
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1359 Session of
2014

INTRODUCED BY FERLO, WASHINGTON, SCHWANK, HUGHES AND FARNESE,
APRIL 30, 2014

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 30, 2014

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, further providing for well permits, for well
3 location restrictions, for protection of water supplies, for
4 notification to public drinking water systems, for well
5 reporting requirements, for hydraulic fracturing chemical
6 disclosure, for bonding and for penalties; providing for
7 local ordinances and moratorium; repealing provisions
8 relating to local ordinances relating to oil and gas
9 operations; further providing for declaration of policy and
10 for prohibition; and providing for a natural gas severance
11 tax.

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

14 Section 1. Sections 3211(b), (e.1)(6), (k) and (m)(2),
15 3215(a), (b), (c) and (e), 3218(b.4), (c)(2) and (d)(2)(iii),
16 3218.1, 3222(b.2), 3222.1(b)(10) and (11), 3225(a)(1), 3255(a)
17 and (b) and 3272 of Title 58 of the Pennsylvania Consolidated
18 Statutes are amended to read:

19 § 3211. Well permits.

20 * * *

21 (b) Plat.--

22 (1) The permit application shall be accompanied by a

1 plat prepared by a competent engineer or a competent
2 surveyor, on forms furnished by the department, showing the
3 political subdivision and county in which the tract of land
4 upon which the well to be drilled, operated or altered is
5 located; a list of municipalities adjacent to the well site;
6 the name of the surface landowner of record and lessor; the
7 name of all surface landowners and water purveyors whose
8 water supplies are within 1,000 feet of the proposed well
9 location or, in the case of an unconventional well, within
10 [3,000 feet from the vertical well bore] 5,000 feet of the
11 outer boundary of the proposed well pad; the name of the
12 owner of record or operator of all known underlying workable
13 coal seams; the acreage in the tract to be drilled; the
14 proposed location of the well determined by survey, courses
15 and distances of the location from two or more permanent
16 identifiable points or landmarks on the tract boundary
17 corners; the proposed angle and direction of the well if the
18 well is to be deviated substantially from a vertical course;
19 the number or other identification to be given the well; the
20 workable coal seams underlying the tract of land upon which
21 the well is to be drilled or altered and which shall be cased
22 off under section 3217 (relating to protection of fresh
23 groundwater and casing requirements); and any other
24 information needed by the department to administer this
25 chapter.

26 (2) The applicant shall forward by certified mail a copy
27 of the plat to the surface landowner; the municipality in
28 which the tract of land upon which the well to be drilled is
29 located; each municipality within 3,000 feet of the proposed
30 unconventional vertical well bore; the municipalities

1 adjacent to the well; all surface landowners and water
2 purveyors, whose water supplies are within 1,000 feet of the
3 proposed well location or, in the case of an unconventional
4 well, within [3,000 feet] 5,000 feet of the outer boundary of
5 the proposed unconventional vertical well bore; storage
6 operators within 3,000 feet of the proposed unconventional
7 vertical well bore; the owner and lessee of any coal seams;
8 and each coal operator required to be identified on the well
9 permit application.

10 * * *

11 (e.1) Denial of permit.--The department may deny a permit
12 for any of the following reasons:

13 * * *

14 (6) The applicant failed to pay the [fee] tax or file a
15 [report] return under section [2303(c) (relating to
16 administration)] 4404 (relating to return and payment),
17 unless an appeal is pending. The [commission] Department of
18 Revenue shall notify the department of any applicant who has
19 failed to pay the [fee] tax or file a [report] return and who
20 does not have an appeal pending.

21 * * *

22 (k) No transfer permitted.--No permit issued under this
23 section or registration issued under section 3213 (relating to
24 well registration and identification) may be transferred without
25 prior approval of the department. A request for approval of a
26 transfer shall be on the forms, and in the manner, prescribed by
27 the department. The department shall approve or deny a transfer
28 request within 45 days of receipt of a complete and accurate
29 application. The department may deny a request only for reasons
30 set forth in subsection (e.1) (4) [and] (5) and (6) . Approval

1 of a transfer request shall permanently transfer responsibility
2 to plug the well under section 3220 to the recipient of the
3 transferred permit or registration.

4 * * *

5 (m) Water management.--The following shall apply to water
6 management:

7 * * *

8 (2) The department shall review and approve water
9 management plans based upon a determination that the proposed
10 withdrawal, when operated in accordance with the proposed
11 withdrawal operating conditions set forth in the plan,
12 including conditions relating to quantity, withdrawal rate
13 and timing and any passby flow conditions, will:

14 (i) not adversely affect the quantity or quality of
15 water available to other users of the same water sources;

16 (ii) protect and maintain the designated and
17 existing uses of water sources;

18 (iii) not cause adverse impact to water quality in
19 the watershed considered as a whole; [and]

20 (iv) include a reuse plan for fluids that will be
21 used to hydraulically fracture wells; and

22 (v) not cause adverse impact to ecosystems and
23 wildlife in the surrounding area.

24 * * *

25 § 3215. Well location restrictions.

26 (a) General rule.--Wells may not be drilled within 200 feet,
27 or, in the case of an unconventional gas well, [500] 1,500 feet,
28 measured horizontally from the vertical well bore to a building
29 or water well, existing when the copy of the plat is mailed as
30 required by section 3211(b) (relating to well permits) without

1 written consent of the owner of the building or water well.
2 Unconventional gas wells may not be drilled within [1,000] 2,500
3 feet measured horizontally from the vertical well bore to any
4 existing water well, surface water intake, reservoir or other
5 water supply extraction point used by a water purveyor without
6 the written consent of the water purveyor. If consent is not
7 obtained and the distance restriction would deprive the owner of
8 the oil and gas rights of the right to produce or share in the
9 oil or gas underlying the surface tract, the well operator
10 [shall] may be granted a variance from the distance restriction
11 upon submission of a plan identifying the additional measures,
12 facilities or practices as prescribed by the department to be
13 employed during well site construction, drilling and operations.
14 [The] If the variance is granted, the variance shall include
15 additional terms and conditions required by the department to
16 ensure safety and protection of affected persons and property,
17 including insurance, bonding, indemnification and technical
18 requirements. Notwithstanding section 3211(e), if a variance
19 request has been submitted, the department may extend its permit
20 review period for up to 15 days upon notification to the
21 applicant of the reasons for the extension. If a variance is not
22 granted, the well operator shall not be permitted to drill,
23 operate or alter a well within the required boundaries.

24 (b) Limitation.--

25 (1) No well site may be prepared or well drilled within
26 100 feet or, in the case of an unconventional well, [300] 500
27 feet from the vertical well bore or [100] 300 feet from the
28 edge of the well site, whichever is greater, measured
29 horizontally from any solid blue lined stream, spring or body
30 of water as identified on the most current 7 1/2 minute

1 topographic quadrangle map of the United States Geological
2 Survey.

3 (2) The edge of the disturbed area associated with any
4 unconventional well site must maintain a [100-foot] 300-foot
5 setback from the edge of any solid blue lined stream, spring
6 or body of water as identified on the most current 7 1/2
7 minute topographic quadrangle map of the United States
8 Geological Survey.

9 (3) No unconventional well may be drilled within [300]
10 500 feet of any wetlands greater than one acre in size, and
11 the edge of the disturbed area of any well site must maintain
12 a [100-foot] 300-foot setback from the boundary of the
13 wetlands.

14 (4) The department [shall] may waive the distance
15 restrictions upon submission of a plan identifying additional
16 measures, facilities or practices to be employed during well
17 site construction, drilling and operations necessary to
18 protect the waters of this Commonwealth. The waiver, if
19 granted, shall include additional terms and conditions
20 required by the department necessary to protect the waters of
21 this Commonwealth. Notwithstanding section 3211(e), if a
22 waiver request has been submitted, the department may extend
23 its permit review period for up to 15 days upon notification
24 to the applicant of the reasons for the extension.

25 (c) Impact.--On making a determination on a well permit, the
26 department shall consider whether the proposed well location is
27 within a floodplain, including the requirements of subsection
28 (f), and may deny or condition a well permit based on that
29 consideration or based on the impact of the proposed well on
30 public resources, including, but not limited to:

- 1 (1) Publicly owned parks, forests, game lands and
2 wildlife areas.
- 3 (2) National or State scenic rivers.
- 4 (3) National natural landmarks.
- 5 (4) Habitats of rare and endangered flora and fauna and
6 other critical communities.
- 7 (5) Historical and archaeological sites listed on the
8 Federal or State list of historic places.
- 9 (6) Sources used for public drinking supplies in
10 accordance with subsection (b).
- 11 (7) Bodies of water and watercourses, including
12 wetlands, wild trout streams and wilderness trout streams.

13 * * *

14 (e) Regulation criteria.--The Environmental Quality Board
15 shall develop by regulation criteria:

16 (1) For the department to utilize for denying or
17 conditioning a well permit based on its impact to the public
18 resources identified under subsection (c) and for ensuring
19 optimal development of oil and gas resources and respecting
20 property rights of oil and gas owners.

21 (2) For appeal to the Environmental Hearing Board of a
22 permit [containing] that was denied or that contains
23 conditions imposed by the department. The regulations shall
24 also provide that the department has the burden of proving
25 that the denial or conditions were necessary to protect
26 against a probable harmful impact of the public resources.

27 * * *

28 § 3218. Protection of water supplies.

29 * * *

30 (b.4) Website.--The department shall publish, on its

1 Internet website, lists of confirmed cases of [subterranean]
2 water supply contamination that result from hydraulic
3 fracturing.

4 * * *

5 (c) Presumption.--Unless rebutted by a defense established
6 in subsection (d), it shall be presumed that a well operator is
7 responsible for pollution of a water supply if:

8 * * *

9 (2) in the case of an unconventional well:

10 (i) the water supply is within [2,500] 5,000 feet of
11 the unconventional vertical well bore; and

12 (ii) the pollution occurred within 12 months of the
13 later of completion, drilling, stimulation or alteration
14 of the unconventional well.

15 * * *

16 (d) Defenses.--To rebut the presumption established under
17 subsection (c), a well operator must affirmatively prove any of
18 the following:

19 * * *

20 (2) in the case of an unconventional well:

21 * * *

22 (iii) the water supply is not within [2,500] 5,000
23 feet of the unconventional vertical well bore;

24 * * *

25 § 3218.1. Notification to public or private drinking water
26 systems.

27 Upon receiving notification of a spill, the department shall,
28 after investigating the incident, notify any public or private
29 drinking water facility or well owner that could be affected by
30 the event that the event occurred. The notification shall

1 contain a brief description of the event and any expected impact
2 on water quality.

3 § 3222. Well reporting requirements.

4 * * *

5 (b.2) Trade secret or confidential proprietary
6 information.--When an operator submits its stimulation record
7 under subsection (b.1), the operator may designate specific
8 portions of the stimulation record as containing a trade secret
9 or confidential proprietary information. The department shall
10 prevent disclosure of a designated trade secret or confidential
11 proprietary information to the extent permitted by the act of
12 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law
13 or other applicable State law. Notwithstanding this subsection,
14 in the event of an emergency at the well site, the department
15 shall make the entire completion report available to emergency
16 personnel upon request.

17 * * *

18 § 3222.1. Hydraulic fracturing chemical disclosure
19 requirements.

20 * * *

21 (b) Required disclosures.--

22 * * *

23 (10) A vendor, service company or operator shall
24 identify the specific identity and amount of any chemicals
25 claimed to be a trade secret or confidential proprietary
26 information to any health professional who requests the
27 information in [writing if the health professional executes a
28 confidentiality agreement and provides a written statement of
29 need for the information indicating all of the following] any
30 of the following instances:

1 (i) The information is needed for the purpose of
2 diagnosis or treatment of an individual.

3 (ii) The individual being diagnosed or treated may
4 have been exposed to a hazardous chemical.

5 (iii) Knowledge of information will assist in the
6 diagnosis or treatment of an individual.

7 (11) [If a health professional determines that a medical
8 emergency exists and the specific identity and amount of any
9 chemicals claimed to be a trade secret or confidential
10 proprietary information are necessary for emergency
11 treatment, the vendor, service provider or operator shall
12 immediately disclose the information to the health
13 professional upon a verbal acknowledgment by the health
14 professional that the information may not be used for
15 purposes other than the health needs asserted and that the
16 health professional shall maintain the information as
17 confidential. The vendor, service provider or operator may
18 request, and the health professional shall provide upon
19 request, a written statement of need and a confidentiality
20 agreement from the health professional as soon as
21 circumstances permit, in conformance with regulations
22 promulgated under this chapter.] A health professional may
23 not disseminate the trade secret or confidential proprietary
24 information disclosed under paragraph (10), except in the
25 following instances:

26 (i) The disclosure relates to the diagnosis or
27 treatment of a patient and the disclosure is provided to
28 another health professional, the patient or designee of
29 the patient or any other person whose knowledge the
30 health professional deems important to the diagnosis or

1 treatment of the patient or the prevention of future
2 health issues.

3 (ii) The disclosure occurs during procurement of
4 payment for services rendered or planned.

5 (iii) The disclosure is provided to a public health
6 official or is intended to further public health.

7 (iv) The disclosure is used for the study of any
8 chemical involved.

9 * * *

10 § 3225. Bonding.

11 (a) General rule.--The following shall apply:

12 (1) Except as provided in subsection (d), upon filing an
13 application for a well permit and before continuing to
14 operate an oil or gas well, the owner or operator of the well
15 shall file with the department a bond covering the well and
16 well site on a form to be prescribed and furnished by the
17 department. A bond filed with an application for a well
18 permit shall be payable to the Commonwealth and conditioned
19 upon the operator's faithful performance of all drilling,
20 water supply replacement, restoration and plugging
21 requirements of this chapter. A bond for a well in existence
22 on April 18, 1985, shall be payable to the Commonwealth and
23 conditioned upon the operator's faithful performance of all
24 water supply replacement, restoration and plugging
25 requirements of this chapter. The amount of the bond required
26 shall be in the following amounts and may be adjusted by the
27 Environmental Quality Board every two years to reflect the
28 projected costs to the Commonwealth of plugging the well:

29 (i) For wells with a total well bore length less
30 than 6,000 feet:

1 (A) For operating up to [50] 25 wells, [\$4,000]
2 \$5,000 per well, but no bond may be required under
3 this clause in excess of [\$35,000] \$70,000.

4 (B) For operating [51] 26 to [150] 50 wells,
5 [\$35,000] \$70,000 plus [\$4,000] \$5,000 per well for
6 each well in excess of [50] 25 wells, but no bond may
7 be required under this clause in excess of [\$60,000]
8 \$120,000.

9 (C) For operating [151] 51 to [250] 100 wells,
10 [\$60,000] \$120,000 plus [\$4,000] \$5,000 per well for
11 each well in excess of [150] 50 wells, but no bond
12 may be required under this clause in excess of
13 [\$100,000] \$200,000.

14 (D) For operating more than [250] 100 wells,
15 [\$100,000] \$200,000 plus [\$4,000] \$5,000 per well for
16 each well in excess of [250] 100 wells, but no bond
17 may be required under this clause in excess of
18 [\$250,000] \$500,000.

19 (ii) For wells with a total well bore length of at
20 least 6,000 feet:

21 (A) For operating up to 25 wells, [\$10,000]
22 \$12,500 per well, but no bond may be required under
23 this clause in excess of [\$140,000] \$220,000.

24 (B) For operating 26 to 50 wells, [\$140,000]
25 \$220,000 plus [\$10,000] \$12,500 per well for each
26 well in excess of 25 wells, but no bond may be
27 required under this clause in excess of [\$290,000]
28 \$375,000.

29 (C) For operating 51 to [150] 100 wells,
30 [\$290,000] \$375,000 plus [\$10,000] \$12,500 per well

1 for each well in excess of 50 wells, but no bond may
2 be required under this clause in excess of [\$430,000]
3 \$625,000.

4 (D) For operating more than [150] 100 wells,
5 [\$430,000] \$625,000 plus [\$10,000] \$12,500 per well
6 for each well in excess of [150] 100 wells, but no
7 bond may be required under this clause in excess of
8 [\$600,000] \$1,000,000.

9 * * *

10 § 3255. Penalties.

11 (a) General violation.--A person violating a provision of
12 this chapter commits a summary offense and, upon conviction,
13 shall be sentenced to pay a fine of not more than [\$1,000]
14 \$5,000 or to imprisonment of not more than 90 days, or both.
15 Each day during which the violation continues is a separate and
16 distinct offense.

17 (b) Willful violation.--A person willfully violating a
18 provision of this chapter or an order of the department issued
19 under this chapter commits a misdemeanor and, upon conviction,
20 shall be sentenced to pay a fine of not more than [\$5,000]
21 \$25,000 or to imprisonment of not more than one year, or both.
22 Each day during which the violation continues is a separate and
23 distinct offense.

24 * * *

25 § 3272. [(Reserved).] Local ordinances.

26 Except with respect to ordinances adopted under the act of
27 July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
28 Municipalities Planning Code, the act of October 4, 1978
29 (P.L.851, No.166), known as the Flood Plain Management Act, and
30 the act of March 31, 1927 (P.L.98, No.69), referred to as the

1 Second Class City Zoning Law, all local ordinances and
2 enactments purporting to regulate oil and gas well operations
3 regulated by this chapter are superseded by this chapter to the
4 extent the ordinances or enactments regulate the method of oil
5 and gas well operations. No ordinances or enactments adopted
6 under the Pennsylvania Municipalities Planning Code, the Flood
7 Plain Management Act or the Second Class City Zoning Law shall
8 impose conditions, requirements or limitations that are
9 inconsistent with this part. Nothing in this part shall affect
10 the traditional power of local government to regulate zoning and
11 land development of oil and gas activities as well as other
12 aspects, such as the time and the place of operations, to
13 protect the health safety and welfare of the general public
14 through local ordinances and enactments.

15 Section 2. Title 58 is amended by adding a section to read:
16 § 3272.1. Moratorium.

17 (a) General rule.--Notwithstanding any other provision of
18 law, there is hereby established a moratorium on the new leasing
19 and the issuance of new well permits under this chapter for any
20 State forest and park land not under a lease agreement by
21 September 1, 2014, for the natural gas drilling on State forest
22 and park lands in the Marcellus Shale formation in this
23 Commonwealth. The purpose of the moratorium shall be to provide
24 additional time to review the permitting process and guidelines
25 and regulations to protect the public land, health and safety.

26 (b) Expiration.--The moratorium shall expire two years after
27 the effective date of this section.

28 Section 3. The heading of Chapter 33 of Title 58 is
29 repealed:

30 [CHAPTER 33

1 LOCAL ORDINANCES RELATING TO

2 OIL AND GAS OPERATIONS]

3 Section 4. Sections 3301, 3302, 3303, 3304, 3305, 3306,
4 3307, 3308 and 3309 of Title 58 are repealed:

5 [§ 3301. Definitions.

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

9 "Building." An occupied structure with walls and a roof
10 within which individuals live or customarily work.

11 "Commission." The Pennsylvania Public Utility Commission.

12 "Environmental acts." All statutes enacted by the
13 Commonwealth relating to the protection of the environment or
14 the protection of public health, safety and welfare, that are
15 administered and enforced by the department or by another
16 Commonwealth agency, including an independent agency, and all
17 Federal statutes relating to the protection of the environment,
18 to the extent those statutes regulate oil and gas operations.

19 "Local government." A county, city, borough, incorporated
20 town or township of this Commonwealth.

21 "Local ordinance." An ordinance or other enactment,
22 including a provision of a home rule charter, adopted by a local
23 government that regulates oil and gas operations.

24 "MPC." The act of July 31, 1968 (P.L.805, No.247), known as
25 the Pennsylvania Municipalities Planning Code.

26 "Oil and gas operations." The term includes the following:

- 27 (1) well location assessment, including seismic
28 operations, well site preparation, construction, drilling,
29 hydraulic fracturing and site restoration associated with an
30 oil or gas well of any depth;

1 (2) water and other fluid storage or impoundment areas
2 used exclusively for oil and gas operations;

3 (3) construction, installation, use, maintenance and
4 repair of:

5 (i) oil and gas pipelines;

6 (ii) natural gas compressor stations; and

7 (iii) natural gas processing plants or facilities
8 performing equivalent functions; and

9 (4) construction, installation, use, maintenance and
10 repair of all equipment directly associated with activities
11 specified in paragraphs (1), (2) and (3), to the extent that:

12 (i) the equipment is necessarily located at or
13 immediately adjacent to a well site, impoundment area,
14 oil and gas pipeline, natural gas compressor station or
15 natural gas processing plant; and

16 (ii) the activities are authorized and permitted
17 under the authority of a Federal or Commonwealth agency.

18 "Permitted use." A use which, upon submission of written
19 notice to and receipt of a permit issued by a zoning officer or
20 equivalent official, is authorized to be conducted without
21 restrictions other than those set forth in section 3304
22 (relating to uniformity of local ordinances).

23 § 3302. Oil and gas operations regulated pursuant to Chapter
24 32.

25 Except with respect to local ordinances adopted pursuant to
26 the MPC and the act of October 4, 1978 (P.L.851, No.166), known
27 as the Flood Plain Management Act, all local ordinances
28 purporting to regulate oil and gas operations regulated by
29 Chapter 32 (relating to development) are hereby superseded. No
30 local ordinance adopted pursuant to the MPC or the Flood Plain

1 Management Act shall contain provisions which impose conditions,
2 requirements or limitations on the same features of oil and gas
3 operations regulated by Chapter 32 or that accomplish the same
4 purposes as set forth in Chapter 32. The Commonwealth, by this
5 section, preempts and supersedes the regulation of oil and gas
6 operations as provided in this chapter.

7 § 3303. Oil and gas operations regulated by environmental acts.

8 Notwithstanding any other law to the contrary, environmental
9 acts are of Statewide concern and, to the extent that they
10 regulate oil and gas operations, occupy the entire field of
11 regulation, to the exclusion of all local ordinances. The
12 Commonwealth by this section, preempts and supersedes the local
13 regulation of oil and gas operations regulated by the
14 environmental acts, as provided in this chapter.

15 § 3304. Uniformity of local ordinances.

16 (a) General rule.--In addition to the restrictions contained
17 in sections 3302 (relating to oil and gas operations regulated
18 pursuant to Chapter 32) and 3303 (relating to oil and gas
19 operations regulated by environmental acts), all local
20 ordinances regulating oil and gas operations shall allow for the
21 reasonable development of oil and gas resources.

22 (b) Reasonable development of oil and gas resources.--In
23 order to allow the for the reasonable development of oil and gas
24 resources, a local ordinance:

25 (1) Shall allow well and pipeline location assessment
26 operations, including seismic operations and related
27 activities conducted in accordance with all applicable
28 Federal and State laws and regulations relating to the
29 storage and use of explosives throughout every local
30 government.

1 (2) May not impose conditions, requirements or
2 limitations on the construction of oil and gas operations
3 that are more stringent than conditions, requirements or
4 limitations imposed on construction activities for other
5 industrial uses within the geographic boundaries of the local
6 government.

7 (3) May not impose conditions, requirements or
8 limitations on the heights of structures, screening and
9 fencing, lighting or noise relating to permanent oil and gas
10 operations that are more stringent than the conditions,
11 requirements or limitations imposed on other industrial uses
12 or other land development within the particular zoning
13 district where the oil and gas operations are situated within
14 the local government.

15 (4) Shall have a review period for permitted uses that
16 does not exceed 30 days for complete submissions or that does
17 not exceed 120 days for conditional uses.

18 (5) Shall authorize oil and gas operations, other than
19 activities at impoundment areas, compressor stations and
20 processing plants, as a permitted use in all zoning
21 districts.

22 (5.1) Notwithstanding section 3215 (relating to well
23 location restrictions), may prohibit, or permit only as a
24 conditional use, wells or well sites otherwise permitted
25 under paragraph (5) within a residential district if the
26 well site cannot be placed so that the wellhead is at least
27 500 feet from any existing building. In a residential
28 district, all of the following apply:

29 (i) A well site may not be located so that the outer
30 edge of the well pad is closer than 300 feet from an

1 existing building.

2 (ii) Except as set forth in paragraph (5) and this
3 paragraph, oil and gas operations, other than the
4 placement, use and repair of oil and gas pipelines, water
5 pipelines, access roads or security facilities, may not
6 take place within 300 feet of an existing building.

7 (6) Shall authorize impoundment areas used for oil and
8 gas operations as a permitted use in all zoning districts,
9 provided that the edge of any impoundment area shall not be
10 located closer than 300 feet from an existing building.

11 (7) Shall authorize natural gas compressor stations as a
12 permitted use in agricultural and industrial zoning districts
13 and as a conditional use in all other zoning districts, if
14 the natural gas compressor building meets the following
15 standards:

16 (i) is located 750 feet or more from the nearest
17 existing building or 200 feet from the nearest lot line,
18 whichever is greater, unless waived by the owner of the
19 building or adjoining lot; and

20 (ii) the noise level does not exceed a noise
21 standard of 60dbA at the nearest property line or the
22 applicable standard imposed by Federal law, whichever is
23 less.

24 (8) Shall authorize a natural gas processing plant as a
25 permitted use in an industrial zoning district and as
26 conditional uses in agricultural zoning districts if all of
27 the following apply:

28 (i) The natural gas processing plant building is
29 located at the greater of at least 750 feet from the
30 nearest existing building or at least 200 feet from the

1 nearest lot line unless waived by the owner of the
2 building or adjoining lot.

3 (ii) The noise level of the natural gas processing
4 plant building does not exceed a noise standard of 60dba
5 at the nearest property line or the applicable standard
6 imposed by Federal law, whichever is less.

7 (9) Shall impose restrictions on vehicular access routes
8 for overweight vehicles only as authorized under 75 Pa.C.S.
9 (relating to vehicles) or the MPC.

10 (10) May not impose limits or conditions on subterranean
11 operations or hours of operation of compressor stations and
12 processing plants or hours of operation for the drilling of
13 oil and gas wells or the assembly and disassembly of drilling
14 rigs.

15 (11) May not increase setback distances set forth in
16 Chapter 32 (relating to development) or this chapter. A local
17 ordinance may impose setback distances that are not regulated
18 by or set forth in Chapter 32 or this chapter if the setbacks
19 are no more stringent than those for other industrial uses
20 within the geographic boundaries of the local government.

21 § 3305. Commission.

22 (a) Advisory opinions to municipalities.--

23 (1) A municipality may, prior to the enactment of a
24 local ordinance, in writing, request the commission to review
25 a proposed local ordinance to issue an opinion on whether it
26 violates the MPC, this chapter or Chapter 32 (relating to
27 development).

28 (2) Within 120 days of receiving a request under
29 paragraph (1), the commission shall, in writing, advise the
30 municipality whether or not the local ordinance violates the

1 MPC, this chapter or Chapter 32.

2 (3) An opinion under this subsection shall be advisory
3 in nature and not subject to appeal.

4 (b) Orders.--

5 (1) An owner or operator of an oil or gas operation, or
6 a person residing within the geographic boundaries of a local
7 government, who is aggrieved by the enactment or enforcement
8 of a local ordinance may request the commission to review the
9 local ordinance of that local government to determine whether
10 it violates the MPC, this chapter or Chapter 32.

11 (2) Participation in the review by the commission shall
12 be limited to parties specified in paragraph (1) and the
13 municipality which enacted the local ordinance.

14 (3) Within 120 days of receiving a request under this
15 subsection, the commission shall issue an order to determine
16 whether the local ordinance violates the MPC, this chapter or
17 Chapter 32.

18 (4) An order under this subsection shall be subject to
19 de novo review by Commonwealth Court. A petition for review
20 must be filed within 30 days of the date of service of the
21 commission's order. The order of the commission shall be made
22 part of the record before the court.

23 (c) Exemptions.--An opinion under subsection (a) and an
24 order under subsection (b) shall not be subject to:

25 (1) 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
26 procedure of Commonwealth agencies);

27 (2) 65 Pa.C.S. Ch. 7 (relating to open meetings); or

28 (3) 66 Pa.C.S. Ch. 3 Subch. B (relating to
29 investigations and hearings).

30 (d) Authority.--The commission has the following powers to

1 carry out this chapter:

2 (1) Employ individuals.

3 (2) Issue orders.

4 (3) Promulgate regulations.

5 (4) Until January 1, 2013, promulgate temporary
6 regulations. Regulations under this paragraph:

7 (i) shall expire no later than two years following
8 the effective date of this section; and

9 (ii) are exempt from:

10 (A) sections 201, 202 and 203 of the act of July
11 31, 1968 (P.L.769, No.240), referred to as the
12 Commonwealth Documents Law; and

13 (B) the act of June 25, 1982 (P.L.633, No.181),
14 known as the Regulatory Review Act.

15 § 3306. Civil actions.

16 The following shall apply:

17 (1) Notwithstanding any provision of 42 Pa.C.S. Ch. 85
18 Subch. C (relating to actions against local parties), any
19 person who is aggrieved by the enactment or enforcement of a
20 local ordinance that violates the MPC, this chapter or
21 Chapter 32 (relating to development) may bring an action in
22 Commonwealth Court to invalidate the ordinance or enjoin its
23 enforcement.

24 (2) An aggrieved person may proceed under this section
25 without first obtaining review of the ordinance by the
26 commission.

27 (3) In an action relating to the enactment or
28 enforcement of a local ordinance, a determination of the
29 commission made under section 3305(b) (relating to
30 commission) shall become part of the record before the court.

1 § 3307. Attorney fees and costs.

2 In an action brought under section 3306 (relating to civil
3 actions), the court may do any of the following:

4 (1) If the court determines that the local government
5 enacted or enforced a local ordinance with willful or
6 reckless disregard of the MPC, this chapter or Chapter 32
7 (relating to development), it may order the local government
8 to pay the plaintiff reasonable attorney fees and other
9 reasonable costs incurred by the plaintiff in connection with
10 the action.

11 (2) If the court determines that the action brought by
12 the plaintiff was frivolous or was brought without
13 substantial justification in claiming that the local
14 ordinance in question was contrary to the MPC, this chapter
15 or Chapter 32, it may order the plaintiff to pay the local
16 government reasonable attorney fees and other reasonable
17 costs incurred by the local government in defending the
18 action.

19 § 3308. Ineligibility.

20 If the commission, Commonwealth Court or the Supreme Court
21 issues an order that a local ordinance violates the MPC, this
22 chapter or Chapter 32 (relating to development), the
23 municipality enacting or enforcing the local ordinance shall be
24 immediately ineligible to receive any funds collected under
25 Chapter 23 (relating to unconventional gas well fee). The local
26 government shall remain ineligible to receive funds under
27 Chapter 23 until the local government amends or repeals its
28 ordinance in accordance with this chapter or the order or
29 determination that the local ordinance is unlawful is reversed
30 on appeal.

1 § 3309. Applicability.

2 (a) Ordinances.--This chapter shall apply to the enforcement
3 of local ordinances existing on the effective date of this
4 chapter and to the enactment or enforcement of a local ordinance
5 enacted on or after the effective date of this chapter.

6 (b) Local governments.--A local government that has enacted
7 a local ordinance relating to oil and gas operations prior to
8 the effective date of this chapter shall have 120 days from the
9 effective date of this chapter to review and amend an ordinance
10 in order to comply with this chapter.]

11 Section 5. The heading of Chapter 35 of Title 58 is amended
12 to read:

13 CHAPTER 35
14 RESPONSIBILITY FOR [FEE] TAX
15

16 Section 6. Sections 3501 and 3502 of Title 58 are amended to
17 read:

18 § 3501. Declaration of policy.

19 The General Assembly finds and declares as follows:

20 (1) The enactment of this chapter is an exercise of the
21 authority of the Commonwealth to safeguard the vital
22 interests of its citizens.

23 (2) This chapter is intended to advance the significant
24 and legitimate public purpose of ensuring that entities
25 responsible for the impacts of unconventional oil and gas
26 well development are solely responsible for payment of
27 [impact fees] a severance tax.

28 § 3502. Prohibition.

29 A producer may not make the [fee] tax authorized under
30 [Chapter 23 (relating to unconditional gas well fee)] Chapter 44

1 (relating to natural gas severance tax) an obligation,
2 indebtedness or liability of a landowner, leaseholder or other
3 person in possession of real property, upon which the removal or
4 extraction occurs.

5 Section 7. Title 58 is amended by adding a part to read:

6 PART IV
7 TAXATION

8 Chapter

9 44. Natural Gas Severance Tax

10 CHAPTER 44

11 NATURAL GAS SEVERANCE TAX

12 Sec.

13 4401. Short title of chapter.

14 4402. Definitions.

15 4403. Imposition of tax.

16 4403.1. Tax rate adjustment.

17 4404. Return and payment.

18 4405. Natural gas severance tax registration.

19 4405.1. Meters.

20 4406. Assessments.

21 4407. Time for assessment.

22 4408. Extension of assessment period.

23 4409. Reassessments.

24 4410. Interest.

25 4411. Penalties.

26 4412. Criminal acts.

27 4413. Abatement of additions or penalties.

28 4414. Bulk and auction sales.

29 4415. Collection upon failure to request reassessment, review
30 or appeal.

1 4416. Tax liens.
2 4417. Tax suit reciprocity.
3 4418. Service.
4 4419. Refunds.
5 4420. Refund petition.
6 4421. Rules and regulations.
7 4422. Recordkeeping.
8 4423. Examinations.
9 4424. Unauthorized disclosure.
10 4425. Cooperation with other governments.
11 4426. Bonds.
12 4427. Unconventional Gas Well Fund.
13 4428. Marcellus Legacy Fund.
14 4429. Additional revenue.
15 § 4401. Short title of chapter.

16 This chapter shall be known and may be cited as the Natural
17 Gas Severance Tax Act.

18 § 4402. Definitions.

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

22 "Accredited laboratory." A facility engaged in the testing
23 and calibration of scientific measurement devices and certified
24 by the Department of Environmental Protection as having met the
25 department's standards for accreditation.

26 "Association." A partnership, limited partnership or any
27 other form of unincorporated enterprise owned or conducted by
28 two or more persons.

29 "Base rate." The rate under section 4403(a) (relating to
30 imposition of tax).

1 "Coal bed methane." Gas which can be produced from coal
2 beds, coal seams, mined-out areas or gob wells.

3 "Corporation." A corporation, joint stock association,
4 limited liability company, business trust or any other
5 incorporated enterprise organized under the laws of the United
6 States, this Commonwealth or any other state, territory or
7 foreign country or dependency.

8 "Department." The Department of Revenue of the Commonwealth.

9 "First responder." Professional and volunteer fire service
10 personnel, emergency medical personnel, law enforcement
11 personnel or State, county or local emergency management
12 personnel.

13 "Marcellus Legacy Fund." The fund established under the
14 former section 2315 (relating to Statewide initiatives).

15 "Meter." A device to measure the passage of volumes of gases
16 or liquids past a certain point.

17 "Municipality." A city, borough, incorporated town or
18 township.

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

27 "Nonproducing site." A point of severance that is not
28 capable of producing natural gas in paying quantities.

29 "Paying quantities." Profit to the producer, however small,
30 over the producer's current operating expenses.

1 "Person." A natural person or a corporation, fiduciary,
2 association or other entity, including the Commonwealth, its
3 political subdivisions, instrumentalities and authorities. When
4 the term is used in a clause prescribing and imposing a penalty
5 or imposing a fine or imprisonment, or both, the term shall
6 include the members, as applied to an association, and the
7 officers, as applied to a corporation.

8 "Producer." A person who engages or continues within this
9 Commonwealth in the business of severing natural gas for sale,
10 profit or commercial use. The term does not include a person who
11 severs natural gas from a storage field.

12 "Producing site." A point of severance capable of producing
13 natural gas in paying quantities.

14 "Reporting period." A calendar month in which natural gas is
15 severed.

16 "Secretary." The Secretary of Revenue of the Commonwealth.

17 "Sever." To extract or otherwise remove natural gas from the
18 soil or water of this Commonwealth.

19 "Severance." The extraction or other removal of natural gas
20 from the soil or water of this Commonwealth.

21 "Severing." Extracting or otherwise removing natural gas
22 from the soil or water of this Commonwealth.

23 "Storage field." A natural formation or other site that is
24 used to store natural gas that did not originate from and has
25 been injected into the formation or site.

26 "Stripper well." A producing site or a nonproducing site
27 that is not capable of producing and does not produce more than
28 60,000 cubic feet of natural gas per day.

29 "Tax." The tax imposed under this chapter.

30 "Tax rate adjustment index." The amount calculated under

1 section 4403(b) (relating to imposition of tax) by which the
2 rate of the tax imposed under section 4403(a) is adjusted
3 annually.

4 "Taxpayer." A person subject to the tax imposed by this
5 chapter.

6 "Unconventional Gas Well Fund." The fund established under
7 the former section 2314 (relating to distribution of fee).

8 "Unit." One thousand cubic feet of natural gas measured at
9 the wellhead at a temperature of 60 degrees Fahrenheit and an
10 absolute pressure of 14.73 pounds per square inch in accordance
11 with American Gas Association Standards and according to Boyle's
12 Law for the measurement of gas under varying pressures with
13 deviations as follows:

14 (1) The average absolute atmospheric pressure shall be
15 assumed to be 14.4 pounds to the square inch, regardless of
16 elevation or location of point of delivery above sea level or
17 variations in atmospheric pressure from time to time.

18 (2) The temperature of the gas passing the meters shall
19 be determined by the continuous use of a recording
20 thermometer installed to properly record the temperature of
21 gas flowing through the meters. The arithmetic average of the
22 temperature recorded each 24-hour day shall be used in
23 computing gas volumes. If a recording thermometer is not
24 installed, or is installed and not operating properly, an
25 average flowing temperature of 60 degrees Fahrenheit shall be
26 used in computing gas volume.

27 (3) The specific gravity of the gas shall be determined
28 annually by tests made by the use of an Edwards or Acme
29 gravity balance, or at intervals as found necessary in
30 practice. Specific gravity determinations shall be used in

1 computing gas volumes.

2 (4) The deviation of the natural gas from Boyle's Law
3 shall be determined by annual tests or at other shorter
4 intervals as found necessary in practice. The apparatus and
5 method used in making the test shall be in accordance with
6 recommendations of the National Bureau of Standards or Report
7 No. 3 of the Gas Measurement Committee of the American Gas
8 Association, or amendments thereto. The results of the tests
9 shall be used in computing the volume of gas delivered under
10 this chapter.

11 "Wellhead meter." A meter placed at a producing or
12 nonproducing site to measure the volume of natural gas severed
13 for which a wellhead meter certification has been issued.

14 "Wellhead meter certification." A report issued by an
15 accredited laboratory certifying the accuracy of a wellhead
16 meter.

17 § 4403. Imposition of tax.

18 (a) Establishment.--Beginning January 1, 2015, there shall
19 be levied a natural gas severance tax on every producer. The tax
20 shall not be imposed on units severed from a stripper well
21 unless the following are true:

22 (1) The stripper well is one of multiple producing sites
23 or nonproducing sites, the combined volumes of gas produced
24 by all of which sites are measured by a single wellhead meter
25 as provided in section 4405.1 (relating to meters).

26 (2) The combined volumes of gas produced by all the
27 producing sites or nonproducing sites described in paragraph
28 (1) is more than 60,000 cubic feet of natural gas per day.

29 (b) Rate.--Subject to the provisions of section 4403.1
30 (relating to tax rate adjustment), the rate shall be 25¢ per

1 unit severed at the wellhead.

2 § 4403.1. Tax rate adjustment.

3 (a) Annual adjustment.--The tax rate shall be adjusted
4 annually by the amount of the tax rate adjustment index as
5 calculated under subsection (c), provided that the tax rate
6 shall never be less than the base rate. The adjusted tax rate
7 shall be effective for the next year.

8 (b) Determination of adjustment.--On or before April 30 of
9 each year following the effective date of this section, the
10 secretary shall calculate and determine the amount of the tax
11 rate adjustment index.

12 (c) Calculation of adjustment.--The base rate adjustment
13 index shall be determined as follows:

14 (1) If 5% of the average of New York Mercantile Exchange
15 (NYMEX) Henry Hub settled price on the last trading day of
16 the month, as reported by the Wall Street Journal for the
17 previous 12-month period ending March 31, is less than the
18 base rate, the tax rate shall be the base rate.

19 (2) If 5% of the average of the NYMEX Henry Hub settled
20 price on the last trading day of the month, as reported by
21 the Wall Street Journal for the previous 12-month period
22 ending March 31, is greater than the base rate, the tax rate
23 shall be 5% of the average of the NYMEX Henry Hub settled
24 price on the last trading day of the month, as reported in
25 the Wall Street Journal for the previous 12-month period
26 ending March 31.

27 (d) Publication of adjustment.--The secretary shall forward
28 the amount of the tax rate adjustment index and the adjusted tax
29 rate, as determined under subsection (c), to the Legislative
30 Reference Bureau for publication in the Pennsylvania Bulletin by

1 May 1 of each year and shall simultaneously provide the
2 information to producers by written notice. Failure of the
3 amount of the tax rate adjustment index and the adjusted tax
4 rate to be published or provided to producers as required by
5 this subsection shall not affect the effectiveness of the
6 adjusted tax rate under subsection (b).

7 (e) Discontinuance of data.--If publication of the NYMEX
8 Henry Hub average monthly gas price data is discontinued, the
9 tax rate then in effect shall not be adjusted until a comparable
10 method for determining the tax rate adjustment index is adopted
11 by the General Assembly in legislation.

12 (f) Other adjustments.--If the base data of the NYMEX Henry
13 Hub average monthly gas price is substantially revised, the
14 secretary shall, when determining the amount of the tax rate
15 adjustment index under subsection (c), make appropriate changes
16 to ensure that the tax rate adjustment index is reasonably
17 consistent with the result which would have been attained had
18 the substantial revision not been made. If the secretary is
19 unable to make reasonable changes sufficient to ensure a
20 consistent result, the tax rate then in effect shall not be
21 adjusted until a comparable method for determining the tax rate
22 adjustment index is adopted by the General Assembly in
23 legislation.

24 (g) Application of rate determinations.--The provisions of
25 this section shall affect only the determination of the rate of
26 the tax on the severance units of natural gas imposed in section
27 4403 (relating to imposition of tax). The provisions of this
28 section are not intended, nor shall they be construed, to affect
29 any other determination whatsoever, including, but not limited
30 to, the determination of royalty due under mineral leases.

1 Notwithstanding any other provision of law, the tax imposed by
2 this chapter shall not reduce any royalty payments due under
3 mineral leases and the producer may not recover any portion of
4 the tax paid from the royalty owner through other means of
5 deduction or reallocation, notwithstanding any provision in the
6 lease, contract or agreement.

7 § 4404. Return and payment.

8 (a) Requirement.--Every producer is required to file a
9 return with the department, on a form prescribed by the
10 department, which shall include all of the following:

11 (1) The number of natural gas units severed by the
12 producer for the reporting period.

13 (2) The number of producing sites used by the producer
14 for the severance of natural gas in each county and
15 municipality.

16 (3) The amount of tax due under section 4403 (relating
17 to imposition of tax).

18 (b) Filing.--The return required by subsection (a) shall be
19 filed with the department within 15 days following the end of a
20 reporting period.

21 (c) Deadline.--The tax imposed under section 4403 is due on
22 the day the return is required to be filed and becomes
23 delinquent if not remitted to the department by that date.

24 § 4405. Natural gas severance tax registration.

25 (a) Application.--Within three months of the effective date
26 of this section, a producer that has severed natural gas prior
27 to the effective date of this section shall apply to the
28 department for a natural gas severance tax registration
29 certificate. A producer that begins to sever natural gas after
30 the effective date of this section shall apply to the department

1 for a natural gas severance tax registration certificate before
2 severing any natural gas.

3 (a.1) Application fee.--The department may charge an
4 application fee to cover the administrative costs associated
5 with the application and registration process. If the department
6 charges an application fee, the department shall not issue a
7 registration certificate until the producer has paid the
8 application fee.

9 (a.2) Declaration.--The producer shall include in its
10 application a declaration of all producing sites and
11 nonproducing sites used by the producer for the severance of
12 natural gas. The declaration shall include copies of wellhead
13 meter certifications for each site. The producer is required to
14 update the declaration when the producer adds or removes a
15 producing site or nonproducing site in this Commonwealth or when
16 there is a change in the status of a producing site or
17 nonproducing site or when the producer uses a different
18 accredited laboratory to issue a wellhead meter certification.
19 The producer shall update the declaration within 30 days after a
20 calendar month in which a change to the declaration occurs.

21 (b) Issuance.--Except as provided in subsection (c), after
22 the receipt of an application, the department shall issue a
23 registration certificate under subsection (a). The registration
24 certificate shall be nonassignable. All registrants shall be
25 required to renew their registration certificates and wellhead
26 meter certifications on a staggered renewal system established
27 by the department. After the initial staggered renewal period, a
28 registration certificate or a wellhead meter certification
29 issued shall be valid for a period of five years.

30 (c) Refusal, suspension or revocation.--The department may

1 refuse to issue, suspend or revoke a registration certificate if
2 the applicant or registrant has not filed required State tax
3 reports and paid State taxes not subject to a timely perfected
4 administrative or judicial appeal or subject to a duly
5 authorized deferred payment plan. The department shall notify
6 the applicant or registrant of any refusal, suspension or
7 revocation. The notice shall contain a statement that the
8 refusal, suspension or revocation may be made public. The notice
9 shall be made by first class mail. An applicant or registrant
10 aggrieved by the determination of the department may file an
11 appeal under the provisions for administrative appeals in the
12 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
13 of 1971. In the case of a suspension or revocation which is
14 appealed, the registration certificate shall remain valid
15 pending a final outcome of the appeals process. Notwithstanding
16 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the
17 Tax Reform Code of 1971 or any other provision of law, if no
18 appeal is taken or if an appeal is taken and denied at the
19 conclusion of the appeal process the department may disclose, by
20 publication or otherwise, the identity of a producer and the
21 fact that the producer's registration certificate has been
22 refused, suspended or revoked under this subsection. Disclosure
23 may include the basis for refusal, suspension or revocation.

24 (d) Violation.--A person severing natural gas in this
25 Commonwealth without holding a valid registration certificate
26 under subsection (b) shall be guilty of a summary offense and
27 shall, upon conviction, be sentenced to pay a fine of not less
28 than \$300 nor more than \$1,500. In the event the person
29 convicted defaults in the payment of the fine, he shall be
30 sentenced to imprisonment for not less than five days nor more

1 than 30 days. The penalties imposed by this subsection shall be
2 in addition to any other penalties imposed by this chapter. For
3 purposes of this subsection, the severing of natural gas during
4 any calendar day shall constitute a separate violation. The
5 secretary may designate employees of the department to enforce
6 the provisions of this subsection. The employees shall exhibit
7 proof of and be within the scope of the designation when
8 instituting proceedings as provided by the Pennsylvania Rules of
9 Criminal Procedure.

10 (e) Failure to obtain registration certificate.--Failure to
11 obtain or hold a valid registration certificate does not relieve
12 a person from liability for the tax imposed by this chapter.

13 § 4405.1. Meters.

14 (a) General rule.--Except as provided in subsection (b), a
15 producer shall provide for and maintain a discrete wellhead
16 meter where natural gas is severed. A producer shall ensure that
17 the meters are maintained according to industry standards. Any
18 wellhead meter installed after the effective date of this
19 section shall be a digital meter.

20 (b) Exception.--If a producer has multiple producing sites
21 or nonproducing sites, the combined volumes of gas produced by
22 all of which sites are measured by a single wellhead meter, the
23 producer shall not be required to provide for a discrete
24 wellhead meter at any of those producing sites or nonproducing
25 sites that is also a stripper well.

26 § 4406. Assessments.

27 (a) Authorization and requirement.--The department is
28 authorized and shall make the inquiries, determinations and
29 assessments of the tax imposed under this chapter, including
30 interest, additions and penalties imposed under this chapter.

1 (b) Notice.--The notice of assessment and demand for payment
2 shall be mailed to the taxpayer. The notice shall set forth the
3 basis of the assessment. The department shall send the notice of
4 assessment to the taxpayer at its registered address via
5 certified mail if the assessment increases the taxpayer's tax
6 liability by \$300. Otherwise, the notice of assessment may be
7 sent via regular mail.

8 § 4407. Time for assessment.

9 (a) Requirement.--An assessment as provided under section
10 4406 (relating to assessments) shall be made within three years
11 after the date when the return provided for by section 4404
12 (relating to return and payment) is filed or the end of the year
13 in which the tax liability arises, whichever shall occur last.
14 For the purposes of this subsection and subsection (b), a return
15 filed before the last day prescribed for the filing period shall
16 be considered as filed on the last day.

17 (b) Exception.--If the taxpayer underpays the correct amount
18 of the tax due by 25% or more, the tax may be assessed within
19 six years after the date the return was filed.

20 (c) Intent to evade.--Where no return is filed or where the
21 taxpayer files a false or fraudulent return with intent to evade
22 the tax imposed by this chapter, the assessment may be made at
23 any time.

24 (d) Erroneous credit or refund.--Within three years of the
25 granting of a refund or credit or within the period in which an
26 assessment or reassessment may have been issued by the
27 department for the taxable period for which the refund was
28 granted, whichever period shall last occur, the department may
29 issue an assessment to recover a refund or credit made or
30 allowed erroneously.

1 § 4408. Extension of assessment period.

2 Notwithstanding the provisions of this chapter, the
3 assessment period may be extended in the event a taxpayer has
4 provided written consent before the expiration of the period
5 provided in section 4407 (relating to time for assessment) for a
6 tax assessment. The amount of tax due may be assessed at any
7 time within the extended period. The period may be extended
8 further by subsequent written consents made before the
9 expiration of the extended period.

10 § 4409. Reassessments.

11 A taxpayer against whom an assessment is made may petition
12 the department for a reassessment under Article XXVII of the act
13 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
14 1971.

15 § 4410. Interest.

16 The department shall assess interest on any delinquent tax at
17 the rate prescribed under section 806 of the act of April 9,
18 1929 (P.L.343, No.176), known as The Fiscal Code.

19 § 4411. Penalties.

20 The department shall enforce the following penalties:

21 (1) A penalty against a producer without a natural gas
22 severance tax registration certificate. The penalty shall be
23 \$1 for every unit severed without a valid registration
24 certificate. The department may assess this penalty
25 separately from or in conjunction with any assessment of the
26 natural gas severance tax.

27 (2) A penalty against a producer for failure to timely
28 file a return as required under section 4404 (relating to
29 return and payment). The penalty shall be 5% of the tax
30 liability to be reported on the return for each day beyond

1 the due date that the return is not filed.

2 (3) In addition to the penalty under paragraph (2), a
3 penalty against the producer for a willful failure to timely
4 file a return. The penalty shall be 200% of the tax liability
5 required to be reported on the return.

6 (4) A penalty against a producer for failure to timely
7 pay the tax as required by section 4404(c). The penalty shall
8 be 5% of the amount of tax due for each day beyond the
9 payment date that the tax is not paid.

10 § 4412. Criminal acts.

11 (a) Fraudulent return.--Any person with intent to defraud
12 the Commonwealth, who willfully makes or causes to be made a
13 return required by this chapter which is false, is guilty of a
14 misdemeanor and shall, upon conviction, be sentenced to pay a
15 fine of not more than \$2,000 or to imprisonment for not more
16 than three years, or both.

17 (b) Other crimes.--

18 (1) Except as otherwise provided by subsection (a), a
19 person is guilty of a misdemeanor and shall, upon conviction,
20 be sentenced to pay a fine of not more than \$1,000 and costs
21 of prosecution or to imprisonment for not more than one year,
22 or both, for any of the following:

23 (i) Willfully failing to timely remit the tax to the
24 department.

25 (ii) Willfully failing or neglecting to timely file
26 a return or report required by this chapter.

27 (iii) Refusing to timely pay a tax, penalty or
28 interest imposed or provided for by this chapter.

29 (iv) Willfully failing to preserve its books, papers
30 and records as directed by the department.

1 (v) Refusing to permit the department or its
2 authorized agents to examine its books, records or
3 papers.

4 (vi) Knowingly making any incomplete, false or
5 fraudulent return or report.

6 (vii) Preventing or attempting to prevent the full
7 disclosure of the amount of natural gas severance tax
8 due.

9 (viii) Providing any person with a false statement
10 as to the payment of the tax imposed under this chapter
11 with respect to any pertinent facts.

12 (ix) Making, uttering or issuing a false or
13 fraudulent statement.

14 (2) The penalties imposed by this section shall be in
15 addition to other penalties imposed by this chapter.

16 § 4413. Abatement of additions or penalties.

17 Upon the filing of a petition for reassessment or a petition
18 for refund by a taxpayer as provided under this chapter,
19 additions or penalties imposed upon the taxpayer by this chapter
20 may be waived or abated in whole or in part where the petitioner
21 establishes that he acted in good faith, without negligence and
22 with no intent to defraud.

23 § 4414. Bulk and auction sales.

24 A person that sells or causes to be sold at auction, or that
25 sells or transfers in bulk, 51% or more of a stock of goods,
26 wares or merchandise of any kind, fixtures, machinery,
27 equipment, buildings or real estate involved in a business for
28 which the person holds a registration certificate or is required
29 to obtain a registration certificate under the provisions of
30 this chapter shall be subject to the provisions of section 1403

1 of the act of April 9, 1929 (P.L.343, No.176), known as The
2 Fiscal Code.

3 § 4415. Collection upon failure to request reassessment, review
4 or appeal.

5 (a) Power of department.--The department may collect the tax
6 imposed under this chapter:

7 (1) If an assessment of the tax is not paid within 30
8 days after notice to the taxpayer when no petition for
9 reassessment has been filed.

10 (2) Within 60 days of the reassessment, if no petition
11 for review has been filed.

12 (3) If no appeal has been made, within 30 days of:

13 (i) the Board of Finance and Revenue's decision of a
14 petition for review; or

15 (ii) the expiration of the board's time for acting
16 upon the petition.

17 (4) In all cases of judicial sales, receiverships,
18 assignments or bankruptcies.

19 (b) Prohibition.--In a case for the collection of taxes
20 under subsection (a), the taxpayer against whom they were
21 assessed shall not be permitted to set up a ground of defense
22 that might have been determined by the department, the Board of
23 Finance and Revenue or the courts, provided that the defense of
24 failure of the department to mail notice of assessment or
25 reassessment to the taxpayer and the defense of payment of
26 assessment or reassessment may be raised in proceedings for
27 collection by a motion to stay the proceedings.

28 § 4416. Tax liens.

29 (a) Lien imposed.--If any taxpayer neglects or refuses to
30 pay the tax imposed under this chapter for which the taxpayer is

1 liable under this chapter after demand, the amount, including
2 interest, addition or penalty, together with additional costs
3 that may accrue, shall be a lien in favor of the Commonwealth
4 upon the real and personal property of the taxpayer but only
5 after the same has been entered and docketed of record by the
6 prothonotary of the county where the property is situated. The
7 department may, at any time, transmit to the prothonotaries of
8 the respective counties certified copies of all liens imposed by
9 this section. It shall be the duty of the prothonotary receiving
10 the lien to enter and docket the same of record to the office of
11 the prothonotary. The lien shall be indexed as judgments are now
12 indexed. No prothonotary shall require as a condition precedent
13 to the entry of the lien the payment of costs incidental to its
14 entry.

15 (b) Priority of lien and effect on judicial sale.--Except
16 for the costs of the sale and the writ upon which the sale was
17 made and real estate taxes and municipal claims against the
18 property, a lien imposed under this section shall have priority
19 from the date of its recording and shall be fully paid and
20 satisfied out of the proceeds of any judicial sale of property
21 subject to the lien, before any other obligation, judgment,
22 claim, lien or estate to which the property may subsequently
23 become subject, but shall be subordinate to mortgages and other
24 liens existing and duly recorded or entered of record prior to
25 the recording of the lien.

26 (c) No discharge by sale on junior lien.--In the case of a
27 judicial sale of property subject to a lien imposed under this
28 section, upon a lien or claim over which the lien imposed under
29 this section has priority, the sale shall discharge the lien
30 imposed under this section to the extent only that the proceeds

1 are applied to its payment, and the lien shall continue in full
2 force and effect as to the balance remaining unpaid. There shall
3 be no inquisition or condemnation upon any judicial sale of real
4 estate made by the Commonwealth under the provisions of this
5 chapter. The lien shall continue as provided in the act of April
6 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ
7 of execution may directly issue upon the lien without the
8 issuance and prosecution to judgment of a writ of scire facias,
9 provided that not less than ten days before issuance of any
10 execution on the lien, notice of the filing and the effect of
11 the lien shall be sent by registered mail to the taxpayer at its
12 last known post office address, provided further that the lien
13 shall have no effect upon any stock of goods, wares or
14 merchandise regularly sold or leased in the ordinary course of
15 business by the taxpayer against whom the lien has been entered,
16 unless and until a writ of execution has been issued and a levy
17 made upon the stock of goods, wares and merchandise.

18 (d) Duty of prothonotary.--Any willful failure of any
19 prothonotary to carry out any duty imposed upon him by this
20 section shall be a misdemeanor. Upon conviction, he shall be
21 sentenced to pay a fine of not more than \$1,000 and costs of
22 prosecution or to imprisonment for not more than one year, or
23 both.

24 (e) Priority.--Except as provided in this chapter, the
25 distribution, voluntary or compulsory, in receivership,
26 bankruptcy or otherwise of the property or estate of any person,
27 all taxes imposed by this chapter which are due and unpaid and
28 are not collectible under the provisions of section 225 of the
29 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
30 of 1971, shall be paid from the first money available for

1 distribution in priority to all other claims and liens, except
2 as the laws of the United States may give priority to a claim to
3 the Federal Government. A person charged with the administration
4 or distribution of the property or estate who violates the
5 provisions of this section shall be personally liable for the
6 taxes imposed by this chapter which are accrued and unpaid and
7 chargeable against the person whose property or estate is being
8 administered or distributed.

9 (f) Other remedies.--Subject to the limitations contained in
10 this chapter as to the assessment of taxes, nothing contained in
11 this section shall be construed to restrict, prohibit or limit
12 the use by the department in collecting taxes due and payable of
13 another remedy or procedure available at law or equity for the
14 collection of debts.

15 § 4417. Tax suit reciprocity.

16 The courts of this Commonwealth shall recognize and enforce
17 liabilities for natural gas severance or extraction taxes
18 lawfully imposed by any other state, provided that the other
19 state recognizes and enforces the tax imposed under this
20 chapter.

21 § 4418. Service.

22 A producer is deemed to have appointed the Secretary of the
23 Commonwealth its agent for the acceptance of service of process
24 or notice in a proceeding for the enforcement of the civil
25 provisions of this chapter and service made upon the Secretary
26 of the Commonwealth as agent shall be of the same legal force
27 and validity as if the service had been personally made upon the
28 producer. Where service cannot be made upon the producer in the
29 manner provided by other laws of this Commonwealth relating to
30 service of process, service may be made upon the Secretary of

1 the Commonwealth. In that case, a copy of the process or notice
2 shall be personally served upon any agent or representative of
3 the producer who may be found within this Commonwealth or, where
4 no agent or representative may be found, a copy of the process
5 or notice shall be sent via registered mail to the producer at
6 the last known address of its principal place of business, home
7 office or residence.

8 § 4419. Refunds.

9 Under Article XXVII of the act of March 4, 1971 (P.L.6,
10 No.2), known as the Tax Reform Code of 1971, the department
11 shall refund all taxes, interest and penalties paid to the
12 Commonwealth under the provisions of this chapter to which the
13 Commonwealth is not rightfully entitled. The refunds shall be
14 made to the person or the person's heirs, successors, assigns or
15 other personal representatives who paid the tax, provided that
16 no refund shall be made under this section regarding a payment
17 made by reason of an assessment where a taxpayer has filed a
18 petition for reassessment under section 2702 of the Tax Reform
19 Code of 1971 to the extent the petition is adverse to the
20 taxpayer by a decision which is no longer subject to further
21 review or appeal. Nothing in this chapter shall prohibit a
22 taxpayer who has filed a timely petition for reassessment from
23 amending it to a petition for refund where the petitioner paid
24 the tax assessed.

25 § 4420. Refund petition.

26 (a) General rule.--Except as provided for in subsection (b),
27 the refund or credit of tax, interest or penalty provided for by
28 section 4419 (relating to refunds) shall be made only where the
29 person who has paid the tax files a petition for refund with the
30 department under Article XXVII of the act of March 4, 1971

1 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
2 time limits of section 3003.1 of the Tax Reform Code of 1971.

3 (b) Natural gas severance tax.--A refund or credit of tax,
4 interest or penalty paid as a result of an assessment made by
5 the department under section 4405 (relating to natural gas
6 severance tax registration) shall be made only where the person
7 who has paid the tax files with the department a petition for a
8 refund with the department under Article XXVII of the Tax Reform
9 Code of 1971 within the time limits of section 3003.1 of the Tax
10 Reform Code of 1971. The filing of a petition for refund, under
11 the provisions of this subsection, shall not affect the
12 abatement of interest, additions or penalties to which the
13 person may be entitled by reason of his payment of the
14 assessment.

15 § 4421. Rules and regulations.

16 The department is charged with the enforcement of the
17 provisions of this chapter and is authorized and empowered to
18 prescribe, adopt, promulgate and enforce rules and regulations
19 not inconsistent with the provisions of this chapter relating to
20 any matter or thing pertaining to the administration and
21 enforcement of the provisions of this chapter and the collection
22 of taxes, penalties and interest imposed by this chapter. The
23 department may prescribe the extent, if any, to which any of the
24 rules and regulations shall be applied without retroactive
25 effect.

26 § 4422. Recordkeeping.

27 (a) General rule.--Every person liable for any tax imposed
28 by this chapter, or for the collection of the tax, shall keep
29 records, including those enumerated in subsection (b), render
30 statements, make returns and comply with the rules and

1 regulations as the department may prescribe regarding matters
2 pertinent to the person's business. Whenever it is necessary,
3 the department may require a person, by notice served upon the
4 person or by regulations, to make returns, render statements or
5 keep records as the department deems sufficient to show whether
6 or not a person is liable to pay tax under this chapter.

7 (a.1) Records.--Records to be maintained are:

8 (1) Wellhead meter charts for each reporting period and
9 the meter calibration and maintenance records. If turbine
10 meters are in use, the maintenance records will be made
11 available to the department upon request.

12 (2) Records, statements and other instruments furnished
13 to a producer by a person to whom the producer delivers for
14 sale, transport or delivery of natural gas.

15 (3) Records, statements and other instruments as the
16 department may prescribe by regulation.

17 (b) Records of nonresidents.--A nonresident who does
18 business in this Commonwealth as a producer shall keep adequate
19 records of the business and of the tax due as a result. The
20 records shall be retained within this Commonwealth unless
21 retention outside this Commonwealth is authorized by the
22 department. The department may require a taxpayer who desires to
23 retain records outside this Commonwealth to assume reasonable
24 out-of-State audit expenses.

25 (c) Keeping of separate records.--A producer who is engaged
26 in another business or businesses which do not involve the
27 severing of natural gas taxable under this chapter shall keep
28 separate books and records of the businesses so as to show the
29 taxable severing of natural gas under this chapter separately
30 from other business activities not taxable hereunder. If any

1 person fails to keep separate books and records, the person
2 shall be liable for a penalty equaling 100% of tax due under
3 this chapter for the period where separate records were not
4 maintained.

5 § 4423. Examinations.

6 The department or any of its authorized agents are authorized
7 to examine the books, papers and records of any taxpayer in
8 order to verify the accuracy and completeness of any return made
9 or, if no return was made, to ascertain and assess the tax
10 imposed by this chapter. The department may require the
11 preservation of all books, papers and records for any period
12 deemed proper by it but not to exceed three years from the end
13 of the calendar year to which the records relate. Every taxpayer
14 is required to give to the department or its agent the means,
15 facilities and opportunity for examinations and investigation
16 under this section. The department is further authorized to
17 examine any person, under oath, concerning the taxable severing
18 of natural gas by any taxpayer or concerning any other matter
19 relating to the enforcement or administration of this chapter,
20 and to this end may compel the production of books, papers and
21 records and the attendance of all persons whether as parties or
22 witnesses whom it believes to have knowledge of relevant
23 matters. The procedure for the hearings or examinations shall be
24 the same as that provided by the act of April 9, 1929 (P.L.343,
25 No. 176), known as The Fiscal Code.

26 § 4424. Unauthorized disclosure.

27 Any information gained by the department as a result of any
28 return, examination, investigation, hearing or verification
29 required or authorized by this chapter shall be confidential
30 except for official purposes and except in accordance with

1 proper judicial order or as otherwise provided by law, and any
2 person unlawfully divulging the information shall be guilty of a
3 misdemeanor and shall, upon conviction, be sentenced to pay a
4 fine of not more than \$1,000 and costs of prosecution or to
5 imprisonment for not more than one year, or both.

6 § 4425. Cooperation with other governments.

7 Notwithstanding the provisions of section 4417 (relating to
8 tax suit reciprocity), the department may permit the
9 Commissioner of the Internal Revenue Service of the United
10 States, the proper officer of any state or the authorized
11 representative of either of them to inspect the tax returns of
12 any taxpayer, or may furnish to the commissioner or officer or
13 to either of their authorized representative an abstract of the
14 return of any taxpayer, or supply him with information
15 concerning any item contained in any return or disclosed by the
16 report of any examination or investigation of the return of any
17 taxpayer. This permission shall be granted only if the laws of
18 the United States or another state grant substantially similar
19 privileges to the proper officer of the Commonwealth charged
20 with the administration of this chapter.

21 § 4426. Bonds.

22 (a) Taxpayer to file bond.--The department may require a
23 nonresident natural person or any foreign corporation,
24 association, fiduciary or other entity, not authorized to do
25 business within this Commonwealth or not having an established
26 place of business in this Commonwealth and subject to the tax
27 imposed by section 4403 (relating to imposition of tax), to file
28 a bond issued by a surety company authorized to do business in
29 this Commonwealth and approved by the Insurance Commissioner as
30 to solvency and responsibility, in amounts as it may fix, to

1 secure the payment of any tax or penalties due or which may
2 become due from a nonresident natural person, corporation,
3 association, fiduciary or other entity whenever it deems it
4 necessary to protect the revenues obtained under this chapter.
5 The department may also require a bond of a person petitioning
6 the department for reassessment in the case of any assessment
7 over \$500 or where, in its opinion, the ultimate collection is
8 in jeopardy. For a period of three years, the department may
9 require a bond of any person who has, on three or more occasions
10 within a 12-month period, either filed a return or made payment
11 to the department more than 30 days late. In the event the
12 department determines a taxpayer is required to file a bond, it
13 shall give notice to the taxpayer specifying the amount of the
14 bond required. The taxpayer shall file the bond within five days
15 after notice is given by the department unless, within five
16 days, the taxpayer shall request in writing a hearing before the
17 secretary or his representative. At the hearing, the necessity,
18 propriety and amount of the bond shall be determined by the
19 secretary or the secretary's representative. The determination
20 shall be final and the taxpayer shall comply with it within 15
21 days after notice is mailed to the taxpayer.

22 (b) Securities in lieu of bond.--In lieu of the bond
23 required by this section securities approved by the department
24 or cash in a prescribed amount may be deposited. The securities
25 or cash shall be kept in the custody of the department. The
26 department may apply the securities or cash to the tax imposed
27 by this chapter and interest or penalties due without notice to
28 the depositor. The securities may be sold by the department to
29 pay the tax and/or interest or penalties due at public or
30 private sale upon five days' written notice to the depositor.

1 (c) Failure to file bond.--The department may file a lien
2 under section 4416 (relating to tax liens) against any taxpayer
3 who fails to file a bond when required to do so under this
4 section. All funds received upon execution of the judgment on
5 the lien shall be refunded to the taxpayer with 3% interest,
6 should a final determination be made that it does not owe any
7 payment to the department.

8 § 4427. Unconventional Gas Well Fund.

9 (a) Deposit.--One hundred-twenty million dollars of the
10 taxes imposed and collected under this chapter shall be
11 deposited into the Unconventional Gas Well Fund, to be
12 administered by the department, and are hereby appropriated for
13 the purpose set forth in this section.

14 (b) Conservation districts.--In 2015, and each year
15 thereafter, \$7,500,000 from the fund shall be distributed to
16 county conservation districts as follows:

17 (1) One-half shall be distributed by dividing the amount
18 equally among conservation districts for any use consistent
19 with the act of May 15, 1945 (P.L.547, No.217), known as the
20 Conservation District Law.

21 (2) One-half shall be distributed by the State
22 Conservation Commission in a manner consistent with the
23 Conservation District Law and the provisions of the State
24 Conservation Commission's Conservation District Fund
25 Allocation Program-Statement of Policy under 25 Pa. Code Ch.
26 83 Subch. B (relating to Conservation District Fund
27 Allocation Program-Statement of Policy).

28 (c) Additional distributions.--In fiscal year 2015-2016 and
29 each year thereafter:

30 (1) One million dollars shall be distributed to the

1 Pennsylvania Fish and Boat Commission for costs relating to
2 the review of applications for permits to drill
3 unconventional gas wells.

4 (2) Six million dollars to the Department of
5 Environmental Protection for the administration of this act
6 and the enforcement of acts relating to clean air and clean
7 water.

8 (3) Seven hundred fifty thousand dollars to the
9 Pennsylvania Emergency Management Agency for emergency
10 response planning, training and coordination related to
11 natural gas production from unconventional gas wells.

12 (4) Seven hundred fifty thousand dollars to the Office
13 of State Fire Commissioner for the development, delivery and
14 sustainment of training and grant programs for first
15 responders and the acquisition of specialized equipment for
16 response to emergencies relating to natural gas production
17 from unconventional gas wells.

18 (5) One million dollars to the Department of
19 Transportation for rail freight assistance.

20 (d) Report.--All agencies or organizations receiving funds
21 under subsections (b) and (c) and shall submit a report by
22 December 31, 2015, and December 31 of each year thereafter to
23 the Secretary of the Budget and the Appropriations Committee of
24 the Senate and the Appropriations Committee of the House of
25 Representatives. The report shall include an itemization and
26 explanation of the use of all funds received under subsections
27 (b) and (c).

28 (e) Distribution.--Following the distribution under
29 subsections (b) and (c), revenue remaining in the fund is hereby
30 appropriated to counties and municipalities for purposes

1 authorized under subsection (h). Counties and municipalities are
2 encouraged, where appropriate, to jointly fund projects that
3 cross jurisdictional lines. The funds shall be appropriated by
4 July 1 of each year as follows:

5 (1) Thirty-six percent shall be distributed to counties
6 in which spud unconventional gas wells are located. The
7 amount for each county to which funds will be distributed
8 shall be determined using a formula that divides the number
9 of spud unconventional gas wells in the county by the number
10 of spud unconventional gas wells in this Commonwealth and
11 multiplies the resulting percentage by the amount available
12 for distribution under this paragraph.

13 (2) Thirty-seven percent shall be distributed to
14 municipalities in which spud unconventional gas wells are
15 located. The amount for each municipality to which funds will
16 be distributed shall be determined using a formula that
17 divides the number of spud unconventional gas wells in the
18 municipality by the number of spud unconventional gas wells
19 in this Commonwealth and multiplies the resulting percentage
20 by the amount available for distribution under this
21 paragraph.

22 (3) Twenty-seven percent shall be distributed to
23 municipalities located in a county in which spud
24 unconventional gas wells are located. The amount available
25 for distribution in each county shall be determined by
26 dividing the number of spud unconventional gas wells in the
27 county by the number of spud unconventional gas wells in this
28 Commonwealth and multiplying the resulting percentage by the
29 amount available for distribution under this paragraph. The
30 resulting amount available for distribution in each county in

1 which spud unconventional gas wells are located shall be
2 distributed to each municipality in the county to which funds
3 will be distributed as follows:

4 (i) Fifty percent of the amount available under this
5 paragraph shall be distributed to municipalities in which
6 spud unconventional gas wells are located and to
7 municipalities that are either contiguous with a
8 municipality in which spud unconventional gas wells are
9 located or are located within five linear miles of a spud
10 unconventional gas well. The distribution shall be made
11 as follows:

12 (A) One-half shall be distributed to each
13 municipality using a formula that divides the
14 population of the eligible municipality within the
15 county by the total population of all eligible
16 municipalities within the county and multiplies the
17 resulting percentage by the amount allocated to the
18 county under this subparagraph.

19 (B) One-half shall be distributed to each
20 municipality using a formula that divides the highway
21 mileage of the eligible municipality within the
22 county by the total highway mileage of all eligible
23 municipalities within the county and multiplies the
24 resulting percentage by the amount allocated to the
25 county under this subparagraph.

26 (ii) Fifty percent of the amount available under
27 this paragraph shall be distributed to each municipality
28 in the county regardless of whether an unconventional gas
29 well is located in the municipality as follows:

30 (A) One-half shall be distributed to each

1 municipality using a formula that divides the
2 population of the municipality within the county by
3 the total population of the county and multiplies the
4 resulting percentage by the amount allocated to the
5 county under this subparagraph.

6 (B) One-half shall be distributed to each
7 municipality using a formula that divides the highway
8 mileage of the municipality within the county by the
9 total highway mileage of the county and multiplies
10 the resulting percentage by the amount allocated to
11 the county under this subparagraph.

12 (f) Restriction.--The amount allocated to each municipality
13 under subsection (e) shall not exceed the lesser of \$500,000 or
14 50% of the total budget for the prior fiscal year beginning with
15 the 2014 budget year and continuing every year thereafter,
16 adjusted to reflect any upward changes in the Consumer Price
17 Index for all Urban Consumers for the Pennsylvania, New Jersey,
18 Delaware and Maryland area in the preceding 12 months. Any
19 remaining money shall be retained by the department and
20 deposited in the Housing Affordability and Rehabilitation
21 Enhancement Fund for the uses specified under subsection (g).

22 (g) Housing Affordability and Rehabilitation Enhancement
23 Fund.--

24 (1) Five million dollars from the fund shall be
25 distributed to the Housing Affordability and Rehabilitation
26 Enhancement Fund under the act of November 23, 2010
27 (P.L.1035, No.105), entitled "An act amending the act of
28 December 3, 1959 (P.L.1688, No.621), entitled, as amended,
29 'An act to promote the health, safety and welfare of the
30 people of the Commonwealth by broadening the market for

1 housing for persons and families of low and moderate income
2 and alleviating shortages thereof, and by assisting in the
3 provision of housing for elderly persons through the creation
4 of the Pennsylvania Housing Finance Agency as a public
5 corporation and government instrumentality; providing for the
6 organization, membership and administration of the agency,
7 prescribing its general powers and duties and the manner in
8 which its funds are kept and audited, empowering the agency
9 to make housing loans to qualified mortgagors upon the
10 security of insured and uninsured mortgages, defining
11 qualified mortgagors and providing for priorities among
12 tenants in certain instances, prescribing interest rates and
13 other terms of housing loans, permitting the agency to
14 acquire real or personal property, permitting the agency to
15 make agreements with financial institutions and Federal
16 agencies, providing for the purchase by persons of low and
17 moderate income of housing units, and approving the sale of
18 housing units, permitting the agency to sell housing loans,
19 providing for the promulgation of regulations and forms by
20 the agency, prescribing penalties for furnishing false
21 information, empowering the agency to borrow money upon its
22 own credit by the issuance and sale of bonds and notes and by
23 giving security therefor, permitting the refunding,
24 redemption and purchase of such obligations by the agency,
25 prescribing remedies of holders of such bonds and notes,
26 exempting bonds and notes of the agency, the income
27 therefrom, and the income and revenues of the agency from
28 taxation, except transfer, death and gift taxes; making such
29 bonds and notes legal investments for certain purposes; and
30 indicating how the act shall become effective,' providing for

1 the Pennsylvania Housing Affordability and Rehabilitation
2 Enhancement Program; and establishing the Housing
3 Affordability and Rehabilitation Enhancement Fund."

4 (2) Funds under paragraph (1) shall be used for the
5 following purposes:

6 (i) To provide support to projects in a county in
7 which producing unconventional gas wells are located that
8 increase availability of quality, safe, affordable
9 housing for low-income and moderate-income individuals or
10 families, persons with disabilities or elderly persons.

11 (ii) To provide rental assistance in a county in
12 which producing unconventional gas wells are located to
13 persons or families whose household income does not
14 exceed the area median income.

15 (3) No less than 50% of the funds available under this
16 subsection shall be used in fifth, sixth, seventh and eighth
17 class counties.

18 (h) Use of funds.--A county or municipality receiving funds
19 under subsection (e) shall use the funds received only for the
20 following purposes associated with natural gas production from
21 unconventional gas wells within the county or municipality:

22 (1) Construction, reconstruction, maintenance and repair
23 of roadways, bridges and public infrastructure.

24 (2) Water, storm water and sewer systems, including
25 construction, reconstruction, maintenance and repair.

26 (3) Emergency preparedness and public safety, including
27 law enforcement and fire services, hazardous material
28 response, 911, equipment acquisition and other services.

29 (4) Environmental programs, including trails, parks and
30 recreation, open space, flood plain management, conservation

1 districts and agricultural preservation.

2 (5) Preservation and reclamation of surface and
3 subsurface waters and water supplies.

4 (6) Tax reductions, including homestead exclusions.

5 (7) Projects to increase the availability of safe and
6 affordable housing to residents.

7 (8) Records management, geographic information systems
8 and information technology.

9 (9) The delivery of social services.

10 (10) Judicial services.

11 (11) For deposit into the county or municipality's
12 capital reserve fund if the funds are used solely for a
13 purpose set forth in this subsection.

14 (12) Career and technical centers for training of
15 workers in the oil and gas industry.

16 (13) Local or regional planning initiatives under the
17 act of July 31, 1968 (P.L.805, No.247), known as the
18 Pennsylvania Municipalities Planning Code.

19 (i) Reporting.--

20 (1) The department shall submit an annual report on all
21 funds in the fund. The report shall include a detailed
22 listing of all deposits and expenditures of the fund and be
23 submitted to the chairman and the minority chairman of the
24 Appropriations Committee of the Senate, the chairman and the
25 minority chairman of the Environmental Resources and Energy
26 Committee of the Senate, the chairman and the minority
27 chairman of the Appropriations Committee of the House of
28 Representatives and the chairman and the minority chairman of
29 the Environmental Resources and Energy Committee of the House
30 of Representatives. The report shall be submitted by

1 September 30, 2015, and by September 30 of each year
2 thereafter.

3 (2) All counties and municipalities receiving funds from
4 the fund under this section shall submit information to the
5 department on a form prepared by the department that sets
6 forth the amount and use of the funds received in the prior
7 calendar year. The form shall set forth that the funds
8 received were committed to a specific project or use as
9 authorized in this section. The reports shall be published
10 annually on the county or municipality's publicly accessible
11 Internet website.

12 § 4428. Marcellus Legacy Fund.

13 (a) Deposit and distribution.--Eighty million dollars of the
14 taxes imposed and collected under this chapter shall be
15 deposited into the Marcellus Legacy Fund and appropriated by
16 July 1 of each year as follows:

17 (1) Twenty percent to the Commonwealth Financing
18 Authority for grants to eligible applicants for the
19 following:

20 (i) Acid mines: damage, abatement and cleanup and
21 mine reclamation, with priority given to projects which
22 recycle and treat water for use in drilling operations.

23 (ii) Orphan or abandoned oil and gas well plugging.

24 (iii) Complying with the act of January 24, 1966
25 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage
26 Facilities Act.

27 (iv) Planning acquisition, development,
28 rehabilitation and repair of greenways, recreational
29 trails, open space, parks and beautification projects.

30 (v) Programs to establish baseline water quality

1 data on private water supplies.

2 (vi) Watershed programs and related projects.

3 (vii) Up to 25% of funds distributed to the
4 Commonwealth Financing Authority under this paragraph may
5 be utilized for flood control projects.

6 (2) Ten percent to the Environmental Stewardship Fund.

7 (3) Twenty-five percent to the Highway Bridge
8 Improvement Restricted Account in the Motor License Fund to
9 counties to be distributed to fund the cost of the
10 replacement or repair of locally owned at-risk deteriorated
11 bridges. Funds shall be distributed to counties
12 proportionately based on the population of the county as
13 follows:

14 (i) In each county, the distribution shall be
15 according to the following formula:

16 (A) Divide:

17 (I) the total population of the county; by

18 (II) the total population of the

19 Commonwealth;

20 (B) Express the quotient under clause (A) as a
21 percentage.

22 (C) Multiply:

23 (I) the percentage under clause (B); by

24 (II) the amount of money to be distributed
25 under this paragraph.

26 (ii) Each county shall receive a minimum of \$40,000
27 to the extent funds are available.

28 (iii) The Department of Transportation shall release
29 money under this paragraph upon approval of a plan
30 submitted by a county or municipality to repair an at-

1 risk deteriorated bridge. The plan must include funding
2 for replacement or repair.

3 (iv) A county of the first or second class may
4 submit a plan to use its funds under this paragraph for
5 at-risk deteriorated bridges owned by a public
6 transportation authority.

7 (4) Twenty-five percent for water and sewer projects.
8 Fifty percent of the amount distributed under this paragraph
9 shall be transmitted to the Pennsylvania Infrastructure
10 Investment Authority to be used in accordance with the act of
11 March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
12 Infrastructure Investment Authority Act. Fifty percent of the
13 amount distributed under this paragraph shall be distributed
14 to the H2O PA program to be used by the Commonwealth
15 Financing Authority in accordance with section 301 of the act
16 of July 9, 2008 (P.L.908, No.63), known as the H2O PA Act.
17 The prohibition on grants for projects located in a city or
18 county of the first or second class under section 301 of the
19 H2O PA Act shall not apply to funds distributed to the H2O PA
20 Program under this paragraph.

21 (5) Fifteen percent for the planning, acquisition,
22 development, rehabilitation and repair of greenways,
23 recreational trails, open space, natural areas, community
24 conservation and beautification projects, community and
25 heritage parks and water resource management. Funds may be
26 used to acquire lands for recreational or conservation
27 purposes and land damaged or prone to drainage by storms or
28 flooding. Funds shall be distributed to counties
29 proportionately based on the population of the county as
30 follows:

1 (i) In each county, the distribution shall be
2 according to the following formula:

3 (A) Divide:

4 (I) the total population of the county; by

5 (II) the total population of the

6 Commonwealth.

7 (B) Express the quotient under clause (A) as a
8 percentage.

9 (C) Multiply:

10 (I) the percentage under clause (B); by

11 (II) the amount of funds available under
12 this paragraph.

13 (ii) Each county shall receive a minimum of \$25,000
14 to the extent funds are available.

15 (6) Five percent to the Hazardous Sites Cleanup Fund.

16 (b) Restriction on use of proceeds.--

17 (1) Funds distributed under subsection (a) shall not be
18 used for the purpose of public relations, outreach not
19 directly related to project implementation, communications,
20 lobbying or litigation.

21 (2) Funds distributed under subsection (a) may not be
22 used by an authorized organization as defined in 27 Pa.C.S. §
23 6103 (relating to definitions) for land acquisition unless
24 the authorized organization has obtained the written consent
25 of the county and municipality in which the land is situated.

26 (c) Coordination.--The Department of Environmental
27 Protection and the Department of Conservation and Natural
28 Resources shall review applications for funding as requested by
29 the Commonwealth Financing Authority and provide recommendations
30 on priority of projects and project approval.

1 § 4429. Additional revenue.

2 All taxes imposed and collected under this chapter in excess
3 of the amounts deposited in the Unconventional Gas Well Fund
4 under section 4427 (relating to Unconventional Gas Well Fund)
5 and the Marcellus Legacy Fund under section 4428 (relating to
6 Marcellus Legacy Fund) shall be deposited in the General Fund.

7 Section 8. This act shall take effect immediately.