WITH THE
3 DEPARTMENT NOT LESS THAN SIX MONTHS PRIOR TO STARTING THE
4 ACTUAL INJECTION OR STORAGE.

5 (4) A MAP REQUIRED BY THIS SUBSECTION SHALL BE PREPARED
6 BY A COMPETENT ENGINEER OR GEOLOGIST, SHOWING:

7 (I) THE STRATUM IN WHICH THE EXISTING OR PROPOSED
8 STORAGE RESERVOIR IS OR IS PROPOSED TO BE LOCATED;

9 (II) THE GEOGRAPHIC LOCATION OF THE OUTSIDE
10 BOUNDARIES OF THE STORAGE RESERVOIR AND RESERVOIR
11 PROTECTIVE AREA;

12 (III) THE LOCATION OF ALL KNOWN OIL OR GAS WELLS IN
13 THE RESERVOIR OR WITHIN 3,000 LINEAR FEET THEREOF WHICH
14 HAVE BEEN DRILLED INTO OR THROUGH THE STORAGE STRATUM,
15 INDICATING WHICH HAVE BEEN OR ARE TO BE CLEANED OUT AND
16 PLUGGED OR RECONDITIONED FOR STORAGE ALONG WITH THE
17 PROPOSED LOCATION OF ALL ADDITIONAL WELLS WHICH ARE TO BE
18 DRILLED WITHIN THE STORAGE RESERVOIR OR WITHIN 3,000
19 LINEAR FEET THEREOF.

20 (5) THE FOLLOWING, IF AVAILABLE, SHALL BE FURNISHED FOR
21 ALL KNOWN OIL OR GAS WELLS WHICH HAVE BEEN DRILLED INTO OR
22 THROUGH THE STORAGE STRATUM WITHIN THE STORAGE RESERVOIR OR
23 WITHIN 3,000 LINEAR FEET OF THE STORAGE RESERVOIR:

24 (I) NAME OF THE OPERATOR.

25 (II) DATE DRILLED.

26 (III) TOTAL DEPTH.

27 (IV) DEPTH OF PRODUCTION IF THE WELL WAS PRODUCTIVE
28 OF OIL OR GAS.

29 (V) INITIAL ROCK PRESSURE AND VOLUME.

30 (VI) DEPTHS AT WHICH ALL COAL SEAMS WERE

1 ENCOUNTERED.

2 (VII) A COPY OF THE DRILLER'S LOG OR OTHER SIMILAR
3 INFORMATION.

4 (5.1) AT THE TIME OF THE FILING OF THE MAPS AND DATA, A
5 STATEMENT SHALL BE FILED:

6 (I) DETAILING EFFORTS MADE TO DETERMINE THAT THE
7 WELLS SHOWN ARE ACCURATELY LOCATED ON THE MAP;

8 (II) AFFIRMING THAT THE WELLS SHOWN REPRESENT, TO
9 THE BEST OF THE OPERATOR'S KNOWLEDGE, ALL OIL OR GAS
10 WELLS WHICH HAVE EVER BEEN DRILLED INTO OR BELOW THE
11 STORAGE STRATUM WITHIN THE PROPOSED STORAGE RESERVOIR OR
12 WITHIN THE RESERVOIR PROTECTIVE AREA;

13 (III) STATING WHETHER THE INITIAL INJECTION IS FOR
14 TESTING PURPOSES;

15 (IV) STATING THE MAXIMUM PRESSURE AT WHICH INJECTION
16 AND STORAGE OF GAS IS CONTEMPLATED; AND

17 (V) PROVIDING A DETAILED EXPLANATION OF THE METHODS
18 TO BE USED OR WHICH PREVIOUSLY HAVE BEEN USED IN
19 DRILLING, CLEANING OUT, RECONDITIONING AND PLUGGING WELLS
20 IN THE STORAGE RESERVOIR OR WITHIN THE RESERVOIR
21 PROTECTIVE AREA.

22 (6) THE MAP AND DATA REQUIRED TO BE FILED UNDER
23 PARAGRAPHS (5) AND (5.1) SHALL BE AMENDED OR SUPPLEMENTED
24 SEMIANNUALLY IF MATERIAL CHANGES OCCUR. THE DEPARTMENT MAY
25 REQUIRE A STORAGE OPERATOR TO AMEND OR SUPPLEMENT THE MAP OR
26 DATA AT MORE FREQUENT INTERVALS IF MATERIAL CHANGES HAVE
27 OCCURRED JUSTIFYING THE EARLIER FILING.

28 (B) OTHER REPORTING REQUIREMENTS.--A PERSON WHO IS INJECTING
29 GAS INTO OR STORING GAS IN A STORAGE RESERVOIR NOT AT THE TIME
30 SUBJECT TO SUBSECTION (A), BY A PROCESS OTHER THAN THAT OF

1 SECONDARY RECOVERY OR GAS RECYCLING, SHALL, WITHIN 60 DAYS, OR A
2 LONGER PERIOD SET BY DEPARTMENTAL REGULATIONS, FILE MAPS AND
3 DATA REQUIRED BY DEPARTMENTAL REGULATION AND AS FOLLOWS:

4 (1) A PERSON WHO, AFTER APRIL 18, 1985, PROPOSES TO
5 INJECT OR STORE GAS IN A STORAGE RESERVOIR IN AN AREA NOT
6 COVERED BY SUBSECTION (A) BY A PROCESS OTHER THAN THAT OF
7 SECONDARY RECOVERY OR GAS RECYCLING SHALL FILE THE REQUIRED
8 MAP AND DATA WITH THE DEPARTMENT NOT LESS THAN SIX MONTHS
9 PRIOR TO THE STARTING OF ACTUAL INJECTION OR STORAGE.

10 (2) THE MAP SHALL BE PREPARED BY A COMPETENT ENGINEER OR
11 COMPETENT GEOLOGIST AND SHOW:

12 (I) THE STRATUM IN WHICH THE EXISTING OR PROPOSED
13 STORAGE RESERVOIR IS OR IS TO BE LOCATED;

14 (II) THE GEOGRAPHIC LOCATION OF THE OUTSIDE
15 BOUNDARIES OF THE STORAGE RESERVOIR; AND

16 (III) THE LOCATION OF ALL KNOWN OIL OR GAS WELLS
17 WITHIN THE RESERVOIR, OR WITHIN 3,000 LINEAR FEET
18 THEREOF, WHICH HAVE BEEN DRILLED INTO OR THROUGH THE
19 STORAGE STRATUM, INDICATING WHICH HAVE BEEN OR ARE TO BE
20 CLEANED OUT AND PLUGGED OR RECONDITIONED FOR STORAGE AND
21 THE PROPOSED LOCATION OF ALL ADDITIONAL WELLS WHICH ARE
22 TO BE DRILLED WITHIN THE STORAGE RESERVOIR OR WITHIN
23 3,000 LINEAR FEET THEREOF.

24 (3) THE FOLLOWING, IF AVAILABLE, SHALL BE FURNISHED FOR
25 ALL KNOWN OIL OR GAS WELLS WHICH HAVE BEEN DRILLED INTO OR
26 THROUGH THE STORAGE STRATUM WITHIN THE STORAGE RESERVOIR OR
27 WITHIN 3,000 LINEAR FEET OF THE STORAGE RESERVOIR:

28 (I) NAME OF THE OPERATOR.

29 (II) DATE DRILLED.

30 (III) TOTAL DEPTH.

1 (IV) DEPTH OF PRODUCTION IF THE WELL WAS PRODUCTIVE
2 OF OIL OR GAS.

3 (V) INITIAL ROCK PRESSURE AND VOLUME.

4 (VI) A COPY OF THE DRILLER'S LOG OR OTHER SIMILAR
5 INFORMATION.

6 (3.1) AT THE TIME OF THE FILING OF THE MAPS AND DATA, A
7 STATEMENT SHALL BE FILED:

8 (I) DETAILING EFFORTS MADE TO DETERMINE THAT THE
9 WELLS SHOWN ARE ACCURATELY LOCATED ON THE MAP;

10 (II) AFFIRMING THAT THE WELLS SHOWN REPRESENT, TO
11 THE BEST OF THE OPERATOR'S KNOWLEDGE, ALL OIL OR GAS
12 WELLS WHICH HAVE EVER BEEN DRILLED INTO OR BELOW THE
13 STORAGE STRATUM WITHIN THE PROPOSED STORAGE RESERVOIR;

14 (III) STATING WHETHER THE INITIAL INJECTION IS FOR
15 TESTING PURPOSES;

16 (IV) STATING THE MAXIMUM PRESSURE AT WHICH INJECTION
17 AND STORAGE OF GAS IS CONTEMPLATED; AND

18 (V) PROVIDING A DETAILED EXPLANATION OF THE METHODS
19 TO BE USED OR WHICH PREVIOUSLY HAVE BEEN USED IN
20 DRILLING, CLEANING OUT, RECONDITIONING AND PLUGGING WELLS
21 IN THE STORAGE RESERVOIR.

22 (4) THE MAP AND DATA REQUIRED TO BE FILED UNDER
23 PARAGRAPHS (3) AND (3.1) SHALL BE AMENDED OR SUPPLEMENTED
24 SEMIANNUALLY IF MATERIAL CHANGES OCCUR. THE DEPARTMENT MAY
25 REQUIRE A STORAGE OPERATOR TO AMEND OR SUPPLEMENT THE MAP OR
26 DATA AT MORE FREQUENT INTERVALS IF MATERIAL CHANGES HAVE
27 OCCURRED JUSTIFYING THE EARLIER FILING.

28 (C) POLITICAL SUBDIVISIONS.--STORAGE OPERATORS SHALL GIVE
29 NOTICE TO THE DEPARTMENT OF THE NAME OF EACH POLITICAL
30 SUBDIVISION AND COUNTY IN WHICH THE OPERATOR MAINTAINS AND

1 OPERATES A GAS STORAGE RESERVOIR.

2 (D) NOTICE TO AFFECTED PERSONS.--AT THE TIME OF THE FILING
3 OF MAPS AND DATA AND THE FILING OF AMENDED OR SUPPLEMENTAL MAPS
4 OR DATA REQUIRED BY THIS SECTION, THE PERSON FILING THE
5 INFORMATION SHALL GIVE WRITTEN NOTICE OF THE FILING TO ALL
6 PERSONS WHO MAY BE AFFECTED UNDER THE PROVISIONS OF THIS CHAPTER
7 BY THE STORAGE RESERVOIR DESCRIBED IN THE MAPS OR DATA. NOTICES
8 SHALL CONTAIN A DESCRIPTION OF THE BOUNDARIES OF THE STORAGE
9 RESERVOIR. WHEN A PERSON OPERATING A COAL MINE OR OWNING AN
10 INTEREST IN COAL PROPERTIES WHICH ARE OR MAY BE AFFECTED BY THE
11 STORAGE RESERVOIR REQUESTS, IN WRITING, A COPY OF ANY MAP OR
12 DATA FILED WITH THE DEPARTMENT, THE COPY SHALL BE FURNISHED BY
13 THE STORAGE OPERATOR.

14 (E) OUTSIDE BOUNDARIES.--FOR PURPOSES OF THIS CHAPTER, THE
15 OUTSIDE BOUNDARIES OF A STORAGE RESERVOIR SHALL BE DEFINED BY
16 THE LOCATION OF THOSE WELLS AROUND THE PERIPHERY OF THE STORAGE
17 RESERVOIR WHICH HAD NO GAS PRODUCTION WHEN DRILLED IN THE
18 STORAGE STRATUM. THE BOUNDARIES SHALL BE ORIGINALLY FIXED OR
19 SUBSEQUENTLY CHANGED IF, BASED ON THE NUMBER AND NATURE OF THE
20 WELLS AND THE GEOLOGICAL AND PRODUCTION KNOWLEDGE OF THE STORAGE
21 STRATUM, ITS CHARACTER, PERMEABILITY, DISTRIBUTION AND OPERATING
22 EXPERIENCE, IT IS DETERMINED IN A CONFERENCE UNDER SECTION 3251
23 (RELATING TO CONFERENCES) THAT MODIFICATIONS SHOULD BE MADE.

24 (F) INAPPLICABILITY OF SECTION.--THE REQUIREMENTS OF THIS
25 SECTION SHALL NOT APPLY TO THE OPERATOR OF AN UNDERGROUND GAS
26 STORAGE RESERVOIR SO LONG AS THE RESERVOIR IS LOCATED MORE THAN
27 10,000 LINEAR FEET FROM AN OPERATING COAL MINE, EXCEPT THAT THE
28 STORAGE OPERATOR SHALL GIVE NOTICE TO THE DEPARTMENT OF THE NAME
29 OF EACH POLITICAL SUBDIVISION AND COUNTY IN WHICH THE OPERATOR
30 MAINTAINS AND OPERATES A GAS STORAGE RESERVOIR. IN POLITICAL

1 SUBDIVISIONS AND COUNTIES WHERE BOTH GAS STORAGE RESERVOIRS AND
2 COAL MINES ARE BEING OPERATED, THE DEPARTMENT MAY REQUEST THE
3 STORAGE OPERATOR TO FURNISH MAPS SHOWING GEOGRAPHICAL LOCATIONS
4 AND OUTSIDE BOUNDARIES OF THE STORAGE RESERVOIRS. THE DEPARTMENT
5 SHALL KEEP A RECORD OF THE INFORMATION AND PROMPTLY NOTIFY THE
6 COAL OPERATOR AND THE STORAGE OPERATOR WHEN NOTIFIED BY THEM
7 THAT THE COAL MINE AND STORAGE RESERVOIR ARE WITHIN 10,000
8 LINEAR FEET OF EACH OTHER.

9 § 3232. REPORTING REQUIREMENTS FOR COAL MINING OPERATIONS.

10 (A) GENERAL RULE.--A PERSON OWNING OR OPERATING A COAL MINE
11 SHALL FILE WITH THE DEPARTMENT A MAP PREPARED AND SEALED BY A
12 COMPETENT INDIVIDUAL LICENSED AS A PROFESSIONAL ENGINEER OR
13 PROFESSIONAL LAND SURVEYOR UNDER THE PROVISIONS OF THE ACT OF
14 MAY 23, 1945 (P.L.913, NO.367), KNOWN AS THE ENGINEER, LAND
15 SURVEYOR AND GEOLOGIST REGISTRATION LAW, SHOWING THE OUTSIDE
16 COAL BOUNDARIES OF THE OPERATING COAL MINE, THE EXISTING
17 WORKINGS AND EXHAUSTED AREAS AND THE RELATIONSHIP OF THE
18 BOUNDARIES TO IDENTIFIABLE SURFACE PROPERTIES AND LANDMARKS. A
19 PERSON OWNING OR OPERATING AN OPERATING COAL MINE WHICH HAS BEEN
20 PENETRATED BY A WELL SHALL FURNISH A MINE MAP TO THE DEPARTMENT
21 EACH YEAR INDICATING THE EXCAVATIONS FOR THE PRECEDING YEAR AND
22 THE PROJECTIONS FOR THE ENSUING YEAR. THE MAP REQUIRED BY THIS
23 SUBSECTION SHALL BE FURNISHED TO A PERSON STORING OR
24 CONTEMPLATING THE STORAGE OF GAS IN THE VICINITY OF OPERATING
25 COAL MINES SHALL, UPON WRITTEN REQUEST, BY THE COAL OPERATOR,
26 AND THE PERSON AND THE DEPARTMENT SHALL THEREAFTER BE INFORMED
27 OF ANY BOUNDARY CHANGES AT THE TIME THE CHANGES OCCUR. THE
28 DEPARTMENT SHALL KEEP A RECORD OF THE INFORMATION AND PROMPTLY
29 NOTIFY THE COAL OPERATOR AND STORAGE OPERATOR WHEN NOTIFIED BY
30 THEM THAT THE COAL MINE AND THE STORAGE RESERVOIR ARE WITHIN

1 10,000 LINEAR FEET OF EACH OTHER.

2 (B) MINES NEAR CERTAIN RESERVOIRS.--A PERSON OWNING OR
3 OPERATING ANY COAL MINE WHICH IS OR WHICH COMES WITHIN 10,000
4 LINEAR FEET OF A STORAGE RESERVOIR AND WHERE THE COAL SEAM BEING
5 OPERATED EXTENDS OVER THE STORAGE RESERVOIR OR RESERVOIR
6 PROTECTIVE AREA SHALL, WITHIN 45 DAYS AFTER RECEIVING NOTICE
7 FROM THE STORAGE OPERATOR OF THAT FACT, FILE WITH THE DEPARTMENT
8 AND FURNISH TO THE PERSON OPERATING THE STORAGE RESERVOIR A MAP
9 IN THE FORM REQUIRED BY SUBSECTION (A) SHOWING, IN ADDITION TO
10 THE REQUIREMENTS OF SUBSECTION (A), EXISTING AND PROJECTED
11 EXCAVATIONS AND WORKINGS OF THE OPERATING COAL MINE FOR THE
12 ENSUING 18-MONTH PERIOD AND THE LOCATION OF OIL OR GAS WELLS OF
13 WHICH THE COAL OPERATOR HAS KNOWLEDGE. THE PERSON OWNING OR
14 OPERATING THE COAL MINE SHALL, EACH SIX MONTHS THEREAFTER, FILE
15 WITH THE DEPARTMENT AND FURNISH TO THE PERSON OPERATING THE
16 STORAGE RESERVOIR A REVISED MAP SHOWING ANY ADDITIONAL
17 EXCAVATIONS AND WORKINGS, TOGETHER WITH THE PROJECTED
18 EXCAVATIONS AND WORKINGS FOR THE THEN ENSUING 18-MONTH PERIOD,
19 WHICH MAY BE WITHIN 10,000 LINEAR FEET OF THE STORAGE RESERVOIR.
20 THE DEPARTMENT MAY REQUIRE A COAL OPERATOR TO FILE REVISED MAPS
21 AT MORE FREQUENT INTERVALS IF MATERIAL CHANGES HAVE OCCURRED
22 JUSTIFYING EARLIER FILING. THE PERSON OWNING OR OPERATING THE
23 COAL MINE SHALL ALSO FILE WITH THE DEPARTMENT AND FURNISH THE
24 PERSON OPERATING THE RESERVOIR PROMPT NOTICE OF ANY WELLS WHICH
25 HAVE BEEN CUT INTO, TOGETHER WITH ALL AVAILABLE PERTINENT
26 INFORMATION.

27 (C) MINES NEAR GAS STORAGE RESERVOIRS.--A PERSON OWNING OR
28 OPERATING A COAL MINE WHO HAS KNOWLEDGE THAT IT OVERLIES OR IS
29 WITHIN 2,000 LINEAR FEET OF A GAS STORAGE RESERVOIR SHALL,
30 WITHIN 30 DAYS, NOTIFY THE DEPARTMENT AND THE STORAGE OPERATOR

1 OF THAT FACT.

2 (D) MINES PROJECTED TO BE NEAR STORAGE RESERVOIRS.--WHEN A
3 PERSON OWNING OR OPERATING A COAL MINE EXPECTS THAT, WITHIN THE
4 ENSUING NINE-MONTH PERIOD, THE COAL MINE WILL BE EXTENDED TO A
5 POINT WHICH WILL BE WITHIN 2,000 LINEAR FEET OF ANY STORAGE
6 RESERVOIR, THE PERSON SHALL NOTIFY THE DEPARTMENT AND STORAGE
7 OPERATOR IN WRITING OF THAT FACT.

8 (E) NEW MINES.--A PERSON INTENDING TO ESTABLISH OR
9 REESTABLISH AN OPERATING COAL MINE WHICH WILL BE OVER A STORAGE
10 RESERVOIR OR WITHIN 2,000 LINEAR FEET OF A STORAGE RESERVOIR OR
11 MAY WITHIN NINE MONTHS THEREAFTER BE EXPECTED TO BE WITHIN 2,000
12 LINEAR FEET OF A STORAGE RESERVOIR SHALL IMMEDIATELY NOTIFY THE
13 DEPARTMENT AND STORAGE OPERATOR IN WRITING. NOTICE SHALL INCLUDE
14 THE DATE ON WHICH THE PERSON INTENDS TO ESTABLISH OR REESTABLISH
15 THE OPERATING COAL MINE.

16 (F) MISDEMEANOR.--A PERSON WHO SERVES NOTICE AS REQUIRED BY
17 THIS SUBSECTION OF AN INTENTION TO ESTABLISH OR REESTABLISH AN
18 OPERATING COAL MINE, WITHOUT INTENDING IN GOOD FAITH TO
19 ESTABLISH OR REESTABLISH THE MINE, IS LIABLE FOR CONTINUING
20 DAMAGES TO A STORAGE OPERATOR INJURED BY THE IMPROPER NOTICE AND
21 COMMITTS A MISDEMEANOR SUBJECT TO THE PENALTIES OF SECTION 3255
22 (RELATING TO PENALTIES).

23 § 3233. GENERAL GAS STORAGE RESERVOIR OPERATIONS.

24 (A) GENERAL RULE.--A PERSON WHO OPERATES OR PROPOSES TO
25 OPERATE A STORAGE RESERVOIR, EXCEPT ONE FILLED BY THE SECONDARY
26 RECOVERY OR GAS RECYCLING PROCESS, SHALL:

27 (1) USE EVERY KNOWN METHOD WHICH IS REASONABLE UNDER THE
28 CIRCUMSTANCES FOR DISCOVERING AND LOCATING ALL WELLS WHICH
29 HAVE OR MAY HAVE BEEN DRILLED INTO OR THROUGH THE STORAGE
30 RESERVOIR.

1 (2) PLUG OR RECONDITION, AS PROVIDED IN DEPARTMENTAL
2 REGULATIONS, ALL KNOWN WELLS DRILLED INTO OR THROUGH THE
3 STORAGE RESERVOIR, EXCEPT TO THE EXTENT OTHERWISE PROVIDED IN
4 SUBSECTIONS (B) AND (C).

5 (B) WELLS TO BE PLUGGED.--TO COMPLY WITH SUBSECTION (A),
6 WELLS WHICH ARE TO BE PLUGGED SHALL BE PLUGGED IN THE MANNER
7 SPECIFIED IN SECTION 3220 (RELATING TO PLUGGING REQUIREMENTS).

8 (B.1) WELLS PLUGGED PRIOR TO ENACTMENT OF SECTION.--IF A
9 WELL LOCATED IN THE STORAGE RESERVOIR AREA HAS BEEN PLUGGED
10 PRIOR TO APRIL 18, 1985, AND ON THE BASIS OF DATA, INFORMATION
11 AND OTHER EVIDENCE SUBMITTED TO THE DEPARTMENT, IT IS DETERMINED
12 THAT THE PLUGGING WAS DONE IN THE MANNER REQUIRED BY SECTION
13 3220 OR APPROVED AS AN ALTERNATIVE METHOD UNDER SECTION 3221
14 (RELATING TO ALTERNATIVE METHODS) AND THE PLUGGING IS STILL
15 SUFFICIENTLY EFFECTIVE TO MEET THE REQUIREMENTS OF THIS CHAPTER,
16 THE OBLIGATIONS UNDER SUBSECTION (A) WITH REGARD TO PLUGGING THE
17 WELL SHALL BE CONSIDERED TO HAVE BEEN FULLY SATISFIED.

18 (C) WELLS TO BE RECONDITIONED.--THE FOLLOWING SHALL APPLY:

19 (1) TO COMPLY WITH SUBSECTION (A), WELLS WHICH ARE TO BE
20 RECONDITIONED SHALL, UNLESS THE DEPARTMENT BY REGULATION
21 SPECIFIES A DIFFERENT PROCEDURE, BE CLEANED OUT FROM THE
22 SURFACE THROUGH THE STORAGE HORIZON, AND THE PRODUCING CASING
23 AND CASING STRINGS DETERMINED NOT TO BE IN GOOD PHYSICAL
24 CONDITION SHALL BE REPLACED WITH NEW CASING, USING THE SAME
25 PROCEDURE AS IS APPLICABLE TO DRILLING A NEW WELL UNDER THIS
26 CHAPTER. IN THE CASE OF WELLS TO BE USED FOR GAS STORAGE, THE
27 ANNULAR SPACE BETWEEN EACH STRING OF CASING AND THE ANNULAR
28 SPACE BEHIND THE LARGEST DIAMETER CASING TO THE EXTENT
29 POSSIBLE SHALL BE FILLED TO THE SURFACE WITH CEMENT OR
30 BENTONITIC MUD OR A NONPOROUS MATERIAL APPROVED BY THE

1 DEPARTMENT UNDER SECTION 3221. AT LEAST 15 DAYS PRIOR TO
2 RECONDITIONING, THE STORAGE OPERATOR SHALL GIVE NOTICE TO THE
3 DEPARTMENT, SETTING FORTH IN THE NOTICE THE MANNER IN WHICH
4 IT IS PLANNED TO RECONDITION THE WELL AND ANY PERTINENT DATA
5 KNOWN TO THE STORAGE OPERATOR WHICH WILL INDICATE THE
6 CONDITION OF THE WELL EXISTING AT THAT TIME. IN ADDITION, THE
7 STORAGE OPERATOR SHALL GIVE THE DEPARTMENT AT LEAST 72 HOURS'
8 NOTICE OF THE TIME WHEN RECONDITIONING IS TO BEGIN. IF NO
9 OBJECTIONS ARE RAISED BY THE DEPARTMENT WITHIN TEN DAYS, THE
10 STORAGE OPERATOR MAY PROCEED WITH RECONDITIONING IN
11 ACCORDANCE WITH THE PLAN AS SUBMITTED. IF OBJECTIONS ARE MADE
12 BY THE DEPARTMENT, THE DEPARTMENT MAY FIX A TIME AND PLACE
13 FOR A CONFERENCE UNDER SECTION 3251 (RELATING TO CONFERENCES)
14 AT WHICH THE STORAGE OPERATOR AND DEPARTMENT SHALL ENDEAVOR
15 TO AGREE ON A PLAN TO SATISFY THE OBJECTIONS AND MEET THE
16 REQUIREMENTS OF THIS SECTION. IF NO AGREEMENT IS REACHED, THE
17 DEPARTMENT MAY, BY AN APPROPRIATE ORDER, DETERMINE WHETHER
18 THE PLAN AS SUBMITTED MEETS THE REQUIREMENTS OF THIS SECTION
19 OR WHAT CHANGES, IF ANY, ARE REQUIRED. IF, IN RECONDITIONING
20 A WELL IN ACCORDANCE WITH THE PLAN, PHYSICAL CONDITIONS ARE
21 ENCOUNTERED WHICH JUSTIFY OR NECESSITATE A CHANGE IN THE
22 PLAN, THE STORAGE OPERATOR MAY REQUEST THAT THE PLAN BE
23 CHANGED. IF THE REQUEST IS DENIED, THE DEPARTMENT SHALL FIX A
24 CONFERENCE UNDER SECTION 3251 AND PROCEED IN THE SAME MANNER
25 AS WITH ORIGINAL OBJECTIONS. AN APPLICATION MAY BE MADE IN
26 THE MANNER PRESCRIBED BY SECTION 3221 FOR APPROVAL OF AN
27 ALTERNATIVE METHOD OF RECONDITIONING A WELL. IF A WELL
28 LOCATED WITHIN THE STORAGE RESERVOIR WAS RECONDITIONED, OR
29 DRILLED AND EQUIPPED, PRIOR TO APRIL 18, 1985, THE
30 OBLIGATIONS IMPOSED BY SUBSECTION (A), AS TO RECONDITIONING

1 THE WELL, SHALL BE CONSIDERED FULLY SATISFIED IF, ON THE
2 BASIS OF THE DATA, INFORMATION AND OTHER EVIDENCE SUBMITTED
3 TO THE DEPARTMENT, IT IS DETERMINED THAT:

4 (I) THE CONDITIONING OR PREVIOUS DRILLING AND
5 EQUIPPING WAS DONE IN THE MANNER REQUIRED IN THIS
6 SUBSECTION, IN REGULATIONS PROMULGATED UNDER THIS CHAPTER
7 OR IN A MANNER APPROVED AS AN ALTERNATIVE METHOD IN
8 ACCORDANCE WITH SECTION 3221.

9 (II) THE RECONDITIONING OR PREVIOUS DRILLING AND
10 EQUIPPING IS STILL SUFFICIENTLY EFFECTIVE TO MEET THE
11 REQUIREMENTS OF THIS CHAPTER.

12 (2) IF A WELL REQUIRES EMERGENCY REPAIRS, THIS CHAPTER
13 SHALL NOT BE CONSTRUED TO REQUIRE THE STORAGE OPERATOR TO
14 GIVE ANY NOTICE REQUIRED BY THIS SUBSECTION BEFORE MAKING THE
15 REPAIRS.

16 (D) EXCEPTION.--THE REQUIREMENTS OF SUBSECTION (A) SHALL NOT
17 APPLY TO INJECTION OF GAS INTO A STRATUM WHEN THE SOLE PURPOSE
18 OF INJECTION, REFERRED TO IN THIS SUBSECTION AS TESTING, IS TO
19 DETERMINE WHETHER THE STRATUM IS SUITABLE FOR STORAGE PURPOSES.
20 TESTING SHALL BE CONDUCTED ONLY IN COMPLIANCE WITH THE FOLLOWING
21 REQUIREMENTS:

22 (1) THE PERSON TESTING OR PROPOSING TO TEST SHALL COMPLY
23 WITH SECTION 3231 (RELATING TO REPORTING REQUIREMENTS FOR GAS
24 STORAGE OPERATIONS) AND VERIFY THE STATEMENT REQUIRED TO BE
25 FILED BY THAT SECTION.

26 (2) THE STORAGE OPERATOR SHALL GIVE AT LEAST SIX MONTHS'
27 WRITTEN NOTICE TO THE DEPARTMENT OF THE FACT THAT INJECTION
28 OF GAS FOR TESTING PURPOSES IS PROPOSED.

29 (3) IF THE DEPARTMENT HAS OBJECTIONS, THE DEPARTMENT
30 SHALL FIX A TIME AND PLACE FOR A CONFERENCE UNDER SECTION

1 3251, NOT MORE THAN TEN DAYS FROM THE DATE OF NOTICE TO THE
2 STORAGE OPERATOR, AT WHICH TIME THE STORAGE OPERATOR AND
3 DEPARTMENT SHALL ATTEMPT TO RESOLVE THE ISSUES PRESENTED. IF
4 AN AGREEMENT CANNOT BE REACHED, THE DEPARTMENT MAY ISSUE AN
5 APPROPRIATE ORDER.

6 (E) FAILURE TO EXECUTE LAWFUL ORDER.--IN A PROCEEDING UNDER
7 THIS CHAPTER, IF THE DEPARTMENT DETERMINES THAT AN OPERATOR OF A
8 STORAGE RESERVOIR HAS FAILED TO CARRY OUT A LAWFUL ORDER ISSUED
9 UNDER THIS CHAPTER, THE DEPARTMENT MAY REQUIRE THE OPERATOR TO
10 SUSPEND OPERATION OF THE RESERVOIR AND WITHDRAW THE GAS UNTIL
11 THE VIOLATION IS REMEDIED, IN WHICH CASE THE STORAGE OPERATOR,
12 LIMITED BY DUE DILIGENCE INsofar AS EXISTING FACILITIES UTILIZED
13 TO REMOVE GAS FROM THE RESERVOIR WILL PERMIT, SHALL:

14 (1) IF POSSIBLE, REMOVE THE AMOUNT REQUIRED BY THE
15 DEPARTMENT TO BE REMOVED; OR

16 (2) IN ANY EVENT, REMOVE THE MAXIMUM AMOUNT WHICH CAN BE
17 WITHDRAWN IN ACCORDANCE WITH RECOGNIZED ENGINEERING AND
18 OPERATING PROCEDURES.

19 (F) DUTY OF STORAGE RESERVOIR OPERATOR.--THE FOLLOWING SHALL
20 APPLY:

21 (1) A PERSON OWNING OR OPERATING A STORAGE RESERVOIR
22 SUBJECT TO THIS CHAPTER SHALL HAVE A DUTY TO:

23 (I) MAINTAIN ALL WELLS DRILLED INTO OR THROUGH THE
24 RESERVOIR IN A CONDITION, AND OPERATE THEM IN A MANNER,
25 SUFFICIENT TO PREVENT THE ESCAPE OF GAS.

26 (II) OPERATE AND MAINTAIN THE RESERVOIR AND ITS
27 FACILITIES AS PRESCRIBED BY DEPARTMENTAL REGULATIONS AND
28 AT A PRESSURE WHICH WILL PREVENT GAS FROM ESCAPING, BUT
29 THE PRESSURE SHALL NOT EXCEED THE HIGHEST ROCK PRESSURE
30 FOUND TO HAVE EXISTED DURING THE PRODUCTION HISTORY OF

1 THE RESERVOIR OR ANOTHER HIGH PRESSURE LIMIT APPROVED BY
2 THE DEPARTMENT AFTER HOLDING A CONFERENCE UNDER SECTION
3 3251 BASED ON GEOLOGICAL AND PRODUCTION KNOWLEDGE OF THE
4 RESERVOIR, ITS CHARACTER, PERMEABILITY DISTRIBUTION AND
5 OPERATING EXPERIENCE.

6 (2) THE DUTY UNDER PARAGRAPH (1) SHALL NOT BE CONSTRUED
7 TO INCLUDE INABILITY TO PREVENT THE ESCAPE OF GAS WHEN GAS
8 ESCAPES AS A RESULT OF AN ACT OF GOD OR A PERSON NOT UNDER
9 THE CONTROL OF THE STORAGE OPERATOR. IN THAT INSTANCE, THE
10 STORAGE OPERATOR SHALL HAVE A DUTY TO TAKE ACTION REASONABLY
11 NECESSARY TO PREVENT FURTHER ESCAPE OF GAS. THIS PARAGRAPH
12 DOES NOT APPLY TO A WELL WHICH THE STORAGE OPERATOR FAILED TO
13 LOCATE AND MAKE KNOWN TO THE DEPARTMENT.

14 § 3234. GAS STORAGE RESERVOIR OPERATIONS IN COAL AREAS.

15 (A) GENERAL RULE.--A PERSON OPERATING A STORAGE RESERVOIR
16 WHICH UNDERLIES OR IS WITHIN 2,000 LINEAR FEET OF A COAL MINE
17 OPERATING IN A COAL SEAM THAT EXTENDS OVER THE STORAGE RESERVOIR
18 OR THE RESERVOIR PROTECTIVE AREA SHALL:

19 (1) USE EVERY KNOWN REASONABLE METHOD FOR DISCOVERING
20 AND LOCATING ALL WELLS WHICH HAVE OR MAY HAVE BEEN DRILLED
21 INTO OR THROUGH THE STORAGE STRATUM IN THE ACREAGE LYING
22 WITHIN THE OUTSIDE COAL BOUNDARIES OF THE OPERATING COAL MINE
23 OVERLYING THE STORAGE RESERVOIR OR THE RESERVOIR PROTECTIVE
24 AREA.

25 (2) PLUG OR RECONDITION, AS PROVIDED BY SECTION 3220
26 (RELATING TO PLUGGING REQUIREMENTS) AND SUBSECTION (E), ALL
27 KNOWN WELLS, EXCEPT TO THE EXTENT PROVIDED IN SUBSECTIONS
28 (E), (F), (G) AND (H), DRILLED INTO OR THROUGH THE STORAGE
29 STRATUM AND LOCATED WITHIN THE PORTION OF THE ACREAGE OF THE
30 OPERATING COAL MINE OVERLYING THE STORAGE RESERVOIR OR THE

1 RESERVOIR PROTECTIVE AREA. IF AN OBJECTION IS RAISED AS TO
2 USE OF A WELL AS A STORAGE WELL AND AFTER A CONFERENCE UNDER
3 SECTION 3251 (RELATING TO CONFERENCES) IT IS DETERMINED BY
4 THE DEPARTMENT, TAKING INTO ACCOUNT ALL CIRCUMSTANCES AND
5 CONDITIONS, THAT THE WELL SHOULD NOT BE USED AS A STORAGE
6 WELL, THE WELL SHALL BE PLUGGED UNLESS, IN THE OPINION OF THE
7 STORAGE OPERATOR, THE WELL MAY BE USED AS A STORAGE WELL IN
8 THE FUTURE, IN WHICH CASE, UPON APPROVAL OF THE DEPARTMENT
9 AFTER TAKING INTO ACCOUNT ALL CIRCUMSTANCES AND CONDITIONS,
10 THE STORAGE OPERATOR MAY RECONDITION AND INACTIVATE THE WELL
11 RATHER THAN PLUG IT.

12 (3) THE REQUIREMENTS OF PARAGRAPH (2) SHALL BE DEEMED TO
13 HAVE BEEN FULLY COMPLIED WITH IF, AS THE OPERATING COAL MINE
14 IS EXTENDED, ALL WELLS WHICH FROM TIME TO TIME COME WITHIN
15 THE ACREAGE DESCRIBED IN PARAGRAPH (2) ARE RECONDITIONED OR
16 PLUGGED AS PROVIDED IN SECTION 3220 AND SUBSECTION (E) OR (F)
17 SO THAT, BY THE TIME THE COAL MINE HAS REACHED A POINT WITHIN
18 2,000 LINEAR FEET OF THE WELLS, THEY WILL HAVE BEEN
19 RECONDITIONED OR PLUGGED IN ACCORDANCE WITH SECTION 3220 AND
20 SUBSECTION (E) OR (F).

21 (B) VERIFIED STATEMENT.--A PERSON OPERATING A STORAGE
22 RESERVOIR REFERRED TO IN SUBSECTION (A) SHALL FILE WITH THE
23 DEPARTMENT AND FURNISH A COPY TO THE PERSON OPERATING THE
24 AFFECTED OPERATING COAL MINE A VERIFIED STATEMENT SETTING FORTH:

25 (1) THAT THE MAP AND ANY SUPPLEMENTAL MAPS REQUIRED BY
26 SECTION 3231 (A) (RELATING TO REPORTING REQUIREMENTS FOR GAS
27 STORAGE OPERATIONS) HAVE BEEN PREPARED AND FILED IN
28 ACCORDANCE WITH SECTION 3231.

29 (2) A DETAILED EXPLANATION OF WHAT THE STORAGE OPERATOR
30 HAS DONE TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (A) (1)

1 AND (2) AND THE RESULTS OF THOSE ACTIONS.

2 (3) SUCH ADDITIONAL EFFORTS, IF ANY, AS THE STORAGE
3 OPERATOR IS MAKING AND INTENDS TO MAKE TO LOCATE ALL WELLS.

4 (4) ANY ADDITIONAL WELLS THAT ARE TO BE PLUGGED OR
5 RECONDITIONED TO MEET THE REQUIREMENTS OF SUBSECTION (A) (2).

6 (B.1) ORDER OF DEPARTMENT.--IF THE STATEMENT REQUIRED UNDER
7 SUBSECTION (B) IS NOT FILED BY THE STORAGE RESERVOIR OPERATOR
8 WITHIN THE TIME SPECIFIED BY THIS CHAPTER OR THE REGULATIONS OF
9 THE DEPARTMENT, THE DEPARTMENT MAY ORDER THE OPERATOR TO FILE
10 THE STATEMENT.

11 (C) PROCEDURE.--WITHIN 120 DAYS AFTER RECEIPT OF A STATEMENT
12 REQUIRED BY THIS SECTION, THE DEPARTMENT MAY DIRECT THAT A
13 CONFERENCE BE HELD IN ACCORDANCE WITH SECTION 3251 TO DETERMINE
14 WHETHER THE REQUIREMENTS OF SECTION 3231 AND SUBSECTION (A) HAVE
15 BEEN FULLY MET. AT THE CONFERENCE, IF ANY PERSON BELIEVES THE
16 REQUIREMENTS HAVE NOT BEEN FULLY MET, THE PARTIES SHALL ATTEMPT
17 TO AGREE ON ADDITIONAL ACTIONS TO BE TAKEN AND THE TIME FOR
18 COMPLETION, SUBJECT TO APPROVAL OF THE DEPARTMENT. IF AN
19 AGREEMENT CANNOT BE REACHED, THE DEPARTMENT SHALL MAKE A
20 DETERMINATION AND, IF THE DEPARTMENT DETERMINES ANY REQUIREMENTS
21 HAVE NOT BEEN MET, THE DEPARTMENT SHALL ISSUE AN ORDER
22 SPECIFYING IN DETAIL THE EXTENT TO WHICH THE REQUIREMENTS HAVE
23 NOT BEEN MET AND THE ACTIONS WHICH THE STORAGE OPERATOR MUST
24 COMPLETE TO MEET THE REQUIREMENTS. THE ORDER SHALL GRANT AS MUCH
25 TIME AS IS REASONABLY NECESSARY TO FULLY COMPLY. IF THE STORAGE
26 OPERATOR ENCOUNTERS CONDITIONS NOT KNOWN TO EXIST AT THE TIME OF
27 ISSUANCE OF THE ORDER AND WHICH MATERIALLY AFFECT THE VALIDITY
28 OF THE ORDER OR THE ABILITY OF THE STORAGE OPERATOR TO COMPLY
29 WITH IT, THE STORAGE OPERATOR MAY APPLY FOR A REHEARING OR
30 MODIFICATION OF THE ORDER.

1 (D) NOTIFICATION.--IF, IN COMPLYING WITH SUBSECTION (A), A
2 STORAGE OPERATOR, AFTER FILING THE STATEMENT PROVIDED FOR IN
3 SUBSECTION (B), PLUGS OR RECONDITIONS A WELL, THE STORAGE
4 OPERATOR SHALL NOTIFY THE DEPARTMENT AND THE COAL OPERATOR
5 AFFECTED, IN WRITING, SETTING FORTH FACTS INDICATING THE MANNER
6 IN WHICH THE PLUGGING OR RECONDITIONING WAS DONE. UPON RECEIPT
7 OF THE NOTIFICATION, THE COAL OPERATOR OR DEPARTMENT MAY REQUEST
8 A CONFERENCE UNDER SECTION 3251.

9 (E) PLUGGING WELLS.--IN ORDER TO MEET THE REQUIREMENTS OF
10 SUBSECTION (A), WELLS WHICH ARE TO BE PLUGGED SHALL BE PLUGGED
11 IN THE MANNER SPECIFIED IN REGULATIONS PROMULGATED UNDER SECTION
12 3211 (RELATING TO WELL PERMITS). WHEN A WELL LOCATED WITHIN THE
13 STORAGE RESERVOIR OR THE RESERVOIR PROTECTIVE AREA HAS BEEN
14 PLUGGED PRIOR TO APRIL 18, 1985, AND, ON THE BASIS OF THE DATA
15 INFORMATION AND OTHER EVIDENCE SUBMITTED TO THE DEPARTMENT, IT
16 IS DETERMINED THAT THE PLUGGING WAS DONE IN THE MANNER REQUIRED
17 BY SECTION 3220, OR IN A MANNER APPROVED AS AN ALTERNATIVE
18 METHOD IN ACCORDANCE WITH SECTION 3221 (RELATING TO ALTERNATIVE
19 METHODS), AND THE PLUGGING IS STILL SUFFICIENTLY EFFECTIVE TO
20 MEET THE REQUIREMENTS OF THIS CHAPTER, THE REQUIREMENTS OF
21 SUBSECTION (A) AS TO PLUGGING THE WELL SHALL BE CONSIDERED TO
22 HAVE BEEN FULLY SATISFIED.

23 (F) RECONDITIONED WELLS.--THE FOLLOWING SHALL APPLY:

24 (1) IN ORDER TO COMPLY WITH SUBSECTION (A), UNLESS THE
25 DEPARTMENT BY REGULATION SPECIFIES A DIFFERENT PROCEDURE,
26 WELLS WHICH ARE TO BE RECONDITIONED SHALL BE CLEANED OUT FROM
27 THE SURFACE THROUGH THE STORAGE HORIZON, AND THE FOLLOWING
28 CASING STRINGS SHALL BE PULLED AND REPLACED WITH NEW CASING,
29 USING THE PROCEDURE APPLICABLE TO DRILLING A NEW WELL UNDER
30 THIS CHAPTER:

1 (I) THE PRODUCING CASING;

2 (II) THE LARGEST DIAMETER CASING PASSING THROUGH THE
3 LOWEST WORKABLE COAL SEAM UNLESS IT EXTENDS AT LEAST 25
4 FEET BELOW THE BOTTOM OF THE COAL SEAM AND IS DETERMINED
5 TO BE IN GOOD PHYSICAL CONDITION, BUT THE STORAGE
6 OPERATOR MAY, INSTEAD OF REPLACING THE LARGEST DIAMETER
7 CASING, REPLACE THE NEXT LARGEST CASING STRING IF THE
8 CASING STRING EXTENDS AT LEAST 25 FEET BELOW THE LOWEST
9 WORKABLE COAL SEAM; AND

10 (III) CASING STRINGS DETERMINED NOT TO BE IN GOOD
11 PHYSICAL CONDITION

12 (2) IN THE CASE OF A WELL TO BE USED FOR GAS STORAGE,
13 THE ANNULAR SPACE BETWEEN EACH STRING OF CASING AND THE
14 ANNULAR SPACE BEHIND THE LARGEST DIAMETER CASING, TO THE
15 EXTENT POSSIBLE, SHALL BE FILLED TO THE SURFACE WITH CEMENT
16 OR BENTONITIC MUD OR AN EQUALLY NONPOROUS MATERIAL APPROVED
17 BY THE DEPARTMENT UNDER SECTION 3221.

18 (3) AT LEAST 15 DAYS BEFORE A WELL IS TO BE
19 RECONDITIONED, THE STORAGE OPERATOR SHALL GIVE NOTICE TO THE
20 DEPARTMENT AND THE COAL OPERATOR, LESSEE OR OWNER, SETTING
21 FORTH THE MANNER IN WHICH RECONDITIONING IS PLANNED AND
22 PERTINENT DATA KNOWN TO THE STORAGE OPERATOR WHICH WILL
23 INDICATE THE CURRENT CONDITION OF THE WELL, ALONG WITH AT
24 LEAST 72 HOURS' NOTICE OF THE DATE AND TIME WHEN
25 RECONDITIONING WILL BEGIN. THE COAL OPERATOR, LESSEE OR OWNER
26 SHALL HAVE THE RIGHT TO FILE, WITHIN TEN DAYS AFTER RECEIPT
27 OF THE NOTICE, OBJECTIONS TO THE PLAN OF RECONDITIONING AS
28 SUBMITTED BY THE STORAGE OPERATOR. IF NO OBJECTIONS ARE FILED
29 AND NONE ARE RAISED BY THE DEPARTMENT WITHIN TEN DAYS, THE
30 STORAGE OPERATOR MAY PROCEED WITH RECONDITIONING IN

1 ACCORDANCE WITH THE PLAN AS SUBMITTED. IF AN OBJECTION IS
2 FILED OR MADE BY THE DEPARTMENT, THE DEPARTMENT SHALL FIX A
3 TIME AND PLACE FOR A CONFERENCE UNDER SECTION 3251, AT WHICH
4 CONFERENCE THE STORAGE OPERATOR AND THE PERSON HAVING
5 OBJECTIONS SHALL ATTEMPT TO AGREE ON A PLAN OF RECONDITIONING
6 THAT MEETS THE REQUIREMENTS OF THIS SECTION. IF NO AGREEMENT
7 IS REACHED, THE DEPARTMENT SHALL, BY AN APPROPRIATE ORDER,
8 DETERMINE WHETHER THE PLAN AS SUBMITTED MEETS THE
9 REQUIREMENTS OF THIS SECTION OR WHAT CHANGES SHOULD BE MADE
10 TO MEET THE REQUIREMENTS. IF, IN RECONDITIONING THE WELL IN
11 ACCORDANCE WITH THE PLAN, PHYSICAL CONDITIONS ARE ENCOUNTERED
12 WHICH JUSTIFY OR NECESSITATE A CHANGE IN THE PLAN, THE
13 STORAGE OPERATOR OR COAL OPERATOR MAY REQUEST THAT THE PLAN
14 BE CHANGED. IF THE PARTIES CANNOT AGREE ON A CHANGE, THE
15 DEPARTMENT SHALL ARRANGE FOR A CONFERENCE TO DETERMINE THE
16 MATTER IN THE SAME MANNER AS SET FORTH IN CONNECTION WITH
17 ORIGINAL OBJECTIONS TO THE PLAN.

18 (4) APPLICATION MAY BE MADE TO THE DEPARTMENT IN THE
19 MANNER PRESCRIBED IN SECTION 3221 FOR APPROVAL OF AN
20 ALTERNATIVE METHOD OF RECONDITIONING A WELL. WHEN A WELL
21 LOCATED WITHIN THE STORAGE RESERVOIR OR THE RESERVOIR
22 PROTECTIVE AREA HAS BEEN RECONDITIONED OR DRILLED AND
23 EQUIPPED PRIOR TO APRIL 18, 1985, AND, ON THE BASIS OF THE
24 DATA, INFORMATION AND OTHER EVIDENCE SUBMITTED TO THE
25 DEPARTMENT, THE OBLIGATIONS IMPOSED BY SUBSECTION (A) AS TO
26 RECONDITIONING THE WELL SHALL BE CONSIDERED TO BE FULLY
27 SATISFIED IF IT IS DETERMINED THAT RECONDITIONING OR PREVIOUS
28 DRILLING AND EQUIPPING:

29 (I) WAS DONE IN THE MANNER REQUIRED IN THIS
30 SUBSECTION, OR IN REGULATIONS PROMULGATED HEREUNDER, OR

1 IN A MANNER APPROVED AS AN ALTERNATIVE METHOD IN
2 ACCORDANCE WITH SECTION 3221; OR

3 (II) IS STILL SUFFICIENTLY EFFECTIVE TO MEET THE
4 REQUIREMENTS OF THIS CHAPTER.

5 (5) IF A WELL REQUIRES EMERGENCY REPAIRS, THIS
6 SUBSECTION SHALL NOT BE CONSTRUED TO REQUIRE THE STORAGE
7 OPERATOR TO GIVE THE NOTICES SPECIFIED HEREIN BEFORE MAKING
8 THE REPAIRS.

9 (G) PRODUCING WELLS.--IF A WELL LOCATED WITHIN THE RESERVOIR
10 PROTECTIVE AREA IS A PRODUCING WELL IN A STRATUM BELOW THE
11 STORAGE STRATUM, THE OBLIGATIONS IMPOSED BY SUBSECTION (A) SHALL
12 NOT BEGIN UNTIL THE WELL CEASES TO BE A PRODUCING WELL.

13 (H) CERTAIN OTHER WELLS.--IF A WELL WITHIN A STORAGE
14 RESERVOIR OR RESERVOIR PROTECTIVE AREA PENETRATES THE STORAGE
15 STRATUM BUT DOES NOT PENETRATE THE COAL SEAM BEING MINED BY AN
16 OPERATING COAL MINE, THE DEPARTMENT MAY, UPON APPLICATION OF THE
17 OPERATOR OF THE STORAGE RESERVOIR, EXEMPT THE WELL FROM THE
18 REQUIREMENTS OF THIS SECTION. EITHER PARTY AFFECTED MAY REQUEST
19 A CONFERENCE UNDER SECTION 3251 WITH RESPECT TO EXEMPTION OF A
20 WELL COVERED BY THIS SUBSECTION.

21 (I) PLUGGING LIMITATION.--IN FULFILLING THE REQUIREMENTS OF
22 SUBSECTION (A) (2) WITH RESPECT TO A WELL WITHIN THE RESERVOIR
23 PROTECTIVE AREA, THE STORAGE OPERATOR SHALL NOT BE REQUIRED TO
24 PLUG OR RECONDITION THE WELL UNTIL THE STORAGE OPERATOR HAS
25 RECEIVED FROM THE COAL OPERATOR WRITTEN NOTICE THAT THE MINE
26 WORKINGS WILL, WITHIN THE PERIOD STATED IN THE NOTICE, BE WITHIN
27 2,000 LINEAR FEET OF THE WELL. UPON THE RECEIPT OF THE NOTICE,
28 THE STORAGE OPERATOR SHALL USE DUE DILIGENCE TO COMPLETE THE
29 PLUGGING OR RECONDITIONING OF THE WELL IN ACCORDANCE WITH THE
30 REQUIREMENTS OF THIS SECTION AND SECTION 3220. IF THE MINE

1 WORKINGS DO NOT, WITHIN A PERIOD OF THREE YEARS AFTER THE WELL
2 HAS BEEN PLUGGED, COME WITHIN 2,000 LINEAR FEET OF THE WELL, THE
3 COAL OPERATOR SHALL REIMBURSE THE STORAGE OPERATOR FOR THE COST
4 OF PLUGGING, PROVIDED THAT THE WELL IS STILL WITHIN THE
5 RESERVOIR PROTECTIVE AREA AS OF THAT TIME.

6 (J) RETREAT MINING.--IF RETREAT MINING APPROACHES A POINT
7 WHERE, WITHIN 90 DAYS, IT IS EXPECTED THAT THE RETREAT WORK WILL
8 BE AT THE LOCATION OF THE PILLAR SURROUNDING AN ACTIVE STORAGE
9 WELL, THE COAL OPERATOR SHALL GIVE WRITTEN NOTICE TO THE STORAGE
10 OPERATOR, AND BY AGREEMENT THE PARTIES SHALL DETERMINE WHETHER
11 IT IS NECESSARY OR ADVISABLE TO EFFECTIVELY AND TEMPORARILY
12 INACTIVATE THE WELL. THE WELL SHALL NOT BE REACTIVATED UNTIL A
13 REASONABLE PERIOD, DETERMINED BY THE PARTIES, HAS ELAPSED. IF
14 THE PARTIES CANNOT AGREE AS REQUIRED BY THIS SUBSECTION, THE
15 MATTER SHALL BE SUBMITTED TO THE DEPARTMENT FOR RESOLUTION. THE
16 NUMBER OF WELLS REQUIRED TO BE TEMPORARILY INACTIVATED DURING
17 THE RETREAT PERIOD SHALL NOT BE OF A NUMBER THAT MATERIALLY
18 AFFECTS EFFICIENT OPERATION OF THE STORAGE POOL, EXCEPT THAT
19 THIS PROVISION SHALL NOT PRECLUDE TEMPORARY INACTIVATION OF A
20 PARTICULAR WELL IF THE PRACTICAL EFFECT OF INACTIVATING IT IS TO
21 RENDER THE POOL TEMPORARILY INOPERATIVE.

22 (K) EXCEPTIONS.--THE REQUIREMENTS OF SUBSECTIONS (A), (L)
23 AND (M) SHALL NOT APPLY TO INJECTION OF GAS INTO A STRATUM WHEN
24 THE WHOLE PURPOSE OF INJECTION, REFERRED TO IN THIS SUBSECTION
25 AS TESTING, IS TO DETERMINE WHETHER THE STRATUM IS SUITABLE FOR
26 STORAGE PURPOSES. TESTING SHALL BE CONDUCTED ONLY IN COMPLIANCE
27 WITH THE FOLLOWING REQUIREMENTS:

28 (1) THE PERSON TESTING OR PROPOSING TO TEST SHALL COMPLY
29 WITH ALL PROVISIONS AND REQUIREMENTS OF SECTION 3231 AND
30 VERIFY THE STATEMENT REQUIRED TO BE FILED BY THAT SECTION.

1 (2) IF ANY PART OF THE PROPOSED STORAGE RESERVOIR IS
2 UNDER OR WITHIN 2,000 LINEAR FEET OF AN OPERATING COAL MINE
3 WHICH IS OPERATING IN A COAL SEAM THAT EXTENDS OVER THE
4 PROPOSED STORAGE RESERVOIR OR THE RESERVOIR PROTECTIVE AREA,
5 THE STORAGE OPERATOR SHALL GIVE AT LEAST SIX MONTHS' WRITTEN
6 NOTICE TO THE DEPARTMENT AND COAL OPERATOR OF THE FACT THAT
7 INJECTION OF GAS FOR TESTING PURPOSES IS PROPOSED.

8 (3) THE COAL OPERATOR AFFECTED MAY AT ANY TIME FILE
9 OBJECTIONS WITH THE DEPARTMENT, WHEREUPON THE DEPARTMENT
10 SHALL FIX A TIME AND PLACE FOR A CONFERENCE UNDER SECTION
11 3251, NOT MORE THAN TEN DAYS FROM THE DATE OF THE NOTICE TO
12 THE STORAGE OPERATOR. AT THE CONFERENCE, THE STORAGE OPERATOR
13 AND THE OBJECTING PARTY SHALL ATTEMPT TO AGREE, SUBJECT TO
14 APPROVAL OF THE DEPARTMENT, ON THE QUESTIONS INVOLVED. IF AN
15 AGREEMENT CANNOT BE REACHED, THE DEPARTMENT MAY ISSUE AN
16 APPROPRIATE ORDER.

17 (4) IF AT ANY TIME A PROPOSED STORAGE RESERVOIR BEING
18 TESTED COMES UNDER OR WITHIN 2,000 LINEAR FEET OF AN
19 OPERATING COAL MINE BECAUSE OF EXTENSION OF THE STORAGE
20 RESERVOIR BEING TESTED OR BECAUSE OF EXTENSION OR
21 ESTABLISHMENT OR REESTABLISHMENT OF THE OPERATING COAL MINE,
22 THE REQUIREMENTS OF THIS SUBSECTION SHALL IMMEDIATELY BECOME
23 APPLICABLE TO THE TESTING.

24 (L) STORAGE RESERVOIRS NEAR OPERATING COAL MINES.--A PERSON
25 WHO PROPOSES TO ESTABLISH A STORAGE RESERVOIR UNDER OR WITHIN
26 2,000 LINEAR FEET OF A COAL MINE OPERATING IN A COAL SEAM THAT
27 EXTENDS OVER THE STORAGE RESERVOIR OR THE RESERVOIR PROTECTIVE
28 AREA SHALL, PRIOR TO ESTABLISHING THE RESERVOIR, AND IN ADDITION
29 TO COMPLYING WITH SECTION 3231 AND SUBSECTION (A), FILE THE
30 VERIFIED STATEMENT REQUIRED BY SUBSECTION (B) AND FULLY COMPLY

1 WITH ANY ORDER OF THE DEPARTMENT IN THE MANNER PROVIDED UNDER
2 SUBSECTION (B) OR (C) BEFORE COMMENCING OPERATION OF THE STORAGE
3 RESERVOIR. AFTER THE PERSON PROPOSING TO OPERATE THE STORAGE
4 RESERVOIR COMPLIES WITH THE REQUIREMENTS OF THIS SUBSECTION AND
5 COMMENCES OPERATIONS, THE PERSON SHALL CONTINUE TO BE SUBJECT TO
6 ALL PROVISIONS OF THIS CHAPTER.

7 (M) GAS STORAGE RESERVOIRS.--IF A GAS STORAGE RESERVOIR IS
8 IN OPERATION ON APRIL 18, 1985, AND AT ANY TIME THEREAFTER IT IS
9 UNDER OR WITHIN 2,000 LINEAR FEET OF AN OPERATING COAL MINE, OR
10 IF A GAS STORAGE RESERVOIR IS PUT IN OPERATION AFTER APRIL 18,
11 1985, AND AT ANY TIME AFTER STORAGE OPERATIONS BEGIN IT IS UNDER
12 OR WITHIN 2,000 LINEAR FEET OF AN OPERATING COAL MINE, THE
13 STORAGE OPERATOR SHALL COMPLY WITH ALL OF THE PROVISIONS OF THIS
14 SECTION, EXCEPT THAT:

15 (1) THE TIME FOR FILING THE VERIFIED STATEMENT UNDER
16 SUBSECTION (B) SHALL BE 60 DAYS AFTER THE DATE STATED IN THE
17 NOTICE FILED BY THE COAL OPERATOR UNDER SECTION 3232(D) AND
18 (E) (RELATING TO REPORTING REQUIREMENTS FOR COAL MINING
19 OPERATIONS);

20 (2) THE COAL OPERATOR SHALL GIVE NOTICE OF THE DELAY TO
21 THE DEPARTMENT;

22 (3) THE DEPARTMENT SHALL, UPON THE REQUEST OF THE
23 STORAGE OPERATOR, EXTEND THE TIME FOR FILING THE STATEMENT BY
24 THE ADDITIONAL TIME WHICH WILL BE REQUIRED TO EXTEND OR
25 ESTABLISH OR REESTABLISH THE OPERATING COAL MINE TO A POINT
26 WITHIN 2,000 LINEAR FEET OF THE RESERVOIR;

27 (4) THE VERIFIED STATEMENT SHALL ALSO INDICATE THAT THE
28 MAP REFERRED TO IN SECTION 3231(A) HAS BEEN CURRENTLY AMENDED
29 AS OF THE TIME OF THE FILING OF THE STATEMENT; AND

30 (5) THE PERSON OPERATING THE STORAGE RESERVOIR SHALL

1 CONTINUE TO BE SUBJECT TO ALL OF THE PROVISIONS OF THIS
2 CHAPTER.

3 (N) FAILURE TO COMPLY WITH ORDER.--IF, IN ANY PROCEEDING
4 UNDER THIS CHAPTER, THE DEPARTMENT DETERMINES THAT AN OPERATOR
5 OF A STORAGE RESERVOIR HAS FAILED TO COMPLY WITH A LAWFUL ORDER
6 ISSUED UNDER THIS CHAPTER, THE DEPARTMENT MAY REQUIRE THE
7 STORAGE OPERATOR TO SUSPEND OPERATION OF THE RESERVOIR AND
8 WITHDRAW THE GAS FROM IT UNTIL THE VIOLATION IS REMEDIED, IN
9 WHICH CASE THE STORAGE OPERATOR, LIMITED BY DUE DILIGENCE
10 INSOFAR AS EXISTING FACILITIES UTILIZED TO REMOVE GAS FROM THE
11 RESERVOIR WILL PERMIT, SHALL:

12 (1) IF POSSIBLE, REMOVE THE AMOUNT REQUIRED BY THE
13 DEPARTMENT TO BE REMOVED; OR

14 (2) IN ANY EVENT, REMOVE THE MAXIMUM AMOUNT WHICH CAN BE
15 WITHDRAWN IN ACCORDANCE WITH RECOGNIZED ENGINEERING AND
16 OPERATING PROCEDURES.

17 (O) PREVENTION OF ESCAPE OF GAS.--IN ADDITION TO INITIAL
18 COMPLIANCE WITH OTHER PROVISIONS OF THIS CHAPTER AND LAWFUL
19 ORDERS ISSUED UNDER THIS CHAPTER, IT SHALL BE THE DUTY, AT ALL
20 TIMES, OF A PERSON OWNING OR OPERATING A STORAGE RESERVOIR
21 SUBJECT TO THIS CHAPTER TO KEEP ALL WELLS DRILLED INTO OR
22 THROUGH THE STORAGE STRATUM IN A CONDITION, AND OPERATE THE
23 WELLS IN A MANNER, WHICH IS DESIGNED TO PREVENT THE ESCAPE OF
24 GAS OUT OF THE STORAGE RESERVOIR AND ITS FACILITIES, AND TO
25 OPERATE AND MAINTAIN THE STORAGE RESERVOIR AND ITS FACILITIES IN
26 THE MANNER PRESCRIBED BY REGULATION OF THE DEPARTMENT AND AT A
27 PRESSURE THAT WILL PREVENT GAS FROM ESCAPING FROM THE RESERVOIR
28 OR ITS FACILITIES. THIS DUTY SHALL NOT BE CONSTRUED TO INCLUDE
29 INABILITY TO PREVENT THE ESCAPE OF GAS WHEN ESCAPE RESULTS FROM
30 AN ACT OF GOD OR A PERSON NOT UNDER THE CONTROL OF THE STORAGE

1 OPERATOR, EXCEPT THAT THIS EXCEPTION DOES NOT APPLY TO A WELL
2 WHICH THE STORAGE OPERATOR HAS FAILED TO LOCATE AND MAKE KNOWN
3 TO THE DEPARTMENT. IF AN ESCAPE OF GAS RESULTS FROM AN ACT OF
4 GOD OR A PERSON NOT UNDER THE CONTROL OF THE STORAGE OPERATOR,
5 THE STORAGE OPERATOR SHALL BE UNDER THE DUTY TO TAKE ANY ACTION
6 REASONABLY NECESSARY TO PREVENT FURTHER ESCAPE OF GAS OUT OF THE
7 STORAGE RESERVOIR AND ITS FACILITIES.

8 § 3235. INSPECTION OF FACILITIES AND RECORDS.

9 (A) GENERAL RULE.--THE PERSON OPERATING A STORAGE RESERVOIR
10 AFFECTED BY THIS CHAPTER SHALL, AT ALL REASONABLE TIMES, BE
11 PERMITTED TO INSPECT APPLICABLE RECORDS AND FACILITIES OF A COAL
12 MINE OVERLYING THE STORAGE RESERVOIR OR RESERVOIR PROTECTIVE
13 AREA. THE PERSON OPERATING A COAL MINE AFFECTED BY THIS CHAPTER
14 SHALL, AT ALL REASONABLE TIMES, BE PERMITTED TO INSPECT
15 APPLICABLE RECORDS AND FACILITIES OF A STORAGE RESERVOIR
16 UNDERLYING THE COAL MINE.

17 (B) ORDER.--IF A STORAGE OPERATOR OR COAL OPERATOR SUBJECT
18 TO SUBSECTION (A) REFUSES TO PERMIT INSPECTION OF RECORDS OR
19 FACILITIES, THE DEPARTMENT MAY, ON ITS OWN MOTION OR ON
20 APPLICATION OF THE PARTY SEEKING INSPECTION, AFTER REASONABLE
21 WRITTEN NOTICE AND A HEARING IF REQUESTED BY AN AFFECTED PARTY,
22 ORDER INSPECTION.

23 § 3236. RELIANCE ON MAPS AND BURDEN OF PROOF.

24 (A) GENERAL RULE.--IN DETERMINING WHETHER A COAL MINE OR
25 OPERATING COAL MINE IS OR WILL BE WITHIN A PARTICULAR DISTANCE
26 FROM A STORAGE RESERVOIR WHICH IS MATERIAL UNDER THIS CHAPTER,
27 THE OWNER OR OPERATOR OF THE COAL MINE AND THE STORAGE OPERATOR
28 MAY RELY ON THE MOST RECENT MAP OF THE STORAGE RESERVOIR OR COAL
29 MINE FILED BY THE OTHER PARTY WITH THE DEPARTMENT.

30 (B) ACCURACY.--WHERE ACCURACY OF A MAP OR DATA FILED UNDER

1 THIS CHAPTER IS IN ISSUE, THE PERSON THAT FILED THE MAP OR DATA
2 SHALL:

3 (1) AT THE REQUEST OF AN OBJECTING PARTY, DISCLOSE THE
4 INFORMATION AND METHOD USED TO COMPILE THE MAP OR DATA, ALONG
5 WITH ANY INFORMATION AVAILABLE TO THE PERSON THAT MIGHT
6 AFFECT CURRENT VALIDITY OF THE MAP OR DATA; AND

7 (2) HAVE THE BURDEN OF PROVING ACCURACY OF THE MAP OR
8 DATA.

9 § 3237. EXEMPTIONS AND PROHIBITIONS.

10 (A) INAPPLICABILITY OF CHAPTER TO CERTAIN COAL MINES.--THIS
11 CHAPTER SHALL NOT APPLY TO THE FOLLOWING TYPES OF COAL MINES:

12 (1) STRIP MINES AND AUGER MINES OPERATING FROM THE
13 SURFACE.

14 (2) MINES TO WHICH THE FORMER ACT OF JUNE 9, 1911
15 (P.L.756, NO.319), ENTITLED "AN ACT TO PROVIDE FOR THE HEALTH
16 AND SAFETY OF PERSONS EMPLOYED IN AND ABOUT THE BITUMINOUS
17 COAL-MINES OF PENNSYLVANIA, AND FOR THE PROTECTION AND
18 PRESERVATION OF PROPERTY CONNECTED THEREWITH," DID NOT APPLY
19 IN ACCORDANCE WITH SECTION 3 OF ARTICLE XXVIII OF THAT ACT.

20 (3) MINES TO WHICH THE FORMER ACT OF JUNE 2, 1891
21 (P.L.176, NO.177), ENTITLED "AN ACT TO PROVIDE FOR THE HEALTH
22 AND SAFETY OF PERSONS EMPLOYED IN AND ABOUT THE ANTHRACITE
23 COAL MINES OF PENNSYLVANIA AND FOR THE PROTECTION AND
24 PRESERVATION OF PROPERTY CONNECTED THEREWITH," DID NOT APPLY
25 IN ACCORDANCE WITH SECTION 1 OF ARTICLE I OF THAT ACT.

26 (B) WORKABLE COAL SEAMS.--INJECTION OF GAS FOR STORAGE
27 PURPOSES IN A WORKABLE COAL SEAM, WHETHER OR NOT IT IS BEING OR
28 HAS BEEN MINED, IS PROHIBITED.

29 (B.1) ORIGINAL EXTRACTION.--NOTHING IN THIS CHAPTER
30 PROHIBITS ORIGINAL EXTRACTION OF NATURAL GAS, CRUDE OIL OR COAL.

1 (C) CERTAIN ROCK FORMATIONS.--NOTHING IN THIS CHAPTER
2 APPLIES TO STORAGE OF GAS OR LIQUIDS IN STORAGE RESERVOIRS
3 EXCAVATED IN ROCK FORMATIONS SPECIFICALLY FOR STORAGE PURPOSES.

4 SUBCHAPTER D

5 EMINENT DOMAIN

6 SEC.

7 3241. APPROPRIATION OF INTEREST IN REAL PROPERTY.

8 § 3241. APPROPRIATION OF INTEREST IN REAL PROPERTY.

9 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN THIS SUBSECTION, A
10 CORPORATION EMPOWERED TO TRANSPORT, SELL OR STORE NATURAL GAS OR
11 MANUFACTURED GAS IN THIS COMMONWEALTH MAY APPROPRIATE AN
12 INTEREST IN REAL PROPERTY LOCATED IN A STORAGE RESERVOIR OR
13 RESERVOIR PROTECTIVE AREA FOR INJECTION, STORAGE AND REMOVAL
14 FROM STORAGE OF NATURAL GAS OR MANUFACTURED GAS IN A STRATUM
15 WHICH IS OR PREVIOUSLY HAS BEEN COMMERCIALY PRODUCTIVE OF
16 NATURAL GAS. THE RIGHT GRANTED BY THIS SUBSECTION SHALL NOT BE
17 EXERCISED TO ACQUIRE ANY OF THE FOLLOWING FOR THE PURPOSE OF GAS
18 STORAGE:

19 (1) AN INTEREST IN A GEOLOGICAL STRATUM WITHIN THE AREA
20 OF A PROPOSED STORAGE RESERVOIR OR RESERVOIR PROTECTIVE AREA:

21 (I) UNLESS THE ORIGINAL RECOVERABLE OIL OR GAS
22 RESERVES IN THE PROPOSED STORAGE RESERVOIR HAVE BEEN
23 DEPLETED OR EXHAUSTED BY AT LEAST 80%; AND

24 (II) UNTIL THE CONDEMNOR HAS ACQUIRED THE RIGHT, BY
25 GRANT, LEASE OR OTHER AGREEMENT, TO STORE GAS IN THE
26 GEOLOGICAL STRATUM UNDERLYING AT LEAST 75% OF THE AREA OF
27 THE PROPOSED STORAGE RESERVOIR.

28 (2) AN INTEREST IN A GEOLOGICAL STRATUM WITHIN THE AREA
29 OF A PROPOSED STORAGE RESERVOIR OR RESERVOIR PROTECTIVE AREA
30 OWNED DIRECTLY OR INDIRECTLY BY A GAS COMPANY OR OTHER PERSON

1 ENGAGED IN LOCAL DISTRIBUTION OF NATURAL GAS, IF THE INTEREST
2 TO BE ACQUIRED IS PRESENTLY BEING USED BY THE GAS COMPANY OR
3 OTHER PERSON FOR STORAGE OF GAS IN PERFORMANCE OF SERVICE TO
4 CUSTOMERS IN ITS SERVICE AREA.

5 (B) CONSTRUCTION.--THE FOLLOWING SHALL APPLY:

6 (1) THIS CHAPTER AUTHORIZES APPROPRIATION WITHIN A
7 STORAGE RESERVOIR OR RESERVOIR PROTECTIVE AREA OF THE
8 FOLLOWING:

9 (I) A STRATUM TO BE USED FOR STORAGE;

10 (II) ANY GAS RESERVE REMAINING A STRATUM TO BE USED
11 FOR STORAGE;

12 (III) AN ACTIVE OR ABANDONED WELL OR WELLS DRILLED
13 INTO A STRATUM TO BE USED FOR STORAGE; AND

14 (IV) THE RIGHT TO ENTER UPON AND USE THE SURFACE OF
15 LANDS TO:

16 (A) LOCATE, RECONDITION, MAINTAIN, PLUG OR
17 REPLUG AN ACTIVE OR ABANDONED WELL; OR

18 (B) OPERATE A WELL DRILLED INTO OR THROUGH A
19 STRATUM TO BE USED FOR STORAGE.

20 (2) THIS CHAPTER DOES NOT PRECLUDE THE OWNER OF
21 NONSTORAGE STRATA FROM DRILLING WELLS TO PRODUCE OIL OR GAS
22 FROM A STRATUM ABOVE OR BELOW THE STORAGE STRATUM
23 APPROPRIATED BY ANOTHER PERSON, BUT A PERSON APPROPRIATING OR
24 HOLDING STORAGE RIGHTS MAY ACCESS, INSPECT AND EXAMINE THE
25 DRILLING, THE COMPLETED WELL, DRILLING LOGS AND OTHER RECORDS
26 RELATING TO DRILLING, EQUIPPING OR OPERATING THE WELL IN
27 ORDER TO DETERMINE WHETHER THE STORAGE STRATUM IS BEING
28 ADEQUATELY PROTECTED TO PREVENT ESCAPE OF GAS STORED THEREIN.

29 (3) THIS CHAPTER DOES NOT AUTHORIZE APPROPRIATION OF A
30 COAL OR COAL MEASURE, REGARDLESS OF WHETHER IT IS BEING

1 MINED, OR AN INTEREST IN THE COAL MINE OR COAL MEASURE.

2 (C) ACTIVITIES THROUGH APPROPRIATED STRATA.--A PERSON
3 DRILLING, OPERATING, USING OR PLUGGING A WELL THROUGH A STRATUM
4 APPROPRIATED UNDER THIS CHAPTER SHALL DRILL, CASE, EQUIP,
5 OPERATE OR PLUG IT IN A MANNER DESIGNED TO PREVENT AVOIDABLE
6 ESCAPE OF GAS THAT MAY BE STORED IN THE STORAGE STRATUM. UPON
7 VIOLATION OF THIS SUBSECTION, THE COURT OF COMMON PLEAS OF THE
8 COUNTY WHERE THE LAND IN QUESTION IS SITUATED MAY COMPEL
9 COMPLIANCE BY INJUNCTION OR GRANT OTHER APPROPRIATE RELIEF IN AN
10 ACTION BROUGHT BY THE PERSON STORING GAS IN THE STORAGE STRATUM.

11 (D) PREREQUISITES TO APPROPRIATION.--BEFORE APPROPRIATING
12 UNDER THIS CHAPTER, A PERSON SHALL ATTEMPT TO AGREE WITH OWNERS
13 OF INTERESTS IN THE REAL PROPERTY INVOLVED AS TO DAMAGES PAYABLE
14 FOR RIGHTS AND INTERESTS TO BE APPROPRIATED, IF THE OWNERS CAN
15 BE FOUND AND ARE SUI JURIS. IF THE PARTIES FAIL TO AGREE, THE
16 PERSON SHALL TENDER A SURETY BOND TO THE OWNERS TO SECURE THEM
17 IN THE PAYMENT OF DAMAGES. IF THE OWNERS REFUSE TO ACCEPT THE
18 BOND, CANNOT BE FOUND OR ARE NOT SUI JURIS, AND AFTER REASONABLE
19 NOTICE TO THE OWNERS BY ADVERTISEMENT OR OTHERWISE, THE BOND
20 SHALL BE PRESENTED FOR APPROVAL TO THE COURT OF COMMON PLEAS OF
21 THE COUNTY IN WHICH THE TRACT OF LAND IS SITUATED. UPON THE
22 APPROVAL OF THE BOND BY THE COURT, THE RIGHT OF THE PERSON TO
23 APPROPRIATE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER
24 SHALL BE COMPLETE.

25 (E) APPOINTMENT OF VIEWERS.--UPON PETITION OF A PROPERTY
26 OWNER OR A PERSON APPROPRIATING UNDER THIS CHAPTER, THE COURT
27 SHALL:

28 (1) APPOINT THREE DISINTERESTED FREEHOLDERS OF THE
29 COUNTY TO SERVE AS VIEWERS TO ASSESS DAMAGES TO BE PAID TO
30 THE PROPERTY OWNER FOR THE RIGHTS APPROPRIATED;

1 TO RESOLVE BY MUTUAL AGREEMENT A MATTER ARISING UNDER THIS
2 CHAPTER. UNLESS OTHERWISE PROVIDED, CONFERENCES SHALL BE HELD
3 WITHIN 90 DAYS AFTER A REQUEST IS RECEIVED BY THE DEPARTMENT,
4 AND NOTICE SHALL BE GIVEN BY THE DEPARTMENT TO ALL INTERESTED
5 PARTIES. A REPRESENTATIVE OF THE DEPARTMENT SHALL ATTEND THE
6 CONFERENCE AND THE DEPARTMENT MAY MAKE RECOMMENDATIONS. AN
7 AGREEMENT REACHED AT A CONFERENCE SHALL BE CONSISTENT WITH THIS
8 CHAPTER AND, IF APPROVED BY THE DEPARTMENT, IT SHALL BE REDUCED
9 TO WRITING AND SHALL BE EFFECTIVE, UNLESS REVIEWED AND REJECTED
10 BY THE DEPARTMENT WITHIN TEN DAYS AFTER THE CONFERENCE. THE
11 RECORD OF AN AGREEMENT APPROVED BY THE DEPARTMENT SHALL BE KEPT
12 ON FILE BY THE DEPARTMENT AND COPIES SHALL BE FURNISHED TO THE
13 PARTIES. THE SCHEDULING OF A CONFERENCE SHALL HAVE NO EFFECT ON
14 THE DEPARTMENT'S AUTHORITY TO ISSUE ORDERS TO COMPEL COMPLIANCE
15 WITH THIS CHAPTER.

16 (B) NOTIFICATION.--WHEN A COAL OPERATOR IS TO BE NOTIFIED OF
17 A PROCEEDING UNDER THIS SECTION, THE DEPARTMENT SIMULTANEOUSLY
18 SHALL SEND A COPY OF THE NOTICE TO THE COLLECTIVE BARGAINING
19 REPRESENTATIVE OF EMPLOYEES OF THE COAL OPERATOR.

20 § 3252. PUBLIC NUISANCES.

21 A VIOLATION OF SECTION 3216 (RELATING TO WELL SITE
22 RESTORATION), 3217 (RELATING TO PROTECTION OF FRESH GROUNDWATER
23 AND CASING REQUIREMENTS), 3218 (RELATING TO PROTECTION OF WATER
24 SUPPLIES), 3219 (RELATING TO USE OF SAFETY DEVICES) OR 3220
25 (RELATING TO PLUGGING REQUIREMENTS), OR A RULE, REGULATION,
26 ORDER, TERM OR CONDITION OF A PERMIT RELATING TO ANY OF THOSE
27 SECTIONS CONSTITUTES A PUBLIC NUISANCE.

28 § 3253. ENFORCEMENT ORDERS.

29 (A) GENERAL RULE.--EXCEPT AS MODIFIED BY SUBSECTIONS (B),
30 (C) AND (D), THE DEPARTMENT MAY ISSUE ORDERS NECESSARY TO AID IN

1 ENFORCEMENT OF THIS CHAPTER. AN ORDER ISSUED UNDER THIS CHAPTER
2 SHALL TAKE EFFECT UPON NOTICE, UNLESS THE ORDER SPECIFIES
3 OTHERWISE. THE POWER OF THE DEPARTMENT TO ISSUE AN ORDER UNDER
4 THIS CHAPTER IS IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO THE
5 DEPARTMENT UNDER THIS CHAPTER OR UNDER ANY OTHER LAW.

6 (B) SUSPENSION AND REVOCATION.--THE DEPARTMENT MAY SUSPEND
7 OR REVOKE A WELL PERMIT OR WELL REGISTRATION FOR ANY WELL IN
8 CONTINUING VIOLATION OF THIS CHAPTER, THE ACT OF JUNE 22, 1937
9 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, THE ACT OF
10 JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE
11 MANAGEMENT ACT, ANY OTHER STATUTE ADMINISTERED BY THE DEPARTMENT
12 OR A RULE OR REGULATION. THE RIGHT OF THE DEPARTMENT TO REVOKE A
13 PERMIT OR REGISTRATION UNDER THIS SUBSECTION SHALL NOT BE
14 EFFECTIVE UNTIL A FINAL ADMINISTRATIVE DETERMINATION HAS BEEN
15 MADE OF THE VIOLATION AND NO APPEAL IS PENDING IN WHICH A STAY
16 HAS BEEN GRANTED. A SUSPENSION ORDER OF THE DEPARTMENT SHALL
17 AUTOMATICALLY TERMINATE IF THE VIOLATION UPON WHICH IT IS BASED
18 IS CORRECTED BY THE OPERATOR TO BRING THE WELL INTO COMPLIANCE
19 WITH THIS CHAPTER.

20 (C) WRITTEN NOTICE.--PRIOR TO SUSPENSION OR REVOCATION OF A
21 WELL PERMIT OR REGISTRATION, THE DEPARTMENT SHALL SERVE WRITTEN
22 NOTICE ON THE WELL OPERATOR OR ITS AGENT, STATING SPECIFICALLY
23 THE STATUTORY PROVISION, RULE, REGULATION OR OTHER REASON RELIED
24 UPON, ALONG WITH FACTUAL CIRCUMSTANCES SURROUNDING THE ALLEGED
25 VIOLATION. THE WELL OPERATOR SHALL HAVE 15 DAYS TO REQUEST A
26 CONFERENCE WITH THE DEPARTMENT TO SHOW CAUSE WHY ACTION SHOULD
27 NOT BE TAKEN. UPON RECEIPT OF A REQUEST, THE DEPARTMENT SHALL
28 HOLD A CONFERENCE AND RENDER A DECISION WITHIN 15 DAYS AFTER THE
29 CONFERENCE. THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE OF THE
30 DECISION TO THE WELL OPERATOR OR ITS AGENT, WHICH SHALL BECOME

1 EFFECTIVE UPON RECEIPT. IF THE DECISION IS TO SUSPEND OR REVOKE
2 THE PERMIT OR REGISTRATION, THE DEPARTMENT MAY ORDER THE
3 OPERATOR TO CAP THE WELL.

4 (D) IMMEDIATE ORDERS.--AN ORDER OF THE DEPARTMENT REQUIRING
5 IMMEDIATE CESSATION OF DRILLING OPERATIONS SHALL BE EFFECTIVE
6 ONLY IF AUTHORIZED BY THE SECRETARY OR BY THE EXECUTIVE DEPUTY
7 SECRETARY FOR ENVIRONMENTAL PROTECTION.

8 (E) GRIEVANCES.--A PERSON AGGRIEVED BY A DEPARTMENT ORDER
9 ISSUED UNDER THIS SECTION SHALL HAVE THE RIGHT, WITHIN 30 DAYS
10 OF RECEIPT OF THE NOTICE, TO APPEAL TO THE ENVIRONMENTAL HEARING
11 BOARD.

12 (F) INSPECTION REPORTS.--THE DEPARTMENT SHALL POST
13 INSPECTION REPORTS ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE.
14 THE INSPECTION REPORTS SHALL INCLUDE:

15 (1) THE NATURE AND DESCRIPTION OF VIOLATIONS.

16 (2) THE OPERATOR'S WRITTEN RESPONSE TO THE VIOLATION, IF
17 AVAILABLE.

18 (3) THE STATUS OF THE VIOLATION.

19 (4) THE REMEDIAL STEPS TAKEN BY THE OPERATOR OR THE
20 DEPARTMENT TO ADDRESS THE VIOLATION.

21 § 3254. RESTRAINING VIOLATIONS.

22 (A) GENERAL RULE.--IN ADDITION TO ANY OTHER REMEDY PROVIDED
23 IN THIS CHAPTER, THE DEPARTMENT MAY INSTITUTE A SUIT IN EQUITY
24 IN THE NAME OF THE COMMONWEALTH FOR AN INJUNCTION TO RESTRAIN A
25 VIOLATION OF THIS CHAPTER OR RULES, REGULATIONS, STANDARDS OR
26 ORDERS ADOPTED OR ISSUED UNDER THIS CHAPTER AND TO RESTRAIN THE
27 MAINTENANCE OR THREAT OF A PUBLIC NUISANCE. UPON MOTION OF THE
28 COMMONWEALTH, THE COURT SHALL ISSUE A PROHIBITORY OR MANDATORY
29 PRELIMINARY INJUNCTION IF IT FINDS THAT THE DEFENDANT IS
30 ENGAGING IN UNLAWFUL CONDUCT, AS DEFINED BY THIS CHAPTER, OR

1 CONDUCT CAUSING IMMEDIATE AND IRREPARABLE HARM TO THE PUBLIC.
2 THE COMMONWEALTH SHALL NOT BE REQUIRED TO FURNISH BOND OR OTHER
3 SECURITY IN CONNECTION WITH THE PROCEEDING. IN ADDITION TO AN
4 INJUNCTION, THE COURT IN EQUITY MAY LEVEL CIVIL PENALTIES AS
5 SPECIFIED IN SECTION 3256 (RELATING TO CIVIL PENALTIES).

6 (B) DISTRICT ATTORNEY.--IN ADDITION TO OTHER REMEDIES IN
7 THIS CHAPTER, UPON RELATION OF THE DISTRICT ATTORNEY OF A COUNTY
8 AFFECTED, OR UPON RELATION OF THE SOLICITOR OF A MUNICIPALITY
9 AFFECTED, AN ACTION IN EQUITY MAY BE BROUGHT IN A COURT OF
10 COMPETENT JURISDICTION FOR AN INJUNCTION TO RESTRAIN A VIOLATION
11 OF THIS CHAPTER OR RULES AND REGULATIONS PROMULGATED UNDER THIS
12 CHAPTER OR TO RESTRAIN A PUBLIC NUISANCE OR DETRIMENT TO HEALTH.

13 (C) CONCURRENT PENALTIES.--PENALTIES AND REMEDIES UNDER THIS
14 CHAPTER SHALL BE DEEMED CONCURRENT. EXISTENCE OR EXERCISE OF ONE
15 REMEDY SHALL NOT PREVENT THE DEPARTMENT FROM EXERCISING ANOTHER
16 REMEDY AT LAW OR IN EQUITY.

17 (D) JURISDICTION.--ACTIONS UNDER THIS SECTION MAY BE FILED
18 IN THE APPROPRIATE COURT OF COMMON PLEAS OR IN COMMONWEALTH
19 COURT, AND THOSE COURTS ARE HEREBY GRANTED JURISDICTION TO HEAR
20 ACTIONS UNDER THIS SECTION.

21 § 3255. PENALTIES.

22 (A) GENERAL VIOLATION.--A PERSON VIOLATING A PROVISION OF
23 THIS CHAPTER COMMITS A SUMMARY OFFENSE AND, UPON CONVICTION,
24 SHALL BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$1,000 OR TO
25 IMPRISONMENT OF NOT MORE THAN 90 DAYS, OR BOTH. EACH DAY DURING
26 WHICH THE VIOLATION CONTINUES IS A SEPARATE AND DISTINCT
27 OFFENSE.

28 (B) WILLFUL VIOLATION.--A PERSON WILLFULLY VIOLATING A
29 PROVISION OF THIS CHAPTER OR AN ORDER OF THE DEPARTMENT ISSUED
30 UNDER THIS CHAPTER COMMITS A MISDEMEANOR AND, UPON CONVICTION,

1 SHALL BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$5,000 OR TO
2 IMPRISONMENT OF NOT MORE THAN ONE YEAR, OR BOTH. EACH DAY DURING
3 WHICH THE VIOLATION CONTINUES IS A SEPARATE AND DISTINCT
4 OFFENSE.

5 (C) AUTHORITY.--THE DEPARTMENT MAY INSTITUTE A PROSECUTION
6 AGAINST ANY PERSON OR MUNICIPALITY FOR A VIOLATION OF THIS
7 CHAPTER.

8 § 3256. CIVIL PENALTIES.

9 IN ADDITION TO OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY
10 FOR A VIOLATION OF THIS CHAPTER, A RULE OR REGULATION OF THE
11 DEPARTMENT OR A DEPARTMENTAL ORDER OR A PERMIT CONDITION, THE
12 DEPARTMENT, AFTER A HEARING, MAY ASSESS A CIVIL PENALTY
13 REGARDLESS OF WHETHER THE VIOLATION WAS WILLFUL. THE PENALTY
14 SHALL NOT EXCEED \$25,000 PLUS \$1,000 FOR EACH DAY DURING WHICH
15 THE VIOLATION CONTINUES, OR IN THE CASE OF A VIOLATION ARISING
16 FROM THE CONSTRUCTION, ALTERATION OR OPERATION OF AN
17 UNCONVENTIONAL WELL, \$75,000 PLUS \$5,000 FOR EACH DAY DURING
18 WHICH THE VIOLATION CONTINUES. IN DETERMINING THE AMOUNT, THE
19 DEPARTMENT SHALL CONSIDER WILLFULNESS OF THE VIOLATION, DAMAGE
20 OR INJURY TO NATURAL RESOURCES OF THIS COMMONWEALTH OR THEIR
21 USES, ENDANGERMENT OF SAFETY OF OTHERS, THE COST OF REMEDYING
22 THE HARM, SAVINGS RESULTING TO THE VIOLATOR AS A RESULT OF THE
23 VIOLATION AND ANY OTHER RELEVANT FACTOR. THE PENALTY SHALL BE
24 PAYABLE TO THE COMMONWEALTH AND COLLECTIBLE IN ANY MANNER
25 PROVIDED AT LAW FOR COLLECTION OF DEBTS. IF A VIOLATOR NEGLECTS
26 OR REFUSES TO PAY THE PENALTY AFTER DEMAND, THE AMOUNT, TOGETHER
27 WITH INTEREST AND COSTS THAT MAY ACCRUE, SHALL BECOME A LIEN IN
28 FAVOR OF THE COMMONWEALTH ON THE REAL AND PERSONAL PROPERTY OF
29 THE VIOLATOR, BUT ONLY AFTER THE LIEN HAS BEEN ENTERED AND
30 DOCKETED OF RECORD BY THE PROTHONOTARY OF THE COUNTY WHERE THE

1 PROPERTY IS SITUATED. THE DEPARTMENT MAY AT ANY TIME TRANSMIT TO
2 THE PROTHONOTARIES OF THE VARIOUS COUNTIES CERTIFIED COPIES OF
3 ALL LIENS. IT SHALL BE THE DUTY OF EACH PROTHONOTARY TO ENTER
4 AND DOCKET THE LIENS OF RECORD IN THE PROTHONOTARY'S OFFICE AND
5 INDEX THEM AS JUDGMENTS ARE INDEXED, WITHOUT REQUIRING PAYMENT
6 OF COSTS AS A CONDITION PRECEDENT TO ENTRY.

7 § 3257. EXISTING RIGHTS AND REMEDIES PRESERVED AND CUMULATIVE
8 REMEDIES AUTHORIZED.

9 NOTHING IN THIS CHAPTER ESTOPS THE COMMONWEALTH OR A DISTRICT
10 ATTORNEY FROM PROCEEDING IN A COURT OF LAW OR IN EQUITY TO ABATE
11 POLLUTION FORBIDDEN UNDER THIS CHAPTER OR A NUISANCE UNDER
12 EXISTING LAW. IT IS HEREBY DECLARED TO BE THE PURPOSE OF THIS
13 CHAPTER TO PROVIDE ADDITIONAL AND CUMULATIVE REMEDIES TO CONTROL
14 ACTIVITIES RELATED TO DRILLING FOR, OR PRODUCTION OF, OIL AND
15 GAS IN THIS COMMONWEALTH, AND NOTHING CONTAINED IN THIS CHAPTER
16 ABRIDGES OR ALTERS RIGHTS OF ACTION OR REMEDIES EXISTING, OR
17 WHICH EXISTED PREVIOUSLY, IN EQUITY OR UNDER COMMON OR STATUTORY
18 LAW, CRIMINAL OR CIVIL. NEITHER THIS CHAPTER, THE GRANT OF A
19 PERMIT UNDER THIS CHAPTER NOR AN ACT DONE BY VIRTUE OF THIS
20 CHAPTER ESTOPS THE COMMONWEALTH, IN EXERCISING RIGHTS UNDER
21 COMMON OR DECISIONAL LAW OR IN EQUITY, FROM SUPPRESSING A
22 NUISANCE, ABATING POLLUTION OR ENFORCING COMMON LAW OR STATUTORY
23 RIGHTS. NO COURT OF THIS COMMONWEALTH WITH JURISDICTION TO ABATE
24 PUBLIC OR PRIVATE NUISANCES SHALL BE DEPRIVED OF JURISDICTION IN
25 AN ACTION TO ABATE A PRIVATE OR PUBLIC NUISANCE INSTITUTED BY
26 ANY PERSON ON GROUNDS THAT THE NUISANCE CONSTITUTES AIR OR WATER
27 POLLUTION.

28 § 3258. PRODUCTION OF MATERIALS, WITNESSES, DEPOSITIONS AND
29 RIGHTS OF ENTRY.

30 (A) GENERAL RULE.--THE DEPARTMENT MAY MAKE INSPECTIONS,

1 CONDUCT TESTS OR SAMPLING OR EXAMINE BOOKS, PAPERS AND RECORDS
2 PERTINENT TO A MATTER UNDER INVESTIGATION UNDER THIS CHAPTER TO
3 DETERMINE COMPLIANCE WITH THIS CHAPTER. FOR THIS PURPOSE, THE
4 DULY AUTHORIZED AGENTS AND EMPLOYEES OF THE DEPARTMENT MAY AT
5 ALL REASONABLE TIMES ENTER AND EXAMINE ANY INVOLVED PROPERTY,
6 FACILITY, OPERATION OR ACTIVITY.

7 (B) ACCESS.--THE OWNER, OPERATOR OR OTHER PERSON IN CHARGE
8 OF A PROPERTY, FACILITY, OPERATION OR ACTIVITY UNDER THIS
9 CHAPTER, UPON PRESENTATION OF PROPER IDENTIFICATION AND PURPOSE
10 FOR INSPECTION BY AGENTS OR EMPLOYEES OF THE DEPARTMENT, SHALL
11 PROVIDE FREE AND UNRESTRICTED ENTRY AND ACCESS. UPON REFUSAL,
12 THE AGENT OR EMPLOYEE MAY OBTAIN A SEARCH WARRANT OR OTHER
13 SUITABLE ORDER AUTHORIZING ENTRY AND INSPECTION. IT SHALL BE
14 SUFFICIENT TO JUSTIFY ISSUANCE OF A SEARCH WARRANT AUTHORIZING
15 EXAMINATION AND INSPECTION IF:

16 (1) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE OBJECT
17 OF THE INVESTIGATION IS SUBJECT TO REGULATION UNDER THIS
18 CHAPTER; AND

19 (2) ACCESS, EXAMINATION OR INSPECTION IS NECESSARY TO
20 ENFORCE THE PROVISIONS OF THIS CHAPTER.

21 (C) WITNESSES.--IN ANY PART OF THIS COMMONWEALTH, THE
22 DEPARTMENT MAY SUBPOENA WITNESSES, ADMINISTER OATHS, EXAMINE
23 WITNESSES, TAKE TESTIMONY AND COMPEL PRODUCTION OF BOOKS,
24 RECORDS, MAPS, PLATS, PAPERS, DOCUMENTS AND OTHER WRITINGS
25 PERTINENT TO PROCEEDINGS OR INVESTIGATIONS CONDUCTED BY THE
26 DEPARTMENT UNDER THIS CHAPTER. UPON REFUSAL TO OBEY A SUBPOENA
27 BY ANY PERSON AND ON APPLICATION OF THE DEPARTMENT, A COURT MAY
28 ENFORCE A SUBPOENA IN CONTEMPT PROCEEDINGS. FEES FOR SERVING A
29 SUBPOENA SHALL BE THE SAME AS THOSE PAID TO SHERIFFS FOR SIMILAR
30 SERVICES.

1 (D) DEPOSITION.--THE DEPARTMENT OR A PARTY TO A PROCEEDING
2 BEFORE THE DEPARTMENT MAY CAUSE THE DEPOSITION OF A WITNESS WHO
3 RESIDES IN OR OUTSIDE OF THIS COMMONWEALTH TO BE TAKEN IN THE
4 MANNER PRESCRIBED BY LAW FOR TAKING DEPOSITIONS IN CIVIL
5 ACTIONS.

6 (E) WITNESS FEE.--WITNESSES SUMMONED BEFORE THE DEPARTMENT
7 SHALL BE PAID THE SAME FEES AS ARE PAID TO WITNESSES IN COURTS
8 OF RECORD OF GENERAL JURISDICTION. WITNESSES WHOSE DEPOSITIONS
9 ARE TAKEN UNDER THIS CHAPTER, AND THE OFFICERS TAKING THOSE
10 DEPOSITIONS, SHALL BE ENTITLED TO THE SAME FEES AS THOSE PAID
11 FOR LIKE SERVICES IN COURT.

12 (F) PURCHASERS.--UPON REQUEST, A PURCHASER OF OIL OR GAS
13 SHALL PROVIDE THE DEPARTMENT INFORMATION NECESSARY TO DETERMINE
14 OWNERSHIP OF FACILITIES FROM WHICH THE PURCHASER OBTAINED OIL OR
15 GAS. THE INFORMATION SHALL BE KEPT CONFIDENTIAL FOR A PERIOD OF
16 FIVE YEARS AND THE DEPARTMENT MAY UTILIZE IT IN ENFORCEMENT
17 PROCEEDINGS. THE DEPARTMENT MAY REQUEST INFORMATION UNDER THIS
18 SECTION ONLY WHEN A WELL DOES NOT COMPLY WITH SECTION 3211(H)
19 (RELATING TO WELL PERMITS).

20 § 3259. UNLAWFUL CONDUCT.

21 IT SHALL BE UNLAWFUL FOR ANY PERSON TO:

22 (1) DRILL, ALTER, OPERATE OR UTILIZE AN OIL OR GAS WELL
23 WITHOUT A PERMIT OR REGISTRATION FROM THE DEPARTMENT AS
24 REQUIRED BY THIS CHAPTER OR IN VIOLATION OF RULES OR
25 REGULATIONS ADOPTED UNDER THIS CHAPTER, ORDERS OF THE
26 DEPARTMENT OR A TERM OR CONDITION OF A PERMIT ISSUED BY THE
27 DEPARTMENT.

28 (2) CONDUCT AN ACTIVITY RELATED TO DRILLING FOR, OR
29 PRODUCTION OF, OIL AND GAS:

30 (I) CONTRARY TO THIS CHAPTER, RULES OR REGULATIONS

1 ADOPTED UNDER THIS CHAPTER, AN ORDER OF THE DEPARTMENT OR
2 A TERM OR CONDITION OF A PERMIT ISSUED BY THE DEPARTMENT;
3 OR

4 (II) IN ANY MANNER AS TO CREATE A PUBLIC NUISANCE OR
5 ADVERSELY AFFECT PUBLIC HEALTH, SAFETY, WELFARE OR THE
6 ENVIRONMENT.

7 (3) REFUSE, OBSTRUCT, DELAY OR THREATEN AN AGENT OR
8 EMPLOYEE OF THE DEPARTMENT ACTING IN THE COURSE OF LAWFUL
9 PERFORMANCE OF A DUTY UNDER THIS CHAPTER, INCLUDING, BUT NOT
10 LIMITED TO, ENTRY AND INSPECTION.

11 (4) ATTEMPT TO OBTAIN A PERMIT OR IDENTIFY A WELL AS AN
12 ORPHAN WELL BY MISREPRESENTATION OR FAILURE TO DISCLOSE ALL
13 RELEVANT FACTS.

14 (5) CAUSE ABANDONMENT OF A WELL BY REMOVAL OF CASING OR
15 EQUIPMENT NECESSARY FOR PRODUCTION WITHOUT PLUGGING THE WELL
16 IN THE MANNER PRESCRIBED UNDER SECTION 3220 (RELATING TO
17 PLUGGING REQUIREMENTS), EXCEPT THAT THE OWNER OR OPERATOR OF
18 A WELL MAY TEMPORARILY REMOVE CASING OR EQUIPMENT NECESSARY
19 FOR PRODUCTION, BUT ONLY IF IT IS PART OF THE NORMAL COURSE
20 OF PRODUCTION ACTIVITIES.

21 § 3260. COLLECTION OF FINES AND PENALTIES.

22 FINES AND PENALTIES SHALL BE COLLECTIBLE IN A MANNER PROVIDED
23 BY LAW FOR COLLECTION OF DEBTS. IF A PERSON LIABLE TO PAY A
24 PENALTY NEGLECTS OR REFUSES TO PAY AFTER DEMAND, THE AMOUNT,
25 TOGETHER WITH INTEREST AND COSTS THAT MAY ACCRUE, SHALL BE A
26 JUDGMENT IN FAVOR OF THE COMMONWEALTH ON THE PERSON'S PROPERTY,
27 BUT ONLY AFTER THE JUDGMENT HAS BEEN ENTERED AND DOCKETED OF
28 RECORD BY THE PROTHONOTARY OF THE COUNTY WHERE THE PROPERTY IS
29 SITUATED. THE DEPARTMENT MAY TRANSMIT TO PROTHONOTARIES OF THE
30 VARIOUS COUNTIES CERTIFIED COPIES OF ALL JUDGMENTS, AND IT SHALL

1 BE THE DUTY OF EACH PROTHONOTARY TO ENTER AND DOCKET THEM OF
2 RECORD IN THE PROTHONOTARY'S OFFICE AND INDEX THEM AS JUDGMENTS
3 ARE INDEXED, WITHOUT REQUIRING PAYMENT OF COSTS AS A CONDITION
4 PRECEDENT TO ENTRY.

5 § 3261. THIRD-PARTY LIABILITY.

6 IF A PERSON OTHER THAN A WELL OPERATOR RENDERS A SERVICE OR
7 PRODUCT TO A WELL OR WELL SITE, THAT PERSON IS JOINTLY AND
8 SEVERALLY LIABLE WITH THE WELL OWNER OR OPERATOR FOR VIOLATIONS
9 OF THIS CHAPTER ARISING OUT OF AND CAUSED BY THE PERSON'S
10 ACTIONS AT THE WELL OR WELL SITE.

11 SUBCHAPTER F

12 (RESERVED)

13 SUBCHAPTER G

14 MISCELLANEOUS PROVISIONS

15 SEC.

16 3291. WELL PLUGGING FUNDS.

17 3292. LOCAL ORDINANCES.

18 3293. EFFECT ON DEPARTMENT AUTHORITY.

19 3294. RELATIONSHIP TO SOLID WASTE AND SURFACE MINING.

20 3295. REGULATORY AUTHORITY.

21 § 3291. WELL PLUGGING FUNDS.

22 (A) APPROPRIATION.--FINES, CIVIL PENALTIES AND PERMIT AND
23 REGISTRATION FEES COLLECTED UNDER THIS CHAPTER ARE APPROPRIATED
24 TO THE DEPARTMENT TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

25 (B) SURCHARGE.--TO AID IN INDEMNIFYING THE COMMONWEALTH FOR
26 THE COST OF PLUGGING ABANDONED WELLS, A \$50 SURCHARGE IS ADDED
27 TO THE PERMIT FEE ESTABLISHED BY THE DEPARTMENT UNDER SECTION
28 3211 (RELATING TO WELL PERMITS) FOR NEW WELLS. MONEY COLLECTED
29 AS A RESULT OF THE SURCHARGE SHALL BE PAID INTO A RESTRICTED
30 REVENUE ACCOUNT IN THE STATE TREASURY TO BE KNOWN AS THE

1 ABANDONED WELL PLUGGING FUND AND EXPENDED BY THE DEPARTMENT TO
2 PLUG ABANDONED WELLS THREATENING THE HEALTH AND SAFETY OF
3 PERSONS OR PROPERTY OR POLLUTION OF WATERS OF THIS COMMONWEALTH.

4 (C) ORPHAN WELL PLUGGING FUND.--THE FOLLOWING SHALL APPLY:

5 (1) A RESTRICTED REVENUE ACCOUNT TO BE KNOWN AS THE
6 ORPHAN WELL PLUGGING FUND IS CREATED. A \$100 SURCHARGE FOR
7 WELLS TO BE DRILLED FOR OIL PRODUCTION AND A \$200 SURCHARGE
8 FOR WELLS TO BE DRILLED FOR GAS PRODUCTION ARE ADDED TO THE
9 PERMIT FEE ESTABLISHED BY THE DEPARTMENT UNDER SECTION 3211
10 FOR NEW WELLS. THE SURCHARGES SHALL BE PLACED IN THE ORPHAN
11 WELL PLUGGING FUND AND EXPENDED BY THE DEPARTMENT TO PLUG
12 ORPHAN WELLS. IF AN OPERATOR REHABILITATES A WELL ABANDONED
13 BY ANOTHER OPERATOR OR AN ORPHAN WELL, THE PERMIT FEE AND THE
14 SURCHARGE FOR THE WELL SHALL BE WAIVED.

15 (2) THE DEPARTMENT SHALL STUDY ITS EXPERIENCE IN
16 IMPLEMENTING THIS SECTION AND SHALL REPORT ITS FINDINGS TO
17 THE GOVERNOR AND THE GENERAL ASSEMBLY BY AUGUST 1, 1992. THE
18 REPORT SHALL CONTAIN INFORMATION RELATING TO THE BALANCE OF
19 THE FUND, NUMBER OF WELLS PLUGGED, NUMBER OF IDENTIFIED WELLS
20 ELIGIBLE FOR PLUGGING AND RECOMMENDATIONS AS TO ALTERNATIVE
21 FUNDING MECHANISMS.

22 (3) EXPENDITURES BY THE DEPARTMENT FOR PLUGGING ORPHAN
23 WELLS ARE LIMITED TO FEES COLLECTED UNDER THIS CHAPTER. NO
24 MONEY FROM THE GENERAL FUND SHALL BE EXPENDED FOR THIS
25 PURPOSE.

26 § 3292. LOCAL ORDINANCES.

27 EXCEPT WITH RESPECT TO ORDINANCES ADOPTED UNDER THE ACT OF
28 JULY 31, 1968 (P.L.805, NO.247), KNOWN AS THE PENNSYLVANIA
29 MUNICIPALITIES PLANNING CODE, THE ACT OF OCTOBER 4, 1978
30 (P.L.851, NO.166), KNOWN AS THE FLOOD PLAIN MANAGEMENT ACT, AND

1 THE ACT OF MARCH 31, 1927 (P.L.98, NO.69), REFERRED TO AS THE
2 SECOND CLASS CITY ZONING LAW, LOCAL ORDINANCES AND ENACTMENTS
3 PURPORTING TO REGULATE OIL AND GAS WELL OPERATIONS REGULATED BY
4 THIS CHAPTER ARE PREEMPTED AND SUPERSEDED BY THIS CHAPTER TO THE
5 EXTENT THE ORDINANCES AND ENACTMENTS REGULATE THE METHOD OF OIL
6 AND GAS WELL OPERATIONS. NO ORDINANCES OR ENACTMENTS ADOPTED
7 UNDER THOSE ACTS SHALL IMPOSE CONDITIONS, REQUIREMENTS OR
8 LIMITATIONS ON THE METHOD OF OIL AND GAS WELL OPERATIONS
9 REGULATED BY THIS CHAPTER OR ATTEMPT TO ACCOMPLISH THE PURPOSES
10 OF THIS CHAPTER. NOTHING IN THIS CHAPTER SHALL AFFECT THE
11 TRADITIONAL POWER OF LOCAL GOVERNMENT TO REGULATE ZONING AND
12 LAND DEVELOPMENT OF OIL AND GAS ACTIVITIES AS WELL AS OTHER
13 ASPECTS, SUCH AS THE TIME AND THE PLACE OF OPERATIONS TO PROTECT
14 THE HEALTH, SAFETY AND WELFARE OF THE GENERAL PUBLIC THROUGH
15 LOCAL ORDINANCES AND ENACTMENTS.

16 § 3293. EFFECT ON DEPARTMENT AUTHORITY.

17 THIS CHAPTER DOES NOT AFFECT, LIMIT OR IMPAIR ANY RIGHT OR
18 AUTHORITY OF THE DEPARTMENT UNDER THE ACT OF JUNE 22, 1937
19 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, THE ACT OF
20 JANUARY 8, 1960 (1959 P.L.2119, NO.787), KNOWN AS THE AIR
21 POLLUTION CONTROL ACT, THE ACT OF NOVEMBER 26, 1978 (P.L.1375,
22 NO.325), KNOWN AS THE DAM SAFETY AND ENCROACHMENTS ACT OR THE
23 ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE
24 MANAGEMENT ACT.

25 § 3294. RELATIONSHIP TO SOLID WASTE AND SURFACE MINING.

26 (A) GENERAL RULE.--THE OBLIGATION TO OBTAIN A PERMIT AND
27 POST A BOND UNDER ARTICLES III AND V OF THE ACT OF JULY 7, 1980
28 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, AND
29 TO PROVIDE PUBLIC NOTICE UNDER SECTION 1905-A(B)(1)(V) OF THE
30 ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE

1 ADMINISTRATIVE CODE OF 1929, FOR ANY PIT, IMPOUNDMENT, METHOD OR
2 FACILITY EMPLOYED FOR THE DISPOSAL, PROCESSING OR STORAGE OF
3 RESIDUAL WASTES GENERATED BY THE DRILLING OF AN OIL OR GAS WELL
4 OR FROM THE PRODUCTION OF WELLS WHICH IS LOCATED ON THE WELL
5 SITE, SHALL BE CONSIDERED TO HAVE BEEN SATISFIED IF THE OWNER OR
6 OPERATOR OF THE WELL MEETS THE FOLLOWING CONDITIONS:

7 (1) THE WELL IS PERMITTED UNDER THE REQUIREMENTS OF
8 SECTION 3211 (RELATING TO WELL PERMITS) OR REGISTERED UNDER
9 SECTION 3213 (RELATING TO WELL REGISTRATION AND
10 IDENTIFICATION);

11 (2) THE OWNER OR OPERATOR HAS SATISFIED THE FINANCIAL
12 SECURITY REQUIREMENTS OF SECTION 3215 (RELATING TO WELL
13 LOCATION RESTRICTIONS) BY OBTAINING A SURETY OR COLLATERAL
14 BOND FOR THE WELL AND WELL SITE; AND

15 (3) THE OWNER OR OPERATOR MAINTAINS COMPLIANCE WITH THIS
16 CHAPTER AND APPLICABLE REGULATIONS OF THE ENVIRONMENTAL
17 QUALITY BOARD.

18 (B) NONCOAL SURFACE MINING.--OBLIGATIONS UNDER THE ACT OF
19 DECEMBER 19, 1984 (P.L.1093, NO.219), KNOWN AS THE NONCOAL
20 SURFACE MINING CONSERVATION AND RECLAMATION ACT, OR A RULE OR
21 REGULATION PROMULGATED THEREUNDER, FOR ANY BORROW AREA WHERE
22 MINERALS ARE EXTRACTED SOLELY FOR THE PURPOSE OF OIL AND GAS
23 WELL DEVELOPMENT, INCLUDING ACCESS ROAD CONSTRUCTION, SHALL BE
24 CONSIDERED TO HAVE BEEN SATISFIED IF THE OWNER OR OPERATOR OF
25 THE WELL MEETS THE CONDITIONS IMPOSED UNDER SUBSECTION (A) (1)
26 AND (2) AND MAINTAINS COMPLIANCE WITH THIS CHAPTER AND
27 APPLICABLE REGULATIONS OF THE ENVIRONMENTAL QUALITY BOARD.

28 (C) SOLID WASTE MANAGEMENT ACT.--THIS SECTION DOES NOT
29 DIMINISH OR OTHERWISE AFFECT DUTIES OR OBLIGATIONS OF AN OWNER
30 OR OPERATOR UNDER THE SOLID WASTE MANAGEMENT ACT. THIS SECTION

1 DOES NOT APPLY TO WASTE CLASSIFIED AS HAZARDOUS WASTE UNDER THE
2 SOLID WASTE MANAGEMENT ACT OR THE RESOURCE CONSERVATION AND
3 RECOVERY ACT OF 1976 (PUBLIC LAW 94-580, 90 STAT. 2795, 42
4 U.S.C. § 6901 ET SEQ.).

5 (D) DEFINITION.--AS USED IN THIS SECTION AND SECTIONS 3216
6 (RELATING TO WELL SITE RESTORATION) AND 3225 (RELATING TO
7 BONDING), THE TERM "WELL SITE" MEANS AREAS OCCUPIED BY ALL
8 EQUIPMENT OR FACILITIES NECESSARY FOR OR INCIDENTAL TO DRILLING,
9 PRODUCTION OR PLUGGING A WELL.

10 § 3295. REGULATORY AUTHORITY.

11 THE ENVIRONMENTAL QUALITY BOARD SHALL ADOPT REGULATIONS TO
12 IMPLEMENT THIS CHAPTER.

13 CHAPTER 33

14 MODEL ORDINANCE

15 SEC.

16 3301. MODEL MUNICIPAL ORDINANCE.

17 3302. LOCAL ORDINANCE.

18 § 3301. MODEL MUNICIPAL ORDINANCE.

19 (A) PURPOSES.--THE PURPOSES OF THIS SECTION ARE AS FOLLOWS:

20 (1) TO OPTIMIZE THE DEVELOPMENT AND USE OF THIS
21 COMMONWEALTH'S OIL AND GAS RESERVES BY INCREASING REASONABLE
22 CONSISTENCY IN ZONING AND OTHER MUNICIPAL REGULATION.

23 (2) TO FOSTER EXPEDITIOUS AND EFFICIENT HANDLING OF
24 MUNICIPAL OIL AND GAS PERMITTING PROCEDURES.

25 (3) TO ALLOW MUNICIPALITIES TO ENACT REGULATIONS UNDER
26 THE ACT OF JULY 31, 1968 (P.L.805, NO.247), KNOWN AS THE
27 PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AND THE ACT OF
28 OCTOBER 4, 1978 (P.L.851, NO.166), KNOWN AS THE FLOOD PLAIN
29 MANAGEMENT ACT, INsofar AS THE REGULATION IS AUTHORIZED BY
30 SECTION 3302 (RELATING TO LOCAL ORDINANCE) AND THIS SECTION.

1 (B) AUTHORITY.--THE COMMISSION SHALL DEVELOP AND ADOPT A
2 MODEL ORDINANCE TO FULFILL THE PURPOSES OF THIS SECTION.

3 (C) ADOPTION OF PROVISIONS.--

4 (1) WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS
5 SECTION, THE COMMISSION SHALL, BY MAJORITY VOTE, ADOPT A
6 MODEL ORDINANCE FOR COUNTIES AND MUNICIPALITIES PERTAINING TO
7 OIL AND GAS DRILLING ACTIVITIES IN ACCORDANCE WITH THE
8 PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AS APPLICABLE, THE
9 FLOOD PLAIN MANAGEMENT ACT AND THIS SECTION.

10 (2) THE MODEL ZONING ORDINANCE SHALL DO ALL OF THE
11 FOLLOWING:

12 (I) AUTHORIZE OIL AND GAS DEVELOPMENT AS A PERMITTED
13 USE BY RIGHT IN ALL ZONING DISTRICTS EXCEPT RESIDENTIAL
14 DISTRICTS. THE COMMISSION MAY DEVELOP A MODEL ZONING
15 ORDINANCE THAT ALLOWS OIL AND GAS DEVELOPMENT IN
16 RESIDENTIAL ZONING DISTRICTS BY CONDITIONAL USE OR
17 SPECIAL EXCEPTION WITH CONDITIONS DEPENDENT ON THE
18 DENSITY OF EXISTING USES WITHIN THE DISTRICT AND THE
19 ISOLATION DISTANCES ACHIEVABLE IN EACH RESIDENTIAL
20 DISTRICT.

21 (II) AUTHORIZE NATURAL GAS COMPRESSION STATIONS:

22 (A) AS A PERMITTED USE BY RIGHT IN ALL
23 AGRICULTURAL, INDUSTRIAL AND COMMERCIAL DISTRICTS;
24 AND

25 (B) AS A CONDITIONAL USE IN ALL OTHER ZONING
26 DISTRICTS.

27 (III) AUTHORIZE NATURAL GAS PROCESSING PLANTS:

28 (A) AS A PERMITTED USE BY RIGHT IN ALL
29 INDUSTRIAL DISTRICTS; AND

30 (B) AS A CONDITIONAL USE OR SPECIAL EXCEPTION IN

1 AGRICULTURAL DISTRICTS.

2 (3) THE MODEL ZONING ORDINANCE SHALL NOT DO ANY OF THE
3 FOLLOWING:

4 (I) IMPOSE LIMITATIONS ON THE HOURS OF OPERATION ON
5 DRILLING OPERATIONS.

6 (II) IMPOSE LIMITATIONS ON NOISE, LIGHT, HEIGHT OR
7 SECURITY OR FENCING ON DRILLING OPERATIONS, NATURAL GAS
8 COMPRESSOR STATIONS OR NATURAL GAS PROCESSING PLANTS IF
9 THE LIMITATIONS ARE MORE STRINGENT THAN LIMITATIONS
10 IMPOSED ON CONSTRUCTION ACTIVITIES FOR OTHER SIMILAR LAND
11 USES. THE MODEL ZONING ORDINANCE MAY INCLUDE LIMITATIONS
12 ON NOISE, LIGHT, HEIGHT AND SECURITY AND FENCING FOR
13 EQUIPMENT OR PROCESSES WHICH ARE UNIQUE TO THE GAS
14 INDUSTRY AND WHICH ARE RATIONAL, NONDISCRIMINATORY AND
15 REASONABLY DEFENSIBLE IN THE PARTICULAR ZONE WHERE THEY
16 APPLY.

17 (III) HAVE A PERMIT REVIEW PERIOD FOR USES BY RIGHT
18 THAT EXCEEDS 30 DAYS FOR COMPLETE AND RESPONSIVE
19 SUBMISSIONS.

20 (IV) IMPOSE RESTRICTIONS ON VEHICULAR ACCESS ROUTES
21 FOR OVERWEIGHT VEHICLES EXCEPT AS AUTHORIZED UNDER:

22 (A) 75 PA.C.S. (RELATING TO VEHICLES); OR

23 (B) THE PENNSYLVANIA MUNICIPALITIES PLANNING
24 CODE.

25 (V) REGULATE STORM WATER, EROSION AND SEDIMENTATION
26 CONTROL OR GRADING WHERE THE USE IS SUBJECT TO REGULATION
27 BY THE DEPARTMENT THROUGH AN EROSION AND SEDIMENTATION
28 CONTROL GENERAL PERMIT OR SIMILAR PERMIT.

29 (4) NOTHING IN THIS SUBSECTION SHALL LIMIT OR PREEMPT A
30 COUNTY OR MUNICIPALITY FROM ACTION PURSUANT TO THE ACT OF

1 OCTOBER 4, 1978 (P.L.864, NO.167), KNOWN AS THE STORM WATER
2 MANAGEMENT ACT.

3 (D) EFFECT OF MODEL ORDINANCE.--AN ORDINANCE ADOPTED BY A
4 COUNTY OR MUNICIPALITY TO REGULATE OIL AND GAS SHALL NOT CONTAIN
5 MORE STRINGENT STANDARDS THAN THE MODEL ORDINANCE ADOPTED BY THE
6 COMMISSION.

7 (E) TIMING.--THE COMMISSION SHALL PUBLISH THE ADOPTED MODEL
8 ORDINANCE IN THE PENNSYLVANIA BULLETIN IMMEDIATELY AFTER ITS
9 ADOPTION AND SHALL DISSEMINATE INFORMATION ABOUT THE MODEL
10 ORDINANCE THROUGH THE DEPARTMENT OF COMMUNITY AND ECONOMIC
11 DEVELOPMENT, MUNICIPAL ASSOCIATIONS AND OTHER MEANS AS THE
12 COMMISSION SHALL DEEM APPROPRIATE. THE COSTS OF THE NOTIFICATION
13 SHALL BE BORNE BY THE DEPARTMENT OF COMMUNITY AND ECONOMIC
14 DEVELOPMENT.

15 (F) MISCELLANEOUS.--THE COMMISSION SHALL REVIEW THE MODEL
16 ORDINANCE ANNUALLY. PROPOSED AMENDMENTS SHALL BE PUBLISHED IN
17 THE PENNSYLVANIA BULLETIN WITHIN 30 DAYS AFTER THEIR ADOPTION.

18 (G) ORDINANCE.--(RESERVED).

19 (H) EFFECTIVE DATE OF MODEL ORDINANCE.--THE MODEL ORDINANCE
20 SHALL TAKE EFFECT 70 DAYS FOLLOWING THE COMMISSION'S PUBLICATION
21 OF THE ORDINANCE IN THE PENNSYLVANIA BULLETIN UNDER THIS
22 SECTION.

23 § 3302. LOCAL ORDINANCE.

24 NOTHING IN THIS CHAPTER SHALL IMPAIR OR INFRINGE UPON THE
25 PREEMPTION OR SUPERSEDURE OF THE REGULATION OF GAS WELLS UNDER
26 SECTION 602 OF THE ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223),
27 KNOWN AS THE OIL AND GAS ACT.

28 SECTION 2. REPEALS ARE AS FOLLOWS:

29 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
30 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 58

1 PA.C.S. CH. 32.

2 (2) THE ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223),
3 KNOWN AS THE OIL AND GAS ACT, IS REPEALED.

4 SECTION 3. THE ADDITION OF 58 PA.C.S. § 3225(A)(1), (2) AND
5 (3) AND (C) SHALL APPLY TO WELLS DRILLED AFTER THE EFFECTIVE
6 DATE OF THIS SECTION.

7 SECTION 4. THE ADDITION OF 58 PA.C.S. CH. 32 IS A
8 CONTINUATION OF THE ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223),
9 KNOWN AS THE OIL AND GAS ACT. THE FOLLOWING APPLY:

10 (1) EXCEPT AS OTHERWISE PROVIDED IN 58 PA.C.S. CH. 32,
11 ALL ACTIVITIES INITIATED UNDER THE OIL AND GAS ACT SHALL
12 CONTINUE AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE
13 COMPLETED UNDER 58 PA.C.S. CH. 32. ORDERS, REGULATIONS, RULES
14 AND DECISIONS WHICH WERE MADE UNDER THE OIL AND GAS ACT AND
15 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF SECTION 2(2) OF
16 THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REVOKED,
17 VACATED OR MODIFIED UNDER 58 PA.C.S. CH. 32. CONTRACTS,
18 OBLIGATIONS AND COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO
19 UNDER THE OIL AND GAS ACT ARE NOT AFFECTED NOR IMPAIRED BY
20 THE REPEAL OF THE OIL AND GAS ACT.

21 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), ANY DIFFERENCE
22 IN LANGUAGE BETWEEN 58 PA.C.S. CH. 32 AND THE OIL AND GAS ACT
23 IS INTENDED ONLY TO CONFORM TO THE STYLE OF THE PENNSYLVANIA
24 CONSOLIDATED STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT
25 THE LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR
26 ADMINISTRATION AND IMPLEMENTATION OF THE OIL AND GAS ACT.

27 (3) PARAGRAPH (2) DOES NOT APPLY TO THE ADDITION OF THE
28 FOLLOWING PROVISIONS:

29 (I) THE FOLLOWING DEFINITIONS IN SECTION 3203:

30 (A) "UNCONVENTIONAL FORMATION."

- 1 (B) "UNCONVENTIONAL WELL."
2 (II) SECTION 3211(A) INTRODUCTORY PARAGRAPH, (B),
3 (B.1), (B.2), (D), (E), (E.1) (5), (6) AND (7), (F), (G)
4 AND (K).
5 (III) SECTION 3215(A), (B), (C) INTRODUCTORY
6 PARAGRAPH, (6) AND (7) AND (D).
7 (IV) SECTION 3218(A), (B.1), (B.2), (C), (C.1), (D)
8 (1), (3), (4) AND (5) AND (G).
9 (V) SECTION 3218.1.
10 (VI) SECTION 3218.2.
11 (VII) SECTION 3218.3.
12 (VIII) SECTION 3222(A.1), (B), (B.1), (B.2) AND
13 (B.3).
14 (IX) SECTION 3225(A) (1), (2) AND (3) (III) AND (IV),
15 (C), (D), (D.1) AND (F).
16 (X) SECTION 3253(C) AND (F).
17 (XI) SECTION 3255(A) AND (B).
18 (XII) SECTION 3256.
19 (XIII) SECTION 3292.

20 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

21 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
22 IMMEDIATELY:

23 (I) THIS SECTION.

24 (II) THE ADDITION OF 58 PA.C.S. § 3301.

25 (2) EXCEPT FOR THE ADDITION OF 58 PA.C.S. § 3301, THE
26 ADDITION OF 58 PA.C.S. CH. 33 SHALL TAKE EFFECT IN 30 DAYS.

27 (3) THE ADDITION OF 58 PA.C.S. § 3225 SHALL TAKE EFFECT
28 IN 180 DAYS.

29 (4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
30 DAYS.