



AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
 2 Statutes, providing for an unconventional gas well fee and
 3 for transfers from the Oil and Gas Lease Fund; providing for
 4 distribution of fees and transfers; establishing the Natural
 5 Gas Energy Development Program; consolidating the Oil and Gas
 6 Act with modifications and additions relating to definitions,
 7 well permits, permit objections, comments by municipalities
 8 and storage operations, well location restrictions, well site
 9 restoration, protection of water supplies, notification to
 10 public drinking water systems, containment for unconventional
 11 wells, transportation records regarding wastewater fluids,
 12 corrosion control requirements, gathering lines, well control
 13 emergency response, hydraulic fracturing chemical discharge
 14 requirements, bonding, air containment emissions, public
 15 nuisances, enforcement orders, well control emergency cost
 16 recovery, penalties, civil penalties, inspection and
 17 production of materials, witnesses, depositions and rights of
 18 entry, third party liability, inspection reports and
 19 preemption of local ordinances; providing for local
 20 ordinances relating to oil and gas operations and for
 21 responsibility for fee; making an appropriation; and making a
 22 related repeal.

23 The General Assembly of the Commonwealth of Pennsylvania
 24 hereby enacts as follows:

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

27 PART I

1 (RESERVED)

2 PART II

3 OVERSIGHT AND DEVELOPMENT

4 Chapter

5 23. Unconventional Gas Well Fee

6 25. Oil and Gas Lease Fund

7 27. Natural Gas Energy Development Program

8 CHAPTER 23

9 UNCONVENTIONAL GAS WELL FEE

10 Sec.

11 2301. Definitions.

12 2302. Unconventional gas well fee.

13 2303. Administration.

14 2304. Well information.

15 2305. Duties of department.

16 2306. (Reserved).

17 2307. Commission.

18 2308. Enforcement.

19 2309. Enforcement orders.

20 2310. Administrative penalties.

21 2311. (Reserved).

22 2312. Recordkeeping.

23 2313. Examinations.

24 2314. Distribution of fee.

25 2315. Statewide initiatives.

26 2316. Small business participation.

27 2317. Applicability.

28 2318. Expiration.

29 § 2301. Definitions.

30 The following words and phrases when used in this chapter

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

3 "Average annual price of natural gas." The arithmetic mean
4 of the New York Mercantile Exchange (NYMEX) settled price for
5 the near-month contract, as reported by the Wall Street Journal
6 for the last trading day of each month of a calendar year for
7 the 12-month period ending December 31.

8 "Company." An entity doing business within this Commonwealth
9 and subject to tax under Article III, IV or VI of the act of
10 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
11 1971.

12 "Commission." The Pennsylvania Public Utility Commission.

13 "Department." The Department of Environmental Protection of
14 the Commonwealth.

15 "Eligible applicant." Any of the following:

16 (1) A county, municipality, council of governments,
17 watershed organization, institution of higher education or
18 nonprofit organization.

19 (2) An authorized organization as defined in 27 Pa.C.S.
20 § 6103 (relating to definitions).

21 (3) A company, other than a producer.

22 "Fee." The unconventional gas well fee imposed under section
23 2302 (relating to unconventional gas well fee).

24 "Fund." The Unconventional Gas Well Fund.

25 "Highway mileage." The number of miles of public roads and
26 streets most recently certified by the Department of
27 Transportation as eligible for distribution of liquid fuels
28 under the act of June 1, 1956 (1955 P.L.1944, No.655),
29 referred to as the Liquid Fuels Tax Municipal Allocation Law.

30 "Municipality." A borough, city, town or township.

1 "Natural gas." A fossil fuel consisting of a mixture of
2 hydrocarbon gases, primarily methane, and possibly including
3 ethane, propane, butane, pentane, carbon dioxide, oxygen,
4 nitrogen and hydrogen sulfide and other gas species. The term
5 includes natural gas from oil fields known as associated gas or
6 casing head gas, natural gas fields known as nonassociated gas,
7 coal beds, shale beds and other formations. The term does not
8 include coal bed methane.

9 "Number of spud unconventional gas wells." The most recent
10 numerical count of spud unconventional gas wells on the
11 inventory maintained and provided to the commission by the
12 department as of the last day of each month.

13 "Population." As follows:

14 (1) Population of the Commonwealth and population of a
15 county shall be determined using the United States Census
16 Bureau's most recently released Annual Estimates of the
17 Resident Population for Counties of Pennsylvania.

18 (2) Population of a municipality shall be determined
19 using the United States Census Bureau's most recently
20 released Annual Estimates for the Resident Population for
21 Incorporated Places in Pennsylvania.

22 (3) Population of municipalities not included in the
23 report referenced under paragraph (2) shall be determined
24 using the United States Census Bureau's most recently
25 released Annual Estimates of the Resident Population for
26 Minor Civil Divisions in Pennsylvania.

27 "Producer." A person or its subsidiary, affiliate or holding
28 company that holds a permit or other authorization to engage in
29 the business of severing natural gas for sale, profit or
30 commercial use from an unconventional gas well in this

1 Commonwealth. The term shall not include a producer that severs
2 natural gas from a site used to store natural gas that did not
3 originate from the site.

4 "Spud." The actual start of drilling of an unconventional
5 gas well by a rig capable of drilling to a total depth.

6 "Stripper well." An unconventional gas well incapable of
7 producing more than 90,000 cubic feet of gas per day during any
8 calendar month, including production from all zones and
9 multilateral well bores at a single well, without regard to
10 whether the production is separately metered.

11 "Unconventional formation." A geological shale formation
12 existing below the base of the Elk Sandstone or its geologic
13 equivalent stratigraphic interval where natural gas generally
14 cannot be produced at economic flow rates or in economic volumes
15 except by vertical or horizontal well bores stimulated by
16 hydraulic fracture treatments or by using multilateral well
17 bores or other techniques to expose more of the formation to the
18 well bore.

19 "Unconventional gas well." A bore hole drilled or being
20 drilled for the purpose of or to be used for the production of
21 natural gas from an unconventional formation.

22 "Vertical gas well." An unconventional gas well which
23 utilizes hydraulic fracture treatment through a single vertical
24 well bore and produces natural gas in quantities greater than
25 that of a stripper well.

26 § 2302. Unconventional gas well fee.

27 (a) General rule.--The governing body of a county that has a
28 spud unconventional gas well located within its borders may
29 elect whether to impose a fee on unconventional gas wells that
30 have been spud in the county.

1 (a.1) Passage of ordinance.--Within 60 days after the
2 effective date of this subsection, the governing body of a
3 county under subsection (a) may adopt an ordinance to impose an
4 unconventional gas well fee. The governing body of a county must
5 notify the commission and give public notice of its intent to
6 adopt the ordinance.

7 (a.2) County ordinance.--The ordinance imposing a fee under
8 subsection (a.1) shall be clear and in language that is readily
9 understandable by a layperson and shall be in the following
10 form:

11 The county of (insert name) hereby imposes an unconventional
12 gas well fee on each unconventional gas well spud in this
13 county.

14 (a.3) Prohibition.--

15 (1) A county subject to this section, in which the
16 governing body does not adopt an ordinance imposing an
17 unconventional gas well fee within 60 days of the effective
18 date of this section shall be prohibited from receiving funds
19 under sections 2314(d) (1) (relating to distribution of fee)
20 and 2315(a.1) (3) and (5) (relating to Statewide initiatives).

21 (2) The prohibition on receiving funds shall remain in
22 effect until the county adopts an ordinance imposing an
23 unconventional gas well fee. The prohibition shall expire and
24 funds may be received for the calendar year following the
25 adoption of an ordinance imposing the fee under this section.

26 (a.4) Alternate imposition.--

27 (1) If the governing body of a county does not impose an
28 unconventional gas well fee under subsection (a), the
29 municipalities in the county may compel the imposition of an
30 unconventional gas well fee on each unconventional gas well

1 spud in the county by adopting resolutions under paragraphs
2 (2), (3) and (4).

3 (2) Following 60 days after the effective date of this
4 section, if the governing bodies of at least half of the
5 municipalities located in a county or municipalities
6 representing at least 50% of the population of the county
7 adopt resolutions to impose unconventional gas well fees on
8 all unconventional gas wells spud in the county, the fee
9 shall take effect. If a resolution is adopted, a copy of the
10 resolution shall be transmitted to the governing body of the
11 county and the commission. The governing body of a
12 municipality that is located in more than one county shall
13 transmit a copy of a resolution adopted under this paragraph
14 to the governing body of each county in which the
15 municipality is located.

16 (3) The transmittal of resolutions by governing bodies
17 under paragraph (2) shall constitute an imposition of the fee
18 in that county. The population of a municipality that is
19 located in more than one county shall be determined
20 separately for each county on the basis of the municipality's
21 population within each county.

22 (4) Resolutions adopted under this subsection must be
23 framed in the following form:

24 The (insert name) in the county of (insert name) hereby
25 resolves to have the county impose an unconventional gas
26 well fee on each unconventional gas well spud in the
27 county.

28 (5) A municipality which is located in a county that
29 does not adopt an ordinance imposing an unconventional gas
30 well fee and which does not adopt a resolution under

1 paragraphs (2), (3) and (4) shall be prohibited from
2 receiving funds under section 2314(d).

3 (b) Components.--The fee adopted under subsection (a), (a.1)
4 or (a.4) is imposed on every producer and shall apply to
5 unconventional gas wells spud in this Commonwealth regardless of
6 when spudding occurred. Unconventional gas wells spud before
7 2011 shall be considered to have been spud in 2011 for purposes
8 of determining the fee under this subsection. Prior to
9 adjustment under subsection (d), the fee for each unconventional
10 gas well shall be determined as follows:

11 (1) Year one:

12 (i) If the average annual price of natural gas is
13 not more than \$2.25, the fee shall be \$40,000 for the
14 calendar year in which the unconventional gas well is
15 spud.

16 (ii) If the average annual price of natural gas is
17 greater than \$2.25 and less than \$3.00, the fee shall be
18 \$45,000 for the calendar year in which the unconventional
19 gas well is spud.

20 (iii) If the average annual price of natural gas is
21 greater than \$2.99 and less than \$5.00, the fee shall be
22 \$50,000 for the calendar year in which the unconventional
23 gas well is spud.

24 (iv) If the average annual price of natural gas is
25 greater than \$4.99 and less than \$6.00, the fee shall be
26 \$55,000 for the calendar year in which the unconventional
27 gas well is spud.

28 (v) If the average annual price of natural gas is
29 more than \$5.99, the fee shall be \$60,000 for the
30 calendar year in which the unconventional gas well is

1 spud.

2 (2) Year two:

3 (i) If the average annual price of natural gas is
4 not more than \$2.25, the fee shall be \$30,000 for the
5 calendar year following the year in which the
6 unconventional gas well is spud.

7 (ii) If the average annual price of natural gas is
8 greater than \$2.25 and less than \$3.00, the fee shall be
9 \$35,000 for the calendar year following the year in which
10 the unconventional gas well is spud.

11 (iii) If the average annual price of natural gas is
12 greater than \$2.99 and less than \$5.00, the fee shall be
13 \$40,000 for the calendar year following the year in which
14 the unconventional gas well is spud.

15 (iv) If the average annual price of natural gas is
16 greater than \$4.99 and less than \$6.00, the fee shall be
17 \$45,000 for the calendar year following the year in which
18 the unconventional gas well is spud.

19 (v) If the average annual price of natural gas is
20 more than \$5.99, the fee shall be \$55,000 for the
21 calendar year following the year in which the
22 unconventional gas well is spud.

23 (3) Year three:

24 (i) If the average annual price of natural gas is
25 not more than \$2.25, the fee shall be \$25,000 for the
26 second calendar year following the year in which the
27 unconventional gas well is spud.

28 (ii) If the average annual price of natural gas is
29 greater than \$2.25 and less than \$3.00, the fee shall be
30 \$30,000 for the second calendar year following the year

1 in which the unconventional gas well is spud.

2 (iii) If the average annual price of natural gas is
3 greater than \$2.99 and less than \$5.00, the fee shall be
4 \$30,000 for the second calendar year following the year
5 in which the unconventional gas well is spud.

6 (iv) If the average annual price of natural gas is
7 greater than \$4.99 and less than \$6.00, the fee shall be
8 \$40,000 for the second calendar year following the year
9 in which the unconventional gas well is spud.

10 (v) If the average annual price of natural gas is
11 more than \$5.99, the fee shall be \$50,000 for the second
12 calendar year following the year in which the
13 unconventional gas well is spud.

14 (4) Years 4, 5, 6, 7, 8, 9 and 10:

15 (i) If the average annual price of natural gas is
16 not more than \$2.25, the fee shall be \$10,000 for the
17 third through ninth calendar years following the year in
18 which the unconventional gas well is spud.

19 (ii) If the average annual price of natural gas is
20 greater than \$2.25 and less than \$3.00, the fee shall be
21 \$15,000 for the third through ninth calendar years
22 following the year in which the unconventional gas well
23 is spud.

24 (iii) If the average annual price of natural gas is
25 greater than \$2.99, the fee shall be \$20,000 for the
26 third through ninth calendar years following the year in
27 which the unconventional gas well is spud.

28 (5) Years 11, 12, 13, 14 and 15:

29 (i) If the average annual price of natural gas is
30 less than \$3.00, the fee shall be \$5,000 for the 10th

1 through 14th calendar years following the year in which
2 the unconventional well is spud.

3 (ii) If the average annual price of natural gas is
4 greater than \$2.99, the fee shall be \$10,000 for the 10th
5 through 14th calendar years following the year in which
6 the unconventional well is spud.

7 (6) For purposes of this subsection, the fee shall be
8 determined using the average annual price of natural gas for
9 the calendar year in which the fee is imposed.

10 (b.1) Nonproducing unconventional gas wells.--If a spud
11 unconventional gas well begins paying the fee imposed under this
12 section and is subsequently capped or does not produce natural
13 gas in quantities greater than that of a stripper well within
14 two years after paying the initial fee, then the fee shall be
15 suspended:

16 (1) The fee shall be reinstated for a calendar year
17 during which the unconventional gas well produces natural gas
18 in quantities greater than that of a stripper well.

19 (2) Each calendar year during which a fee is suspended
20 shall not be considered a calendar year following spud for
21 purposes of determining the amount of the fee under
22 subsection (b).

23 (c) Annual adjustment.--Beginning January 1, 2013, the
24 commission shall annually adjust the fee amounts under
25 subsection (b) to reflect any upward changes in the Consumer
26 Price Index for all Urban Consumers for the Pennsylvania, New
27 Jersey, Delaware and Maryland area in the preceding 12 months
28 and shall immediately submit the adjusted fee amount to the
29 Legislative Reference Bureau for publication as a notice in the
30 Pennsylvania Bulletin. The fee shall be adjusted by multiplying

1 the annual fee amount by any percentage increase to the Consumer
2 Price Index for all Urban Consumers for the Pennsylvania, New
3 Jersey, Delaware and Maryland area, rounded to the nearest \$100.
4 The resultant product shall become the new annual fee amount
5 under subsection (b). The annual adjustment under this
6 subsection shall take effect if the total number of
7 unconventional gas wells spud in the adjustment year exceeds the
8 total number of unconventional gas wells spud in the prior year.

9 (d) Restimulated unconventional gas wells.--

10 (1) An unconventional gas well which after restimulation
11 qualifies as a stripper well shall not be subject to this
12 subsection.

13 (2) The year in which the restimulation occurs shall be
14 considered the first year of spudding for purposes of
15 imposing the fee under this section if:

16 (i) a producer restimulates a previously stimulated
17 unconventional gas well following the tenth year after
18 being spud by:

19 (A) hydraulic fracture treatments;

20 (B) using additional multilateral well bores;

21 (C) drilling deeper into an unconventional
22 formation; or

23 (D) other techniques to expose more of the
24 formation to the well bore; and

25 (ii) the restimulation results in a substantial
26 increase in production.

27 (3) As used in this subsection, the term "substantial
28 increase in production" means an increase in production
29 amounting to more than 90,000 cubic feet of gas per day
30 during a calendar month.

1 (e) Cessation.--Payments of the fee shall cease upon
2 certification to the department by the producer that the
3 unconventional gas well has ceased production and has been
4 plugged according to the regulations established by the
5 department.

6 (f) Vertical unconventional gas well fee.--The fee for a
7 vertical unconventional gas well shall be 20% of the fee
8 established in subsections (b) and (c), except that the fee
9 under subsection (b) (5) shall not apply.

10 § 2303. Administration.

11 (a) Fee due date.--

12 (1) Except as provided under paragraph (2), the fee
13 imposed under this chapter shall be due by April 1, 2013, and
14 each April 1 thereafter. The fee shall become delinquent if
15 not remitted to the commission on the reporting date.

16 (2) For wells spud before January 1, 2012, a fee imposed
17 under this chapter shall be due by September 1, 2012.

18 (b) Report.--By September 1, 2012, and April 1 of each year
19 thereafter, each producer shall submit payment of the fee to the
20 commission and a report on a form prescribed by the commission
21 for the previous calendar year. The report shall include the
22 following:

23 (1) The number of spud unconventional gas wells of a
24 producer in each municipality within each county that has
25 imposed a fee under this chapter.

26 (2) The date that each unconventional gas well
27 identified under paragraph (1) was spud or ceased the
28 production of natural gas.

29 (c) Costs of commission.--

30 (1) The commission may impose an annual administrative

1 charge not to exceed \$50 per spud unconventional gas well on
2 each producer, to be paid with the submission under
3 subsection (a), to pay for the actual costs of the commission
4 to administer and enforce this chapter.

5 (2) Within 30 days of the effective date of this
6 subsection the commission shall estimate its expenditures
7 through June 30, 2012, that will be directly attributable to
8 the administration and enforcement of this chapter. The
9 commission shall subtract the amount of the administrative
10 charges imposed under paragraph (1) and assess any remaining
11 balance on all producers subject to the administrative charge
12 in proportion to the number of wells owned by each producer.
13 Producers shall pay the assessments within 30 days of receipt
14 of notice from the commission. The amount of the assessment
15 may be challenged by a producer consistent with 66 Pa.C.S. §
16 510(c), (d) and (e) (relating to assessment for regulatory
17 expenses upon public utilities). Any collections that exceed
18 any of the following shall be used to offset the
19 administrative charges or other funds received for fiscal
20 year 2012-2013:

21 (i) The budget amount approved by the General
22 Assembly and the Governor for administration and
23 enforcement of this chapter and Chapter 33 (relating to
24 local ordinances relating to oil and gas operations).

25 (ii) The actual expenditures directly attributable
26 to the administration and enforcement of this chapter and
27 Chapter 33.

28 (3) By June 30, 2012, and each June 30 thereafter, the
29 commission shall estimate its expenditures for the next
30 fiscal year that will be directly attributable to the

1 administration and enforcement of this chapter. After
2 subtracting any annual administrative charges imposed under
3 paragraph (1), amounts received by the commission under
4 section 2314(c.1)(2) (relating to distribution of fee) and
5 any amounts collected during the prior fiscal year that
6 exceeded actual expenditures directly attributable to the
7 administration and enforcement of this chapter, the
8 commission shall assess the remaining balance on all
9 producers subject to the unconventional gas well fee in
10 proportion to the number of wells owned by each producer.
11 Producers shall pay the assessments within 30 days of the
12 receipt of notice from the commission. The amount of the
13 assessment may be challenged by a producer consistent with 66
14 Pa.C.S. § 510(c), (d) and (e). Any collections that exceed
15 any of the following shall be used to offset administrative
16 charges or assessments for the next fiscal year:

17 (i) The budget amount approved by the General
18 Assembly and the Governor for administration and
19 enforcement of this chapter and Chapter 33.

20 (ii) Actual expenditures directly attributable to
21 the administration and enforcement of this chapter and
22 Chapter 33.

23 § 2304. Well information.

24 (a) List.--Within 14 days of the effective date of this
25 section, the department shall provide the commission and, upon
26 request, a county, with a list of all spud unconventional gas
27 wells from the department. The department shall update the list
28 and provide it to the commission on a monthly basis.

29 (b) Updates.--A producer subject to the fee shall notify the
30 commission of the following within 30 days after a calendar

1 month in which the change occurs:

2 (1) The spudding of an unconventional gas well.

3 (1.1) The initiation of production at an unconventional
4 gas well.

5 (2) The removal of an unconventional gas well from
6 production.

7 § 2305. Duties of department.

8 (a) Confirmation of payment.--Prior to issuing a permit to
9 drill an unconventional gas well in this Commonwealth, the
10 department shall determine whether the producer has paid all
11 fees owed for an existing unconventional gas well under section
12 2302 (relating to unconventional gas well fee).

13 (b) Prohibition.--The department shall not issue a permit to
14 drill an unconventional gas well until all unconventional gas
15 well fees owed under section 2302 that are not in dispute have
16 been paid to the commission.

17 (c) Payment of fees.--The commission shall provide the
18 department with information necessary to determine that the
19 producer has paid all unconventional gas well fees owed for an
20 unconventional gas well under section 2302.

21 § 2306. (Reserved).

22 § 2307. Commission.

23 (a) Powers.--The commission shall have the authority to make
24 all inquiries and determinations necessary to calculate and
25 collect the fee, administrative charges or assessments imposed
26 under this chapter, including, if applicable, interest and
27 penalties.

28 (b) Notice.--If the commission determines that the
29 unconventional gas well fee has not been paid in full, it may
30 issue a notice of the amount due and demand for payment and

1 shall set forth the basis for the determination.

2 (c) Address.--Notice of failure to pay the correct fee shall
3 be sent to the producer via certified mail.

4 (d) Time period.--Except as set forth in subsection (e), the
5 commission may challenge the amount of a fee paid within three
6 years after the date the report under section 2303(b) (relating
7 to administration) is filed.

8 (e) Intent.--If no report is filed or a producer files a
9 false or fraudulent report with the intent to evade the fee, an
10 assessment of the amount owed may be made at any time.

11 § 2308. Enforcement.

12 (a) Assessment.--The commission shall assess interest on any
13 delinquent fee at the rate determined under section 2307(a)
14 (relating to commission).

15 (b) Penalty.--In addition to the assessed interest under
16 subsection (a), if a producer fails to make timely payment of
17 the fee, there shall be added to the amount of the fee due a
18 penalty of 5% of the amount of the fee if failure to file a
19 timely payment is for not more than one month, with an
20 additional 5% penalty for each additional month, or fraction of
21 a month, during which the failure continues, not to exceed 25%
22 in the aggregate.

23 (c) Timely payment.--If the commission determines that a
24 producer has not made a timely payment of the fee, the
25 commission shall send written notice of the amount of the
26 deficiency to the producer within 30 days from the date of
27 determining the deficiency. The commission shall notify the
28 department of a producer that has failed to pay the fee for any
29 unconventional gas well under section 2302 (relating to
30 unconventional gas well fee). If the producer does not have a

1 pending appeal related to payment of the fee in process, the
2 department shall suspend the permit for that well until the fee
3 has been paid.

4 (d) Remedies.--The remedies provided under this chapter are
5 in addition to any other remedies provided by law or in equity.

6 (e) Lien.--Fines, fees, interest and penalties shall be
7 collectible as authorized by law for the collection of debts. If
8 the producer liable to pay an amount neglects or refuses to pay
9 the amount after demand, the amount, together with costs, shall
10 be a judgment in favor of the Commonwealth upon the property of
11 the producer, but only after the judgment has been entered,
12 docketed and recorded by the prothonotary of the county where
13 the property is situated. The Commonwealth shall transmit to the
14 prothonotaries of the respective counties certified copies of
15 the judgments. Each prothonotary shall enter, docket and record
16 the record in the prothonotary's office and index each judgment,
17 without requiring the payment of costs as a condition precedent
18 to the entry of the judgment.

19 § 2309. Enforcement orders.

20 (a) Issuance.--The commission may issue an order as
21 necessary to enforce this chapter. An order issued under this
22 section shall take effect upon notice, unless the order
23 specifies otherwise. A person aggrieved by an order under this
24 section may appeal to the Commonwealth Court under 42 Pa.C.S. §
25 763 (relating to direct appeals from government agencies).

26 (b) Compliance.--A producer has the duty to comply with an
27 order issued under subsection (a). If a producer fails to
28 proceed diligently to comply with an order within the time
29 required, the producer shall be guilty of contempt and shall be
30 punished by the court in an appropriate manner. The commission

1 shall apply to the Commonwealth Court, which shall have
2 jurisdiction over matters relating to contempt.

3 § 2310. Administrative penalties.

4 (a) Civil penalties.--In addition to any other proceeding
5 authorized by law, the commission may assess a civil penalty not
6 to exceed \$2,500 per violation upon a producer for the violation
7 of this chapter. In determining the amount of the penalty, the
8 commission shall consider the willfulness of the violation and
9 other relevant factors.

10 (b) Separate offense.--Each violation for each separate day
11 and each violation of this chapter shall constitute a separate
12 offense.

13 (c) Limitation of actions.--Notwithstanding any limitation
14 in 42 Pa.C.S. Ch. 55 Subch. B (relating to civil actions and
15 proceedings) an action under this section must be brought within
16 three years of the violation.

17 (d) Procedure.--A penalty under this chapter is subject to
18 66 Pa.C.S. Ch. 3 Subch. B (relating to investigations and
19 hearings).

20 § 2311. (Reserved).

21 § 2312. Recordkeeping.

22 A producer liable for the fee under this chapter shall keep
23 records, make reports and comply with regulations of the
24 commission. The commission may require a producer to make
25 reports, render statements or keep records as the commission
26 deems sufficient to determine liability for the fee.

27 § 2313. Examinations.

28 (a) Access.--The commission or its authorized agents or
29 representatives shall:

30 (1) Have access to the relevant books, papers and

1 records of any producer in order to verify the accuracy and
2 completeness of a report filed or fee paid under this
3 chapter.

4 (2) Require the preservation of all relevant books,
5 papers and records for an appropriate period not to exceed
6 three years from the end of the calendar year to which the
7 records relate.

8 (3) Examine any employee of a producer under oath
9 concerning the severing of natural gas subject to a fee or
10 any matter relating to the enforcement of this chapter.

11 (4) Compel the production of relevant books, papers and
12 records and the attendance of all individuals who the
13 commission believes to have knowledge of relevant matters in
14 accordance with 66 Pa.C.S. (relating to public utilities).

15 (b) Unauthorized disclosure.--Any information obtained by
16 the commission as a result of any report, examination,
17 investigation or hearing under this chapter shall be
18 confidential and shall not be disclosed, except for official
19 purposes, in accordance with judicial order or as otherwise
20 provided by law. A commissioner or an employee of the commission
21 who without authorization divulges confidential information
22 shall be subject to disciplinary action by the commission.

23 § 2314. Distribution of fee.

24 (a) Establishment.--There is established a fund in the State
25 Treasury to be known as the Unconventional Gas Well Fund to be
26 administered by the commission.

27 (b) Deposit.--All fees imposed and collected under this
28 chapter shall be deposited into the fund and are hereby
29 appropriated for the purpose set forth in this section.

30 (c) Conservation districts.--

1 (1) From fees collected for 2011, \$2,500,000 from the
2 fund shall be distributed to county conservation districts.

3 (2) From fees collected for 2012, \$5,000,000 from the
4 fund shall be distributed to county conservation districts.

5 (3) From fees collected for 2013, and each year
6 thereafter, \$7,500,000 from the fund shall be distributed to
7 county conservation districts.

8 (4) Beginning July 1, 2014, each July 1 thereafter, the
9 amount distributed under paragraph (3) shall be increased by
10 any percentage increase in the Consumer Price Index for All
11 Urban Consumers for the most recent 12-month period for which
12 figures have been officially reported by the Bureau of Labor
13 Statistics immediately prior to July 1.

14 (5) Funds under paragraphs (1) and (2) shall be
15 distributed in accordance with the following:

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

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

27 (c.1) Additional distributions.--From fees collected under
28 this chapter and deposited in the fund for 2011 and each year
29 thereafter:

30 (1) \$1,000,000 shall be distributed to the Pennsylvania

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

3 (2) \$1,000,000 shall be distributed to the Public
4 Utility Commission for costs to administer this chapter and
5 Chapter 33 (relating to local ordinances relating to oil and
6 gas operations).

7 (3) \$6,000,000 to the department for the administration
8 of this act and the enforcement of acts relating to clean air
9 and clean water.

10 (4) \$750,000 to the Pennsylvania Emergency Management
11 Agency for emergency response planning, training and
12 coordination related to natural gas production from
13 unconventional gas wells.

14 (5) \$750,000 to the Office of State Fire Commissioner
15 for the development, delivery and sustainment of training and
16 grant programs for first responders and the acquisition of
17 specialized equipment for response to emergencies relating to
18 natural gas production from unconventional gas wells.

19 (6) \$1,000,000 to the Department of Transportation for
20 rail freight assistance.

21 (c.2) Natural gas energy development.--Following
22 distributions from the fund under subsections (c) and (c.1), the
23 following amounts shall be deposited into the Marcellus Legacy
24 Fund for distribution to the department for the Natural Gas
25 Energy Development Program under Chapter 27 (relating to Natural
26 Gas Energy Development Program):

27 (1) For 2011, \$10,000,000.

28 (2) For 2012, \$7,500,000.

29 (3) For 2013, \$2,500,000.

30 (c.3) Report.--All agencies or organizations receiving funds

1 under subsections (c), (c.1) and (c.2) shall submit a report by
2 December 31, 2012, and December 31 of each year thereafter to
3 the Secretary of the Budget and the Appropriations Committee of
4 the Senate and the Appropriations Committee of the House of
5 Representatives. The report shall include an itemization and
6 explanation of the use of all funds received under subsections
7 (c), (c.1) and (c.2).

8 (d) Distribution.--Except as provided in section 2302(a.3)
9 and (a.4) (relating to unconventional gas well fee), following
10 fee distribution under subsections (c), (c.1) and (c.2), from
11 fees collected for 2011 and each year thereafter, 60% of the
12 revenue remaining in the fund from fees collected for the prior
13 year are hereby appropriated to counties and municipalities for
14 purposes authorized under subsection (g). Counties and
15 municipalities are encouraged, where appropriate, to jointly
16 fund projects that cross jurisdictional lines. The commission,
17 after making a disbursement under subsection (f), shall
18 distribute the remaining funds appropriated as follows within
19 six months after the date the fee is due:

20 (1) Except as provided in section 2302(a.3), 36% shall
21 be distributed to counties in which spud unconventional gas
22 wells are located. The amount for each county to which funds
23 will be distributed shall be determined using a formula that
24 divides the number of spud unconventional gas wells in the
25 county by the number of spud unconventional gas wells in this
26 Commonwealth and multiplies the resulting percentage by the
27 amount available for distribution under this paragraph.

28 (2) Except as provided in section 2302(a.4), 37% shall
29 be distributed to municipalities in which spud unconventional
30 gas wells are located. The amount for each municipality to

1 which funds will be distributed shall be determined using a
2 formula that divides the number of spud unconventional gas
3 wells in the municipality by the number of spud
4 unconventional gas wells in this Commonwealth and multiplies
5 the resulting percentage by the amount available for
6 distribution under this paragraph.

7 (3) Except as provided in section 2302(a.4), 27% shall
8 be distributed to municipalities located in a county in which
9 spud unconventional gas wells are located. The amount
10 available for distribution in each county shall be determined
11 by dividing the number of spud unconventional gas wells in
12 the county by the number of spud unconventional gas wells in
13 this Commonwealth and multiplying the resulting percentage by
14 the amount available for distribution under this paragraph.
15 The resulting amount available for distribution in each
16 county in which spud unconventional gas wells are located
17 shall be distributed to each municipality in the county to
18 which funds will be distributed as follows:

19 (i) Except as provided in section 2302(a.4), 50% of
20 the amount available under this paragraph shall be
21 distributed to municipalities in which spud
22 unconventional gas wells are located and to
23 municipalities that are either contiguous with a
24 municipality in which spud unconventional gas wells are
25 located or are located within five linear miles of a spud
26 unconventional gas well. The distribution shall be made
27 as follows:

28 (A) One-half shall be distributed to each
29 municipality using a formula that divides the
30 population of the eligible municipality within the

1 county by the total population of all eligible
2 municipalities within the county and multiplies the
3 resulting percentage by the amount allocated to the
4 county under this subparagraph.

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

12 (ii) Except as provided in section 2302(a.4), 50% of
13 the amount available under this paragraph shall be
14 distributed to each municipality in the county regardless
15 of whether an unconventional gas well is located in the
16 municipality as follows:

17 (A) One-half shall be distributed to each
18 municipality using a formula that divides the
19 population of the municipality within the county by
20 the total population of the county and multiplies the
21 resulting percentage by the amount allocated to the
22 county under this subparagraph.

23 (B) One-half shall be distributed to each
24 municipality using a formula that divides the highway
25 mileage of the municipality within the county by the
26 total highway mileage of the county and multiplies
27 the resulting percentage by the amount allocated to
28 the county under this subparagraph.

29 (e) Restriction.--The amount allocated to each municipality
30 under subsection (d) shall not exceed the greater of \$500,000 or

1 50% of the total budget for the prior fiscal year beginning with
2 the 2010 budget year and continuing every year thereafter,
3 adjusted to reflect any upward changes in the Consumer Price
4 Index for all Urban Consumers for the Pennsylvania, New Jersey,
5 Delaware and Maryland area in the preceding 12 months. Any
6 remaining money shall be retained by the commission and
7 deposited in the Housing Affordability and Rehabilitation
8 Enhancement Fund for the uses specified under subsection (f).

9 (f) Housing Affordability and Rehabilitation Enhancement
10 Fund.--

11 (1) From fees collected for 2011, \$2,500,000 from the
12 fund shall be distributed to the Housing Affordability and
13 Rehabilitation Enhancement Fund under the act of November 23,
14 2010 (P.L.1035, No.105), entitled "An act amending the act of
15 December 3, 1959 (P.L.1688, No.621), entitled, as amended,
16 'An act to promote the health, safety and welfare of the
17 people of the Commonwealth by broadening the market for
18 housing for persons and families of low and moderate income
19 and alleviating shortages thereof, and by assisting in the
20 provision of housing for elderly persons through the creation
21 of the Pennsylvania Housing Finance Agency as a public
22 corporation and government instrumentality; providing for the
23 organization, membership and administration of the agency,
24 prescribing its general powers and duties and the manner in
25 which its funds are kept and audited, empowering the agency
26 to make housing loans to qualified mortgagors upon the
27 security of insured and uninsured mortgages, defining
28 qualified mortgagors and providing for priorities among
29 tenants in certain instances, prescribing interest rates and
30 other terms of housing loans, permitting the agency to

1 acquire real or personal property, permitting the agency to
2 make agreements with financial institutions and Federal
3 agencies, providing for the purchase by persons of low and
4 moderate income of housing units, and approving the sale of
5 housing units, permitting the agency to sell housing loans,
6 providing for the promulgation of regulations and forms by
7 the agency, prescribing penalties for furnishing false
8 information, empowering the agency to borrow money upon its
9 own credit by the issuance and sale of bonds and notes and by
10 giving security therefor, permitting the refunding,
11 redemption and purchase of such obligations by the agency,
12 prescribing remedies of holders of such bonds and notes,
13 exempting bonds and notes of the agency, the income
14 therefrom, and the income and revenues of the agency from
15 taxation, except transfer, death and gift taxes; making such
16 bonds and notes legal investments for certain purposes; and
17 indicating how the act shall become effective,' providing for
18 the Pennsylvania Housing Affordability and Rehabilitation
19 Enhancement Program; and establishing the Housing
20 Affordability and Rehabilitation Enhancement Fund." From fees
21 collected for 2012, and each year thereafter, \$5,000,000
22 shall be annually distributed to the Housing Affordability
23 and Rehabilitation Enhancement Fund.

24 (2) Funds under paragraph (1) shall be used for the
25 following purposes:

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

1 (ii) To provide rental assistance in a county in
2 which producing unconventional gas wells are located to
3 persons or families whose household income does not
4 exceed the area median income.

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

8 (g) Use of funds.--A county or municipality receiving funds
9 under subsection (d) shall use the funds received only for the
10 following purposes associated with natural gas production from
11 unconventional gas wells within the county or municipality:

12 (1) Construction, reconstruction, maintenance and repair
13 of roadways, bridges and public infrastructure.

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

16 (3) Emergency preparedness and public safety, including
17 law enforcement and fire services, hazardous material
18 response, 911, equipment acquisition and other services.

19 (4) Environmental programs, including trails, parks and
20 recreation, open space, flood plain management, conservation
21 districts and agricultural preservation.

22 (5) Preservation and reclamation of surface and
23 subsurface waters and water supplies.

24 (6) Tax reductions, including homestead exclusions.

25 (7) Projects to increase the availability of safe and
26 affordable housing to residents.

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

29 (9) The delivery of social services.

30 (10) Judicial services.

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

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

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

9 (h) Reporting.--

10 (1) The commission shall submit an annual report on all
11 funds in the fund. The report shall include a detailed
12 listing of all deposits and expenditures of the fund and be
13 submitted to the chairman and the minority chairman of the
14 Appropriations Committee of the Senate, the chairman and the
15 minority chairman of the Environmental Resources and Energy
16 Committee of the Senate, the chairman and the minority
17 chairman of the Appropriations Committee of the House of
18 Representatives and the chairman and the minority chairman of
19 the Environmental Resources and Energy Committee of the House
20 of Representatives. The report shall be submitted by December
21 30, 2012, and by September 30 of each year thereafter.

22 (2) All counties and municipalities receiving funds from
23 the fund under this section shall submit information to the
24 commission on a form prepared by the commission that sets
25 forth the amount and use of the funds received in the prior
26 calendar year. The form shall set forth that the funds
27 received were committed to a specific project or use as
28 authorized in this section. The reports shall be published
29 annually on the county or municipality's publicly accessible
30 Internet website.

1 (i) Availability of funds.--Distribution of funds under this
2 section and section 2315 (relating to Statewide initiatives) are
3 contingent on availability of funds in the fund. If sufficient
4 funds are not available, the commission shall disburse funds on
5 a pro rata basis.

6 § 2315. Statewide initiatives.

7 (a) Establishment.--There is established in the State
8 Treasury a fund to be known as the Marcellus Legacy Fund.

9 (a.1) Deposit and distribution.--Following distribution
10 under section 2314(c), (c.1) and (c.2) (relating to distribution
11 of fee) from fees collected for 2011 and each year thereafter,
12 40% of the remaining revenue in the fund shall be deposited into
13 the Marcellus Legacy Fund and appropriated to the commission and
14 distributed within six months after the date the fee is due as
15 follows:

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

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

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

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

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

29 (v) Programs to establish baseline water quality
30 data on private water supplies.

1 (vi) Watershed programs and related projects.

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

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

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

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

15 (A) Divide:

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

17 (II) the total population of the

18 Commonwealth;

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

21 (C) Multiply:

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

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

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

27 (iii) The Department of Transportation shall release
28 money under this paragraph upon approval of a plan
29 submitted by a county or municipality to repair an at-
30 risk deteriorated bridge. The plan must include funding

1 for replacement or repair.

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

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

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

30 (i) In each county, the distribution shall be

1 according to the following formula:

2 (A) Divide:

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

4 (II) the total population of the

5 Commonwealth.

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

8 (C) Multiply:

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

10 (II) the amount of funds available under

11 this paragraph.

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

14 (6) Five percent for distribution as follows:

15 (i) For 2012, 2013 and 2014, to the Department of
16 Community and Economic Development for projects to
17 provide for the planning, development, remodeling,
18 remediation and construction of projects relating to oil,
19 natural gas or other chemical substances. Projects under
20 this subparagraph may include blending facilities to
21 liquefy or refine natural gas or to convert natural gas
22 to ethane, propane or other substances; facilities to
23 refine oil; or facilities to refine or process oil,
24 heating oil or any other chemical substance. Following
25 2014, funds not utilized by the Department of Community
26 and Economic Development under this subparagraph shall be
27 deposited in the Hazardous Sites Cleanup Fund.

28 (ii) After 2013, to the Hazardous Sites Cleanup
29 Fund.

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

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

5 (2) Funds distributed under subsection (a.1) may not be
6 used by an authorized organization as defined in 27 Pa.C.S. §
7 6103 (relating to definitions) for land acquisition unless
8 the authorized organization has obtained the written consent
9 of the county and municipality in which the land is situated.

10 (c) Coordination.--The department and the Department of
11 Conservation and Natural Resources shall review applications for
12 funding as requested by the Commonwealth Financing Authority and
13 provide recommendations on priority of projects and project
14 approval.

15 § 2316. Small business participation.

16 (a) Requirement.--Producers shall provide maximum
17 practicable contracting opportunities for diverse small
18 businesses, including minority-owned business enterprises,
19 women-owned business enterprises and veteran-owned businesses.

20 (b) Duties.--Producers shall do all of the following:

21 (1) Maintain a policy prohibiting discrimination in
22 employment and contracting based on gender, race, creed or
23 color.

24 (2) Use the database available on the Internet website
25 of the Department of General Services to identify certified
26 diverse small businesses, including minority-owned business
27 enterprises, women-owned business enterprises and veteran-
28 owned businesses, as potential contractors, subcontractors
29 and suppliers for opportunities related to unconventional
30 natural gas extraction.

1 (3) Respond to the survey under subsection (c) within 90
2 days.

3 (c) Survey.--Within one year of the effective date of this
4 section, the Department of General Services shall send all
5 producers a survey to report the producers' efforts to provide
6 maximum practicable contracting opportunities related to
7 unconventional natural gas extraction for diverse, small
8 business participation.

9 (d) Reports.--The Department of General Services shall
10 compile the results and submit an annual report to the
11 Appropriations Committee of the Senate and the Appropriations
12 Committee of the House of Representatives on the utilization of
13 diverse small business participation related to unconventional
14 natural gas extraction. The report shall be submitted no later
15 than 150 days after the Department of General Services
16 disseminated the survey to producers.

17 (e) Definition.--As used in this section, the term "diverse
18 small business" means minority-owned business, women-owned
19 business and veteran-owned business as determined by the
20 Department of General Services.

21 § 2317. Applicability.

22 The provisions of this chapter shall not negate or limit the
23 responsibilities of any producer under this title, 74 Pa.C.S
24 (relating to transportation) or 75 Pa.C.S. (relating to
25 vehicles).

26 § 2318. Expiration.

27 (a) Notice.--The Secretary of the Commonwealth shall, upon
28 the imposition of a severance tax on unconventional gas wells in
29 this Commonwealth, submit for publication in the Pennsylvania
30 Bulletin notice of the imposition.

1 (b) Date.--This chapter shall expire on the date of the
2 publication of the notice under subsection (a).

3 CHAPTER 25

4 OIL AND GAS LEASE FUND

5 Sec.

6 2501. Definitions.

7 2502. (Reserved).

8 2503. (Reserved).

9 2504. Appropriation of money.

10 2505. Funds.

11 § 2501. Definitions.

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

15 "Department." The Department of Conservation and Natural
16 Resources of the Commonwealth.

17 § 2502. (Reserved).

18 § 2503. (Reserved).

19 § 2504. Appropriation of money.

20 Money in the Oil and Gas Lease Fund is specifically
21 appropriated as provided in this chapter.

22 § 2505. Funds.

23 (a) Priority.--Funds appropriated from the Oil and Gas Lease
24 Fund to the department under the act of April 9, 1929 (P.L.343,
25 No.176), known as The Fiscal Code, or other appropriation act
26 shall be distributed prior to allocations under subsection (b).

27 (b) Allocations.--Money in the Oil and Gas Lease Fund shall
28 be allocated on an annual basis as follows:

29 (1) The following amounts shall be transferred from the
30 Oil and Gas Lease Fund to the Marcellus Legacy Fund for

1 distribution to the Environmental Stewardship Fund:

2 (i) For 2013, \$20,000,000.

3 (ii) For 2014 and each year thereafter, \$35,000,000.

4 (2) The following amounts shall be transferred from the
5 Oil and Gas Lease Fund to the Hazardous Sites Cleanup Fund:

6 (i) For 2015, \$5,000,000.

7 (ii) For 2016 and each year thereafter, \$15,000,000.

8 CHAPTER 27

9 NATURAL GAS ENERGY

10 DEVELOPMENT PROGRAM

11 Sec.

12 2701. Definitions.

13 2702. Assistance.

14 2703. Program.

15 2704. Expiration.

16 § 2701. Definitions.

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

20 "Bi-fuel vehicle." A motor vehicle equipped to be propelled
21 in part by compressed natural gas fuel and in part by diesel or
22 gasoline fuel.

23 "Company." An entity doing business in this Commonwealth
24 which is subject to tax under Article III, IV or VI of the act
25 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
26 1971.

27 "Dedicated compressed natural gas vehicle." A motor vehicle
28 that is produced by an original equipment manufacturer and
29 operates on 100% compressed natural gas fuel.

30 "Dedicated liquefied natural gas vehicle." A motor vehicle

1 that is produced by an original equipment manufacturer and
2 operates on 90% or more liquefied natural gas fuel and 10% or
3 less on gasoline or diesel fuel.

4 "Department." The Department of Environmental Protection of
5 the Commonwealth.

6 "Eligible applicant." Any of the following:

- 7 (1) A Commonwealth authority.
- 8 (2) A municipal authority.
- 9 (3) The Pennsylvania Turnpike Commission.
- 10 (4) A local transportation organization.
- 11 (5) A nonprofit entity.
- 12 (6) A State-owned or State-related university.
- 13 (7) A company.

14 "Eligible vehicles." The following shall constitute an
15 eligible vehicle under this chapter:

- 16 (1) Dedicated compressed natural gas vehicles that are
17 fleet vehicles and have a gross vehicle weight rating of at
18 least 14,000 pounds.
- 19 (2) Dedicated liquefied natural gas vehicles that are
20 fleet vehicles and have a gross vehicle weight rating of at
21 least 14,000 pounds.
- 22 (3) Bi-fuel vehicles that are fleet vehicles.

23 "Fleet vehicle." A vehicle registered to an eligible
24 applicant.

25 "Incremental purchase cost." The excess cost of a dedicated
26 compressed natural gas vehicle, a dedicated liquefied natural
27 gas vehicle or a bi-fuel vehicle over the price for a gasoline
28 or diesel fuel motor vehicle of a similar model. The term
29 includes the cost to retrofit a vehicle to operate as a
30 dedicated compressed natural gas vehicle, a dedicated liquefied

1 natural gas vehicle or a bi-fuel vehicle.

2 "Local transportation organization." Any of the following:

3 (1) A political subdivision.

4 (2) A public transportation authority, port authority or
5 redevelopment authority, which is:

6 (i) organized under:

7 (A) the laws of this Commonwealth; or

8 (B) an interstate compact; or

9 (ii) empowered to render, contract to render or
10 assist in rendering transportation services in a limited
11 area in this Commonwealth even though it may also render
12 or assist in rendering transportation service in adjacent
13 states.

14 (3) A nonprofit entity which directly or indirectly
15 provides public transportation service.

16 (4) A nonprofit entity of public transportation
17 providers operating within this Commonwealth.

18 "Original equipment manufacturer" or "OEM." The entity which
19 originally manufactures the natural gas engine or the vehicle
20 for sale.

21 "Start date." The date on which an eligible applicant first
22 places in service, through purchase or contract, a new or
23 retrofitted new natural gas vehicle.

24 § 2702. Assistance.

25 (a) Funding.--Grants under this chapter shall be made from
26 amounts deposited in the Marcellus Legacy Fund under section
27 2314(c.2) (relating to distribution of fee).

28 (b) Grants.--

29 (1) For fiscal year 2012-2013, the total amount of
30 grants approved under this chapter may not exceed

1 \$10,000,000. Of that amount, \$5,000,000 shall be allocated
2 exclusively for local transportation organizations. If the
3 total amount allocated to either the group of applications
4 exclusive of local transportation organizations or the group
5 of local transportation organization applicants is not
6 approved in fiscal year 2012-2013, the unused portion shall
7 be made available under paragraph (2).

8 (2) For fiscal year 2013-2014:

9 (i) The total amount of grants approved under this
10 chapter may not exceed the sum of:

11 (A) \$7,500,000; and

12 (B) any unused portion available under paragraph

13 (1).

14 (ii) Of the amount under subparagraph (i), 50% shall
15 be allocated exclusively for local transportation
16 organizations.

17 (iii) If the total amount allocated to either the
18 group of applications exclusive of local transportation
19 organizations or the group of local transportation
20 organization applicants is not approved in fiscal year
21 2013-2014, the unused portion shall be made available
22 under paragraph (3).

23 (3) For fiscal year 2014-2015, the total amount of
24 grants approved under this chapter may not exceed the sum of:

25 (i) \$2,500,000; and

26 (ii) any unused portion available under paragraph

27 (2).

28 § 2703. Program.

29 (a) Establishment and purpose.--The Natural Gas Energy
30 Development Program is established. The purpose of the program

1 is to fund projects under this chapter.

2 (b) Eligible projects.--Funds transferred to the department
3 under this Chapter 23 (relating to unconventional gas well fee)
4 shall be utilized for competitive grants to eligible applicants
5 for eligible projects as provided in this subsection. In order
6 to be eligible to receive a grant, an eligible applicant must
7 provide or demonstrate all of the following to the department:

8 (1) A plan to convert five or more fleet vehicles into
9 eligible vehicles or purchase five or more eligible vehicles.
10 The plan must be financially viable within four years of the
11 start date and must include the construction and utilization
12 of a natural gas fueling station in this Commonwealth or the
13 utilization of an existing natural gas fueling station.

14 (2) A statement of the projected usage of natural gas
15 stated in gasoline or diesel gallon equivalents accompanied
16 by the methodology utilized and how the project will increase
17 use of domestic natural gas in this Commonwealth.

18 (3) The cost of the project.

19 (4) The source and amount of any funds to be contributed
20 by the eligible applicant.

21 (5) The intent to maintain operations in this
22 Commonwealth for a period of not less than six years from the
23 start date.

24 (6) That all of the eligible vehicles purchased with the
25 grant will be registered in this Commonwealth.

26 (7) The utilization of Federal funds on the project to
27 the extent that Federal funds are available.

28 (8) Whether or not the project includes the utilization
29 of a natural gas fueling facility that is accessible to the
30 public.

1 (c) Guidelines.--Funds under this section shall be used in
2 accordance with guidelines adopted by the department. The
3 guidelines shall do all of the following:

4 (1) Restrict each grant for an eligible vehicle to cover
5 no more than 50% of the incremental purchase cost.

6 (2) Limit the amount of the grant so that it shall not
7 exceed \$25,000 for each fleet vehicle.

8 (3) In the case of grants awarded for eligible vehicles
9 which are bi-fuel vehicles, provide for annual reporting to
10 the department by the eligible applicant demonstrating the
11 usage of compressed natural gas for a period not to exceed
12 four years after the start date.

13 (4) Require each eligible vehicle for which a grant is
14 awarded to comply with all Federal and State safety
15 requirements, including rules and regulations promulgated by
16 the Environmental Protection Agency.

17 (d) Application.--An applicant shall submit an application
18 including supporting information as required by the department.

19 (e) Project review.--The department shall review and prepare
20 an assessment of each application and determine which projects
21 will best utilize and promote the use of domestically produced
22 natural gas in this Commonwealth.

23 (f) Administrative costs.--No more than 1% of the funds
24 appropriated to the department shall be used for administrative
25 costs.

26 (g) Report.--The department shall provide a report to the
27 chairman and minority chairman of the Appropriations Committee
28 of the Senate and the chairman and minority chairman of the
29 Appropriations Committee of the House of Representatives by
30 October 1, 2013, and each October 1 thereafter. The report shall

1 be maintained on the department's official Internet website and
2 shall include:

3 (1) A list of all grants approved during the previous
4 fiscal year, including the amount of the grant and a
5 description of each approved project.

6 (2) The estimated domestic energy benefits to date for
7 all projects receiving funding during the fiscal year and the
8 method used to determine estimated benefits.

9 Section 2704. Expiration.

10 This chapter shall expire December 31, 2016.

11 PART III

12 UTILIZATION

13 Chapter

14 31. (Reserved)

15 32. Development

16 33. Local Ordinances Relating to Oil and Gas Operation

17 35. Responsibility for Fee

18 CHAPTER 31

19 (RESERVED)

20 CHAPTER 32

21 DEVELOPMENT

22 Subchapter

23 A. Preliminary Provisions

24 B. General Requirements

25 C. Underground Gas Storage

26 D. Eminent Domain

27 E. Enforcement and Remedies

28 F. Miscellaneous Provisions

29 SUBCHAPTER A

30 PRELIMINARY PROVISIONS

1 Sec.

2 3201. Scope of chapter.

3 3202. Declaration of purpose.

4 3203. Definitions.

5 § 3201. Scope of chapter.

6 This chapter relates to oil and gas.

7 § 3202. Declaration of purpose.

8 The purposes of this chapter are to:

9 (1) Permit optimal development of oil and gas resources
10 of this Commonwealth consistent with protection of the
11 health, safety, environment and property of Pennsylvania
12 citizens.

13 (2) Protect the safety of personnel and facilities
14 employed in coal mining or exploration, development, storage
15 and production of natural gas or oil.

16 (3) Protect the safety and property rights of persons
17 residing in areas where mining, exploration, development,
18 storage or production occurs.

19 (4) Protect the natural resources, environmental rights
20 and values secured by the Constitution of Pennsylvania.

21 § 3203. Definitions.

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

25 "Abandoned well." Any of the following:

26 (1) A well:

27 (i) that has not been used to produce, extract or
28 inject any gas, petroleum or other liquid within the
29 preceding 12 months;

30 (ii) for which equipment necessary for production,

1 extraction or injection has been removed; or

2 (iii) considered dry and not equipped for production
3 within 60 days after drilling, redrilling or deepening.

4 (2) The term does not include wells granted inactive
5 status.

6 "Additive." A hydraulic fracturing chemical.

7 "Alteration." An operation which changes the physical
8 characteristics of a well bore, including stimulation or
9 removing, repairing or changing the casing. For the purpose of
10 this chapter only, the term does not include:

11 (1) Repairing or replacing of the casing if the activity
12 does not affect the depth or diameter of the well bore, the
13 use or purpose of the well does not change and the activity
14 complies with regulations promulgated under this chapter,
15 except that this exclusion does not apply:

16 (i) to production casings in coal areas when the
17 production casings are also the coal protection casings;
18 or

19 (ii) when the method of repairing or replacing the
20 casing would affect the coal protection casing.

21 (2) Stimulation of a well.

22 "Board." The Oil and Gas Technical Advisory Board.

23 "Bridge." An obstruction placed in a well at any depth.

24 "Building." An occupied structure with walls and roof within
25 which persons live or customarily work.

26 "Casing." A string or strings of pipe commonly placed in
27 wells drilled for natural gas or petroleum.

28 "Cement" or "cement grout." Any of the following:

29 (1) Hydraulic cement properly mixed with water only.

30 (2) A mixture of materials adequate for bonding or

1 sealing of well bores as approved by regulations promulgated
2 under this chapter.

3 "Chemical." Any element, chemical compound or mixture of
4 elements or compounds that has its own specific name or
5 identity, such as a chemical abstract service number.

6 "Chemical Disclosure Registry." The chemical registry
7 website developed by the Ground Water Protection Council and the
8 Interstate Oil and Gas Compact Commission or their successor
9 organizations.

10 "Chemical family." A group of chemicals that share similar
11 chemical properties and have a common general name.

12 "Coal mine." Any of the following:

13 (1) Operations in a coal seam, including excavated
14 portions, abandoned portions and places actually being
15 worked.

16 (2) Underground workings and shafts, slopes, tunnels and
17 other ways and openings, including those which are in the
18 course of being sunk or driven, along with all roads and
19 facilities connected with them below the surface.

20 "Coal operator." A person that operates or proposes to
21 operate a coal mine as an owner or lessee.

22 "Completion of a well." The date after treatment, if any,
23 that the well is properly equipped for production of oil or gas,
24 or, if the well is dry, the date that the well is abandoned.

25 "Department." The Department of Environmental Protection of
26 the Commonwealth.

27 "Drilling." The drilling or redrilling of a well or the
28 deepening of an existing well.

29 "Fresh groundwater." Water in that portion of the generally
30 recognized hydrologic cycle which occupies the pore spaces and

1 fractures of saturated subsurface materials.

2 "Gas." Any of the following:

3 (1) A fluid, combustible or noncombustible, which is
4 produced in a natural state from the earth and maintains a
5 gaseous or rarified state at standard temperature of 60
6 degrees Fahrenheit and pressure 14.7 PSIA.

7 (2) Any manufactured gas, by-product gas or mixture of
8 gases or natural gas liquids.

9 "Health professional." A physician, physician assistant,
10 nurse practitioner, registered nurse or emergency medical
11 technician licensed by the Commonwealth.

12 "Hydraulic fracturing chemical." Any chemical substance or
13 combination of substances, including any chemicals and
14 proppants, that is intentionally added to a base fluid for
15 purposes of preparing a stimulation fluid for use in hydraulic
16 fracturing.

17 "Inactivate." To shut off the vertical movement of gas in a
18 gas storage well by means of a temporary plug or other suitable
19 device or by injecting bentonitic mud or other equally nonporous
20 material into the well.

21 "Linear foot." A unit or measurement in a straight line on a
22 horizontal plane.

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

27 "Oil." Hydrocarbons in liquid form at standard temperature
28 of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred
29 to as petroleum.

30 "Oil and gas operations." Any of the following:

1 (1) Exploration for oil and gas. This paragraph includes
2 the conduct of seismic operations.

3 (2) Siting and locating of oil and gas wells.

4 (3) Drilling, stimulation and completion of oil and gas
5 wells.

6 (4) Generation, processing, treatment, storage,
7 transportation and disposal of fresh water, wastewater,
8 wastes, chemicals and other materials directly associated
9 with drilling, stimulation and completion of oil and gas
10 wells.

11 (5) Production, gathering and collection of oil or gas.

12 (6) Compression, transportation, processing, measurement
13 and storage of oil or gas.

14 (7) Reclamation activities.

15 (8) Construction and use of drilling rigs and pipelines.
16 This paragraph includes equipment directly related to the
17 activities set forth in this paragraph.

18 (9) Construction and use of access roads, well sites,
19 drilling pads, impoundments, compression stations, processing
20 stations, meter stations and storage tanks. This paragraph
21 includes buildings, facilities or structures, which are
22 directly related to the activities set forth in this
23 paragraph. This paragraph does not include ancillary support,
24 supply and service facilities, the location of which is not
25 dependent on the location of specific wells or pipelines.

26 "Operating coal mine." Any of the following:

27 (1) An underground coal mine which is producing coal or
28 has been in production of coal at any time during the 12
29 months immediately preceding the date its status is put in
30 question, including contiguous worked-out or abandoned coal

1 mines to which it is connected underground.

2 (2) An underground coal mine to be established or
3 reestablished under paragraph (1).

4 "Operating well." A well that is not plugged and abandoned.

5 "Operator." A well operator.

6 "Orphan well." A well abandoned prior to April 18, 1985,
7 that has not been affected or operated by the present owner or
8 operator and from which the present owner, operator or lessee
9 has received no economic benefit other than as a landowner or
10 recipient of a royalty interest from the well.

11 "Outside coal boundaries." When used in conjunction with the
12 term "operating coal mine," the boundaries of the coal acreage
13 assigned to the coal mine under an underground mine permit
14 issued by the Department of Environmental Protection.

15 "Owner." A person who owns, manages, leases, controls or
16 possesses a well or coal property. The term does not apply to
17 orphan wells, except where the Department of Environmental
18 Protection determines a prior owner or operator benefited from
19 the well as provided in section 3220(a) (relating to plugging
20 requirements).

21 "Person." An individual, association, partnership,
22 corporation, political subdivision or agency of the Federal
23 Government, State government or other legal entity.

24 "Petroleum." Hydrocarbons in liquid form at standard
25 temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA,
26 also referred to as oil.

27 "Pillar." A solid block of coal surrounded by either active
28 mine workings or a mined-out area.

29 "Plat." A map, drawing or print accurately drawn to scale
30 showing the proposed or existing location of a well or wells.

1 "Reservoir protective area." The area surrounding a storage
2 reservoir boundary, but within 2,000 linear feet of the storage
3 reservoir boundary, unless an alternate area has been designated
4 by the Department of Environmental Protection, which is deemed
5 reasonably necessary to afford protection to the reservoir,
6 under a conference held in accordance with section 3251
7 (relating to conferences).

8 "Retreat mining." Removal of coal pillars, ribs and stumps
9 remaining after development mining has been completed in that
10 section of a coal mine.

11 "Secretary." The Secretary of Environmental Protection of
12 the Commonwealth.

13 "Storage operator." A person who operates or proposes to
14 operate a storage reservoir as an owner or lessee.

15 "Storage reservoir." That portion of a subsurface geological
16 stratum into which gas is or may be injected for storage
17 purposes or to test suitability of the stratum for storage.

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

26 "Unconventional well." A bore hole drilled or being drilled
27 for the purpose of or to be used for the production of natural
28 gas from an unconventional formation.

29 "Water management plan." A plan associated with drilling or
30 completing a well in an unconventional formation that

1 demonstrates that the withdrawal and use of water sources
2 protects those sources as required by law and protects public
3 health, safety and welfare.

4 "Water purveyor." Any of the following:

5 (1) The owner or operator of a public water system as
6 defined in section 3 of the act of May 1, 1984 (P.L.206,
7 No.43), known as the Pennsylvania Safe Drinking Water Act.

8 (2) Any person subject to the act of June 24, 1939
9 (P.L.842, No.365), referred to as the Water Rights Law.

10 "Water source."

11 (1) Any of the following:

12 (i) Waters of this Commonwealth.

13 (ii) A source of water supply used by a water
14 purveyor.

15 (iii) Mine pools and discharges.

16 (iv) Any other waters that are used for drilling or
17 completing a well in an unconventional formation.

18 (2) The term does not include flowback or production
19 waters or other fluids:

20 (i) which are used for drilling or completing a well
21 in an unconventional formation; and

22 (ii) which do not discharge into waters of this
23 Commonwealth.

24 "Well." A bore hole drilled or being drilled for the purpose
25 of, or to be used for, producing, extracting or injecting gas,
26 petroleum or another liquid related to oil or gas production or
27 storage, including brine disposal, but excluding a bore hole
28 drilled to produce potable water. The term does not include a
29 bore hole drilled or being drilled for the purpose of, or to be
30 used for:

1 (1) Systems of monitoring, producing or extracting gas
2 from solid waste disposal facilities, if the bore hole is a
3 well subject to the act of July 7, 1980 (P.L.380, No.97),
4 known as the Solid Waste Management Act, which does not
5 penetrate a workable coal seam.

6 (2) Degasifying coal seams, if the bore hole is:

7 (i) used to vent methane to the outside atmosphere
8 from an operating coal mine; regulated as part of the
9 mining permit under the act of June 22, 1937 (P.L.1987,
10 No.394), known as The Clean Streams Law, and the act of
11 May 31, 1945 (P.L.1198, No.418), known as the Surface
12 Mining Conservation and Reclamation Act; and drilled by
13 the operator of the operating coal mine for the purpose
14 of increased safety; or

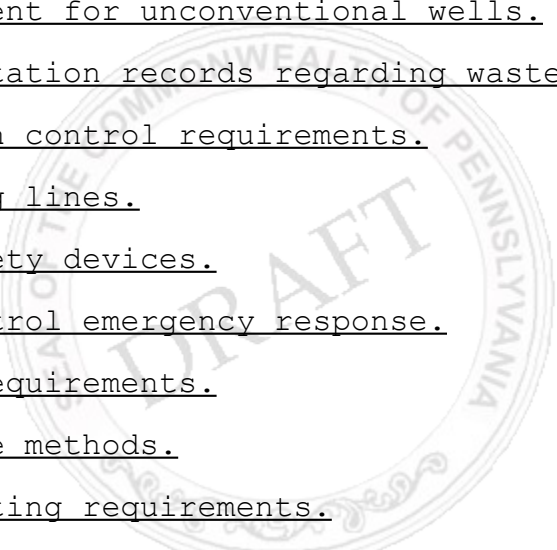
15 (ii) used to vent methane to the outside atmosphere
16 under a federally funded or State-funded abandoned mine
17 reclamation project.

18 "Well control emergency." An incident during drilling,
19 operation, workover or completion that, as determined by the
20 department, poses a threat to public health, welfare or safety,
21 including a loss of circulation fluids, kick, casing failure,
22 blowout, fire and explosion.

23 "Well control specialist." Any person trained to respond to
24 a well control emergency with a current certification from a
25 well control course accredited by the International Association
26 of Drilling Contractors or other organization approved by the
27 department.

28 "Well operator." Any of the following:

29 (1) The person designated as operator or well operator
30 on the permit application or well registration.



- 1 3218.2. Containment for unconventional wells.
- 2 3218.3. Transportation records regarding wastewater fluids.
- 3 3218.4. Corrosion control requirements.
- 4 3218.5. Gathering lines.
- 5 3219. Use of safety devices.
- 6 3219.1. Well control emergency response.
- 7 3220. Plugging requirements.
- 8 3221. Alternative methods.
- 9 3222. Well reporting requirements.
- 10 3222.1. Hydraulic fracturing chemical disclosure requirements.
- 11 3223. Notification and effect of well transfer.
- 12 3224. Coal operator responsibilities.
- 13 3225. Bonding.
- 14 3226. Oil and Gas Technical Advisory Board.
- 15 3227. Air containment emissions.

16 § 3211. Well permits.

17 (a) Permit required.--No person shall drill or alter a well,
18 except for alterations which satisfy the requirements of
19 subsection (j), without having first obtained a well permit
20 under subsections (b), (c), (d) and (e), or operate an abandoned
21 or orphan well unless in compliance with subsection (l). A copy
22 of the permit shall be kept at the well site during preparation
23 and construction of the well site or access road during drilling
24 or alteration of the well. No person shall be required to obtain
25 a permit to redrill a nonproducing well if the redrilling:

26 (1) has been evaluated and approved as part of an order
27 from the department authorizing cleaning out and plugging or
28 replugging a nonproducing well under section 13(c) of the act
29 of December 18, 1984 (P.L.1069, No.214), known as the Coal
30 and Gas Resource Coordination Act; and

1 (2) is incidental to a plugging or replugging operation
2 and the well is plugged within 15 days of redrilling.

3 (b) Plat.--

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

29 (2) The applicant shall forward by certified mail a copy
30 of the plat to the surface landowner; the municipality in

1 which the tract of land upon which the well to be drilled is
2 located; each municipality within 3,000 feet of the proposed
3 unconventional vertical well bore; the municipalities
4 adjacent to the well; all surface landowners and water
5 purveyors, whose water supplies are within 1,000 feet of the
6 proposed well location or, in the case of an unconventional
7 well, within 3,000 feet of the proposed unconventional
8 vertical well bore; storage operators within 3,000 feet of
9 the proposed unconventional vertical well bore; the owner and
10 lessee of any coal seams; and each coal operator required to
11 be identified on the well permit application.

12 (b.1) Notification.--The applicant shall submit proof of
13 notification with the well permit application. Notification of
14 surface owners shall be performed by sending notice to those
15 persons to whom the tax notices for the surface property are
16 sent, as indicated in the assessment books in the county in
17 which the property is located. Notification of surface
18 landowners or water purveyors shall be on forms, and in a manner
19 prescribed by the department, sufficient to identify the rights
20 afforded those persons under section 3218 (relating to
21 protection of water supplies) and to advise them of the
22 advantages of taking their own predrilling or prealteration
23 survey.

24 (b.2) Approval.--If the applicant submits to the department
25 written approval of the proposed well location by the surface
26 landowner and the coal operator, lessee or owner of any coal
27 underlying the proposed well location and no objections are
28 raised by the department within 15 days of filing, or if no
29 approval has been submitted and no objections are made to the
30 proposed well location within 15 days from receipt of notice by

1 the department, the surface landowner or any coal operator,
2 lessee or owner, the written approval shall be filed and become
3 a permanent record of the well location, subject to inspection
4 at any time by any interested person. The application form to
5 operate an abandoned or orphan well shall provide notification
6 to the applicant of its responsibilities to plug the well upon
7 abandonment.

8 (c) Applicants.--If the applicant for a well permit is a
9 corporation, partnership or person that is not a resident of
10 this Commonwealth, the applicant shall designate the name and
11 address of an agent for the operator who shall be the attorney-
12 in-fact for the operator and who shall be a resident of this
13 Commonwealth upon whom notices, orders or other communications
14 issued under this chapter may be served and upon whom process
15 may be served. Each well operator required to designate an agent
16 under this section shall, within five days after termination of
17 the designation, notify the department of the termination and
18 designate a new agent.

19 (d) Permit fee.--Each application for a well permit shall be
20 accompanied by a permit fee, established by the Environmental
21 Quality Board, which bears a reasonable relationship to the cost
22 of administering this chapter.

23 (e) Issuance of permit.--The department shall issue a permit
24 within 45 days of submission of a permit application unless the
25 department denies the permit application for one or more of the
26 reasons set forth in subsection (e.1), except that the
27 department shall have the right to extend the period for 15 days
28 for cause shown upon notification to the applicant of the
29 reasons for the extension. The department may impose permit
30 terms and conditions necessary to assure compliance with this

1 chapter or other laws administered by the department.

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

4 (1) The well site for which a permit is requested is in
5 violation of any of this chapter or issuance of the permit
6 would result in a violation of this chapter or other
7 applicable law.

8 (2) The permit application is incomplete.

9 (3) Unresolved objections to the well location by coal
10 mine owner or operator remain.

11 (4) The requirements of section 3225 (relating to
12 bonding) have not been met.

13 (5) The department finds that the applicant, or any
14 parent or subsidiary corporation of the applicant, is in
15 continuing violation of this chapter, any other statute
16 administered by the department, any regulation promulgated
17 under this chapter or a statute administered by the
18 department or any plan approval, permit or order of the
19 department, unless the violation is being corrected to the
20 satisfaction of the department. The right of the department
21 to deny a permit under this paragraph shall not take effect
22 until the department has taken a final action on the
23 violations and:

24 (i) the applicant has not appealed the final action
25 in accordance with the act of July 13, 1988 (P.L.530,
26 No.94), known as the Environmental Hearing Board Act; or

27 (ii) if an appeal has been filed, no supersedeas has
28 been issued.

29 (6) The applicant failed to pay the fee or file a report
30 under section 2303(c) (relating to administration), unless an

1 appeal is pending. The commission shall notify the department
2 of any applicant who has failed to pay the fee or file a
3 report and who does not have an appeal pending.

4 (f) Drilling.--

5 (1) Upon issuance of a permit, the well operator may
6 drill, operate or alter at the exact location shown on the
7 plat after providing the department, the surface landowner
8 and the local political subdivision in which the well is to
9 be located 24 hours' notice of the date that drilling will
10 commence. Notification to the department must be provided
11 electronically. If there is a break in drilling of 30 days or
12 more, the well operator shall notify the department at least
13 24 hours prior to the resumption of drilling.

14 (2) The unconventional well operator shall provide the
15 department 24 hours' notice prior to cementing all casing
16 strings, conducting pressure tests of the production casing,
17 stimulation and abandoning or plugging an unconventional
18 well.

19 (3) In noncoal areas where more than one well is to be
20 drilled as part of the same development project, only the
21 first well of the project need be located by survey.
22 Remaining wells of the project shall be shown on the plat in
23 a manner prescribed by regulation.

24 (4) Prior to drilling each additional project well, the
25 well operator shall notify the department and provide
26 reasonable notice of the date on which drilling will
27 commence.

28 (5) Whenever, before or during the drilling of a well
29 not within the boundaries of an operating coal mine, the well
30 operator encounters conditions of a nature which renders

1 drilling of the bore hole or a portion thereof impossible, or
2 more hazardous than usual, the well operator, upon verbal
3 notice to the department, may immediately plug all or part of
4 the bore hole, if drilling has occurred, and commence a new
5 bore hole not more than 50 feet from the old bore hole if the
6 location of the new bore hole does not violate section 3215
7 (relating to well location restrictions) and, in the case of
8 a well subject to act of July 25, 1961 (P.L.825, No.359),
9 known as the Oil and Gas Conservation Law, if the new
10 location complies with existing laws, regulations and spacing
11 orders and the new bore hole is at least 330 feet from the
12 nearest lease boundary.

13 (6) Within ten days of commencement of the new bore
14 hole, the well operator shall file with the department a
15 written notice of intention to plug, a well record, a
16 completion report, a plugging certificate for the original
17 bore hole and an amended plat for the new bore hole.

18 (7) The well operator shall forward a copy of the
19 amended plat to the surface landowner identified on the well
20 permit application within ten days of commencement of the new
21 well bore.

22 (g) Posting.--The well permit number and operator's name,
23 address and telephone number shall be conspicuously posted at
24 the drilling site during site preparation, including the
25 construction of access roads, construction of the well site and
26 during drilling, operating or alteration of the well.

27 (h) Labeling.--The well operator shall install the permit
28 number issued by the department in a legible, visible and
29 permanent manner on the well upon completion.

30 (i) Expiration.--Well permits issued for drilling wells

1 under this chapter shall expire one year after issuance unless
2 operations for drilling the well are commenced within the period
3 and pursued with due diligence or unless the permit is renewed
4 in accordance with regulations of the department. If drilling is
5 commenced during the one-year period, the well permit shall
6 remain in force until the well is plugged in accordance with
7 section 3220 (relating to plugging requirements) or the permit
8 is revoked. A drilling permit issued prior to April 18, 1985,
9 for a well which is an operating well on April 18, 1985, shall
10 remain in force as a well permit until the well is plugged in
11 accordance with section 3220.

12 (j) Exceptions.--The Environmental Quality Board may
13 establish by regulation certain categories of alterations of
14 permitted or registered wells for which permitting requirements
15 of this section shall not apply. A well operator or owner who
16 proposes to conduct the alteration activity shall first obtain a
17 permit or registration modification from the department. The
18 Environmental Quality Board shall promulgate regulations as to
19 the requirements for modifications.

20 (k) No transfer permitted.--No permit issued under this
21 section or registration issued under section 3213 (relating to
22 well registration and identification) may be transferred without
23 prior approval of the department. A request for approval of a
24 transfer shall be on the forms, and in the manner, prescribed by
25 the department. The department shall approve or deny a transfer
26 request within 45 days of receipt of a complete and accurate
27 application. The department may deny a request only for reasons
28 set forth in subsection (e.1)(4) and (5). Approval of a transfer
29 request shall permanently transfer responsibility to plug the
30 well under section 3220 to the recipient of the transferred

1 permit or registration.

2 (l) Regulations.--The Environmental Quality Board may
3 establish by regulation requirements for the permitting and
4 operation of abandoned or orphan wells. A person who proposes to
5 conduct abandoned or orphan well operations shall first obtain a
6 permit to operate an abandoned or orphan well.

7 (m) Water management.--The following shall apply to water
8 management:

9 (1) No person may withdraw or use water from water
10 sources within this Commonwealth for the drilling or
11 hydraulic fracture stimulation of any natural gas well
12 completed in an unconventional gas formation, whether on or
13 off of the land where the gas well is located, except in
14 accordance with a water management plan approved by the
15 department.

16 (2) The department shall review and approve water
17 management plans based upon a determination that the proposed
18 withdrawal, when operated in accordance with the proposed
19 withdrawal operating conditions set forth in the plan,
20 including conditions relating to quantity, withdrawal rate
21 and timing and any passby flow conditions, will:

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

24 (ii) protect and maintain the designated and
25 existing uses of water sources;

26 (iii) not cause adverse impact to water quality in
27 the watershed considered as a whole; and

28 (iv) include a reuse plan for fluids that will be
29 used to hydraulically fracture wells.

30 (3) As to criteria:

1 (i) The criteria under paragraph (2) shall be
2 presumed to be achieved if the proposed water withdrawal
3 has been approved by and is operated in accordance with
4 conditions established by the Susquehanna River Basin
5 Commission, the Delaware River Basin Commission or the
6 Great Lakes Commission, as applicable.

7 (ii) Notwithstanding subparagraph (i), the
8 department may establish additional requirements as
9 necessary to comply with the laws of this Commonwealth.

10 (4) In addition to the requirements under paragraphs
11 (1), (2) and (3), compliance with a department-approved water
12 management plan shall be a condition of any permit issued
13 under this chapter for the drilling or hydraulic fracture
14 stimulation of any natural gas well completed in an
15 unconventional formation and shall be deemed to satisfy the
16 laws of this Commonwealth.

17 § 3212. Permit objections.

18 (a) General rule.--If a well referred to in section 3211(b)
19 (relating to well permits) will be located on a tract whose
20 surface is owned by a person other than the well operator, the
21 surface landowner affected shall be notified of the intent to
22 drill and may file objections, in accordance with section 3251
23 (relating to conferences), based on the assertion that the well
24 location violates section 3215 (relating to well location
25 restrictions) or that information in the application is untrue
26 in any material respect, within 15 days of the receipt by the
27 surface owner of the plat under section 3211(b). Receipt of
28 notice by the surface owner shall be presumed to have occurred
29 15 days from the date of the certified mailing when the well
30 operator submits a copy of the certified mail receipt sent to

1 the surface owner and an affidavit certifying that the address
2 of the surface owner to which notice was sent is the same as the
3 address listed in the assessment books in the county where the
4 property is located. If no objection is filed or none is raised
5 by the department within 15 days after receipt of the plat by
6 the surface landowner, or, if written approval by the surface
7 landowner is filed with the department and no objection is
8 raised by the department within 15 days of filing, the
9 department shall proceed to issue or deny the permit.

10 (b) Special circumstances.--If a well referred to in section
11 3211(b) will penetrate within the outside coal boundaries of an
12 operating coal mine or a coal mine already projected and platted
13 but not yet being operated, or within 1,000 linear feet beyond
14 those boundaries, and, in the opinion of the coal owner or
15 operator, the well or a pillar of coal about the well will
16 unduly interfere with or endanger the mine, the coal owner or
17 operator affected may file objections under section 3251 to the
18 proposed location within 15 days of the receipt by the coal
19 operator of the plat under section 3211(b). If possible, an
20 alternative location at which the proposed well could be drilled
21 to overcome the objections shall be indicated. If no objection
22 to the proposed location is filed or if none is raised by the
23 department within 15 days after receipt of the plat by the coal
24 operator or owner, or, if written approval by the coal operator
25 or owner of the location is filed with the department and no
26 objection is raised by the department within 15 days of filing,
27 the department shall proceed to issue or deny the permit.

28 (c) Procedure upon objection.--If an objection is filed by a
29 coal operator or owner or made by the department, the department
30 shall fix a time and place for a conference under section 3251

1 not more than ten days from the date of service of the objection
2 to allow the parties to consider the objection and attempt to
3 agree on a location. If they fail to agree, the department, by
4 an appropriate order, shall determine a location on the tract of
5 land as near to the original location as possible where, in the
6 judgment of the department, the well can be safely drilled
7 without unduly interfering with or endangering the mine as
8 defined in subsection (b). The new location agreed upon by the
9 parties or determined by the department shall be indicated on
10 the plat on file with the department and become a permanent
11 record upon which the department shall proceed to issue or deny
12 the permit.

13 (d) Survey.--Within 120 days after commencement of drilling
14 operations, the coal operator shall accurately locate the well
15 by a closed survey on the same datum as the mine workings or
16 coal boundaries are mapped, file the results of the survey with
17 the department and forward a copy by certified mail to the well
18 operator.

19 § 3212.1. Comments by municipalities and storage operators.

20 (a) Municipalities.--The municipality where the tract of
21 land upon which the unconventional well to be drilled is located
22 may submit written comments to the department describing local
23 conditions or circumstances which the municipality has
24 determined should be considered by the department in rendering
25 its determination on the unconventional well permit. A comment
26 under this subsection must be submitted to the department within
27 15 days of the receipt of the plat under section 3211(b)
28 (relating to well permits). The municipality shall
29 simultaneously forward a copy of its comments to the permit
30 applicant and all other parties entitled to a copy of the plat

1 under section 3211(b), who may submit a written response. A
2 written response must be submitted to the department within ten
3 days of receipt of the comments of the municipality.

4 (a.1) Storage operators.--A storage operator located within
5 3,000 feet of a proposed unconventional vertical well bore may
6 submit written comments to the department describing
7 circumstances which the storage operator has determined should
8 be considered by the department in rendering its determination
9 on the unconventional well permit. A comment under this
10 subsection must be submitted to the department within 15 days of
11 the receipt of the plat under section 3211(b). The storage
12 operator shall simultaneously forward a copy of its comments to
13 the permit applicant and all other parties entitled to a copy of
14 the plat under section 3211(b), who may submit a written
15 response. A written response must be submitted to the department
16 within ten days of receipt of the comments of the storage
17 operator.

18 (b) Consideration by department.--Comments and responses
19 under subsections (a) and (a.1) may be considered by the
20 department in accordance with section 3215(d) (relating to well
21 location restrictions).

22 (c) No extension of time period.--The process outlined in
23 this section shall not extend the time period for the issuance
24 or denial of a permit beyond the time period set forth in this
25 chapter.

26 § 3213. Well registration and identification.

27 (a) General rule.--On or before July 5, 1996, each person
28 who owned or operated a well in existence prior to April 18,
29 1985, which has not been registered with the department and for
30 which no drilling permit has been issued by the department,

1 shall register the well with the department. A well owner or
2 operator who registers under this subsection and a well owner or
3 operator who has previously registered a well under this chapter
4 shall, on or before July 5, 1996, identify any abandoned well on
5 property which the well owner or operator owns or leases and
6 request approval from the department for classification of the
7 well as an orphan well. Information regarding wells to be
8 registered or identified shall be provided on a form, or in a
9 manner prescribed by the department, and shall include:

10 (1) The name and address of the well operator and, if
11 the well operator is a corporation, partnership or person
12 nonresident of this Commonwealth, the name and address of an
13 agent for the operator upon whom notices, orders, process or
14 other communications issued under this chapter may be served.

15 (2) The well name and the location of the well indicated
16 by a point on a 7 1/2 minute United States Geological Survey
17 topographic map or any other location description sufficient
18 to enable the department to locate the well on the ground.

19 (3) The approximate date of drilling and completing the
20 well, its approximate depth and producing horizons, well
21 construction information and, if available, driller's logs.

22 (4) An indemnity bond, an alternative fee in lieu of
23 bonding or other evidence of financial security submitted by
24 the well operator and deemed appropriate by the department
25 and satisfying the requirements of section 3225 (relating to
26 bonding). No bond, alternative fee or other evidence of
27 financial security shall be required for identification of an
28 orphan well. For wells drilled prior to January 30, 1956,
29 which have not been bonded, the well operator shall have five
30 years to comply with the provisions of this paragraph.

1 (5) A registration fee of \$15 per well or blanket
2 registration fee of \$250 for multiple well registration
3 applications submitted simultaneously. The registration fee
4 shall be waived until July 5, 1996, and no fee shall be
5 charged for identification of an orphan well.

6 (a.1) Orphan wells.--After July 5, 1996, a well owner, well
7 operator or other person discovering an abandoned well on
8 property purchased or leased by the well owner, well operator or
9 other person shall identify it to the department within 60 days
10 of discovery and advise the department that he is seeking
11 classification of the well as an orphan well. No fee shall be
12 required for identification.

13 (b) Extension.--The department may extend the one-year time
14 period under subsection (a) for good cause shown. The extension
15 may not exceed a period ending two years from April 18, 1985.
16 The department may adopt and promulgate guidelines designed to
17 ensure a fair implementation of this section, recognizing the
18 practical difficulties of locating unpermitted wells and
19 complying with the reporting requirements of this chapter.

20 (c) Installation of registration number.--The well operator
21 shall install the registration number issued by the department
22 in a legible, conspicuous and permanent manner on the well
23 within 60 days of issuance.

24 (d) Definition.--For purposes of subsection (a) (4) and (5),
25 the term "owner" does not include an owner or possessor of
26 surface real property, on which an abandoned well is located,
27 who did not participate or incur costs in, and had no right of
28 control over, the drilling or extraction operation of the
29 abandoned well.

30 § 3214. Inactive status.

1 (a) General rule.--Upon application, the department shall
2 grant inactive status for a period of five years for a permitted
3 or registered well, if the following requirements are met:

4 (1) the condition of the well is sufficient to prevent
5 damage to the producing zone or contamination of fresh water
6 or other natural resources or surface leakage of any
7 substance;

8 (2) the condition of the well is sufficient to stop the
9 vertical flow of fluids or gas within the well bore and is
10 adequate to protect freshwater aquifers, unless the
11 department determines the well poses a threat to the health
12 and safety of persons or property or to the environment;

13 (3) the operator anticipates construction of a pipeline
14 or future use of the well for primary or enhanced recovery,
15 gas storage, approved disposal or other appropriate uses
16 related to oil and gas well production; and

17 (4) the applicant satisfies the bonding requirements of
18 sections 3213 (relating to well registration and
19 identification) and 3225 (relating to bonding), except that
20 the department may require additional financial security for
21 a well on which an alternative fee is being paid in lieu of
22 bonding under section 3225(d).

23 (b) Monitoring.--The owner or operator of a well granted
24 inactive status shall be responsible for monitoring the
25 mechanical integrity of the well to ensure that the requirements
26 of subsection (a) (1) and (2) are met and shall report the same
27 on an annual basis to the department in the manner and form
28 prescribed by departmental regulations.

29 (c) (Reserved).

30 (d) Return to active status.--A well granted inactive status

1 under subsection (a) shall be plugged in accordance with section
2 3220 (relating to plugging requirements) or returned to active
3 status within five years of the date inactive status was
4 granted, unless the owner or operator applies for an extension
5 of inactive status which may be granted on a year-to-year basis
6 if the department determines that the owner or operator has
7 demonstrated ability to continue meeting the requirements of
8 this section and the owner or operator certifies that the well
9 will be of future use within a reasonable period of time. An
10 owner or operator who has been granted inactive status for a
11 well which is returned to active status prior to expiration of
12 the five-year period set forth in subsection (a) shall notify
13 the department that the well has been returned to active status
14 and shall not be permitted to apply for another automatic five-
15 year period of inactive status for the well. The owner or
16 operator may make application to return the well to inactive
17 status, and the application may be approved on a year-to-year
18 basis if the department determines that the owner or operator
19 has demonstrated an ability to continue meeting the requirements
20 of this section and the owner or operator certifies that the
21 well will be of future use within a reasonable period of time.
22 The department shall approve or deny an application to extend a
23 period of inactive status or to return a well to inactive status
24 within 60 days of receipt of the application, and the
25 application shall not be unreasonably denied. If the department
26 has not completed its review of the application within 60 days,
27 the inactive status shall continue until the department has made
28 a determination on the request. If the department denies an
29 application to extend the period of inactive status or to return
30 a well to inactive status, a well owner or operator aggrieved by

1 the denial shall have the right to appeal the denial to the
2 Environmental Hearing Board within 30 days of receipt of the
3 denial. Upon cause shown by a well owner or operator, the board
4 may grant a supersedeas under section 4 of the act of July 13,
5 1988 (P.L.530, No.94), known as the Environmental Hearing Board
6 Act, so that the well in question may retain inactive status
7 during the period of the appeal.

8 (e) Revocation of inactive status.--The department may
9 revoke inactive status and order immediate plugging of a well if
10 the well is in violation of this chapter or rules or regulations
11 promulgated under this chapter or if the owner or operator
12 demonstrates inability to perform obligations under this chapter
13 or becomes financially insolvent, or upon receipt by the
14 department of notice of bankruptcy proceedings by the permittee.
15 § 3215. Well location restrictions.

16 (a) General rule.--Wells may not be drilled within 200 feet,
17 or, in the case of an unconventional gas well, 500 feet measured
18 horizontally from the vertical well bore to a building or water
19 well, existing when the copy of the plat is mailed as required
20 by section 3211(b) (relating to well permits) without written
21 consent of the owner of the building or water well.
22 Unconventional gas wells may not be drilled within 1,000 feet
23 measured horizontally from the vertical well bore to any
24 existing water well, surface water intake, reservoir or other
25 water supply extraction point used by a water purveyor without
26 the written consent of the water purveyor. If consent is not
27 obtained and the distance restriction would deprive the owner of
28 the oil and gas rights of the right to produce or share in the
29 oil or gas underlying the surface tract, the well operator shall
30 be granted a variance from the distance restriction upon

1 submission of a plan identifying the additional measures,
2 facilities or practices as prescribed by the department to be
3 employed during well site construction, drilling and operations.
4 The variance shall include additional terms and conditions
5 required by the department to ensure safety and protection of
6 affected persons and property, including insurance, bonding,
7 indemnification and technical requirements. Notwithstanding
8 section 3211(e), if a variance request has been submitted, the
9 department may extend its permit review period for up to 15 days
10 upon notification to the applicant of the reasons for the
11 extension.

12 (b) Limitation.--

13 (1) No well site may be prepared or well drilled within
14 100 feet or, in the case of an unconventional well, 300 feet
15 from the vertical well bore or 100 feet from the edge of the
16 well site, whichever is greater, measured horizontally from
17 any solid blue lined stream, spring or body of water as
18 identified on the most current 7 1/2 minute topographic
19 quadrangle map of the United States Geological Survey.

20 (2) The edge of the disturbed area associated with any
21 unconventional well site must maintain a 100-foot setback
22 from the edge of any solid blue lined stream, spring or body
23 of water as identified on the most current 7 1/2 minute
24 topographic quadrangle map of the United States Geological
25 Survey.

26 (3) No unconventional well may be drilled within 300
27 feet of any wetlands greater than one acre in size, and the
28 edge of the disturbed area of any well site must maintain a
29 100-foot setback from the boundary of the wetlands.

30 (4) The department shall waive the distance restrictions

1 upon submission of a plan identifying additional measures,
2 facilities or practices to be employed during well site
3 construction, drilling and operations necessary to protect
4 the waters of this Commonwealth. The waiver, if granted,
5 shall include additional terms and conditions required by the
6 department necessary to protect the waters of this
7 Commonwealth. Notwithstanding section 3211(e), if a waiver
8 request has been submitted, the department may extend its
9 permit review period for up to 15 days upon notification to
10 the applicant of the reasons for the extension.

11 (c) Impact.--On making a determination on a well permit, the
12 department shall consider the impact of the proposed well on
13 public resources, including, but not limited to:

14 (1) Publicly owned parks, forests, game lands and
15 wildlife areas.

16 (2) National or State scenic rivers.

17 (3) National natural landmarks.

18 (4) Habitats of rare and endangered flora and fauna and
19 other critical communities.

20 (5) Historical and archaeological sites listed on the
21 Federal or State list of historic places.

22 (6) Sources used for public drinking supplies in
23 accordance with subsection (b).

24 (d) Consideration of municipality and storage operator
25 comments.--The department may consider the comments submitted
26 under section 3212.1 (relating to comments by municipalities and
27 storage operators) in making a determination on a well permit.
28 Notwithstanding any other law, no municipality or storage
29 operator shall have a right of appeal or other form of review
30 from the department's decision.

1 (d.1) Additional protective measures.--The department may
2 establish additional protective measures for storage of
3 hazardous chemicals and materials intended to be used, or that
4 have been used, on an unconventional well drilling site within
5 750 feet of a solid blue lined stream, spring or body of water
6 identified on the most current 7 1/2 minute topographic
7 quadrangle map of the United States Geological Survey.

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

10 (1) For the department to utilize for conditioning a
11 well permit based on its impact to the public resources
12 identified under subsection (c) and for ensuring optimal
13 development of oil and gas resources and respecting property
14 rights of oil and gas owners.

15 (2) For appeal to the Environmental Hearing Board of a
16 permit containing conditions imposed by the department. The
17 regulations shall also provide that the department has the
18 burden of proving that the conditions were necessary to
19 protect against a probable harmful impact of the public
20 resources.

21 (f) Floodplains.--

22 (1) No well site may be prepared or well drilled within
23 any floodplain if the well site will have:

24 (i) a pit or impoundment containing drilling
25 cuttings, flowback water, produced water or hazardous
26 materials, chemicals or wastes within the floodplain; or

27 (ii) a tank containing hazardous materials,
28 chemicals, condensate, wastes, flowback or produced water
29 within the floodway.

30 (2) A well site shall not be eligible for a floodplain

1 restriction waiver if the well site will have a tank
2 containing condensate, flowback or produced water within the
3 flood fringe unless all the tanks have adequate floodproofing
4 in accordance with the National Flood Insurance Program
5 standards and accepted engineering practices.

6 (3) The department may waive restrictions upon
7 submission of a plan that shall identify the additional
8 measures, facilities or practices to be employed during well
9 site construction, drilling and operations. The waiver, if
10 granted, shall impose permit conditions necessary to protect
11 the waters of this Commonwealth.

12 (4) Best practices as determined by the department to
13 ensure the protection of the waters of this Commonwealth must
14 be utilized for the storage and handling of all water,
15 chemicals, fuels, hazardous materials or solid waste on a
16 well site located in a floodplain. The department may request
17 that the well site operator submit a plan for the storage and
18 handling of the materials for approval by the department and
19 may impose conditions or amend permits to include permit
20 conditions as are necessary to protect the environment,
21 public health and safety.

22 (5) Unless otherwise specified by the department, the
23 boundary of the floodplain shall be as indicated on maps and
24 flood insurance studies provided by the Federal Emergency
25 Management Agency. In an area where no Federal Emergency
26 Management Agency maps or studies have defined the boundary
27 of the 100-year frequency floodplain, absent evidence to the
28 contrary, the floodplain shall extend from:

29 (i) any perennial stream up to 100 feet horizontally
30 from the top of the bank of the perennial stream; or

1 (ii) from any intermittent stream up to 50 feet
2 horizontally from the top of the bank of the intermittent
3 stream.

4 (g) Applicability.--

5 (1) This section shall not apply to a well proposed to
6 be drilled on an existing well site for which at least one
7 well permit has been issued prior to the effective date of
8 this section.

9 (2) Nothing in this section shall alter or abridge the
10 terms of any contract, mortgage or other agreement entered
11 into prior to the effective date of this section.

12 § 3216. Well site restoration.

13 (a) General rule.--Each oil or gas well owner or operator
14 shall restore the land surface within the area disturbed in
15 siting, drilling, completing and producing the well.

16 (b) Plan.--During and after earthmoving or soil disturbing
17 activities, including, but not limited to, activities related to
18 siting, drilling, completing, producing and plugging the well,
19 erosion and sedimentation control measures shall be implemented
20 in accordance with an erosion and sedimentation control plan
21 prepared in accordance with the act of June 22, 1937 (P.L.1987,
22 No.394), known as The Clean Streams Law.

23 (c) Pits, drilling supplies and equipment.--Within nine
24 months after completion of drilling of a well, the owner or
25 operator shall restore the well site, remove or fill all pits
26 used to contain produced fluids or industrial wastes and remove
27 all drilling supplies and equipment not needed for production.
28 Drilling supplies and equipment not needed for production may be
29 stored on the well site if express written consent of the
30 surface landowner is obtained.

1 (d) Items related to production or storage.--Within nine
2 months after plugging a well, the owner or operator shall remove
3 all production or storage facilities, supplies and equipment and
4 restore the well site.

5 (e) Clean Streams Law.--Restoration activities required by
6 this chapter or in regulations promulgated under this chapter
7 shall also comply with all applicable provisions of The Clean
8 Streams Law.

9 (f) Violation of chapter.--Failure to restore the well site
10 as required in this chapter or regulations promulgated under
11 this chapter constitutes a violation of this chapter.

12 (g) Extension.--

13 (1) The restoration period may be extended by the
14 department for an additional period of time not to exceed two
15 years upon demonstration by the well owner or operator that:

16 (i) the extension will result in less earth
17 disturbance, increased water reuse or more efficient
18 development of the resources; or

19 (ii) site restoration cannot be achieved due to
20 adverse weather conditions or a lack of essential fuel,
21 equipment or labor.

22 (2) The demonstration under paragraph (1) shall do all
23 of the following:

24 (i) Include a site restoration plan that shall
25 provide for:

26 (A) the timely removal or fill of all pits used
27 to contain produced fluids or industrial wastes;

28 (B) the removal of all drilling supplies and
29 equipment not needed for production;

30 (C) the stabilization of the well site that

1 shall include interim postconstruction storm water
2 management best management practices; or

3 (D) other measures to be employed to minimize
4 accelerated erosion and sedimentation in accordance
5 with The Clean Streams Law.

6 (ii) Provide for returning the portions of the site
7 not occupied by production facilities or equipment to
8 approximate original contours and making them capable of
9 supporting the uses that existed prior to drilling the
10 well.

11 (3) The department may condition an extension under this
12 subsection as is necessary in accordance with The Clean
13 Streams Law.

14 (h) Definition.--As used in this section, the term "well
15 site" means areas occupied by all equipment or facilities
16 necessary for or incidental to drilling, production or plugging
17 a well.

18 § 3217. Protection of fresh groundwater and casing
19 requirements.

20 (a) General rule.--To aid in protection of fresh
21 groundwater, well operators shall control and dispose of brines
22 produced from the drilling, alteration or operation of an oil or
23 gas well in a manner consistent with the act of June 22, 1937
24 (P.L.1987, No.394), known as The Clean Streams Law, or any
25 regulation promulgated under The Clean Streams Law.

26 (b) Casing.--To prevent migration of gas or fluids into
27 sources of fresh groundwater and pollution or diminution of
28 fresh groundwater, a string or strings of casing shall be run
29 and permanently cemented in each well drilled through the fresh
30 water-bearing strata to a depth and in a manner prescribed by

1 regulation by the department.

2 (c) Procedure when coal has been removed.--If a well is
3 drilled at a location where coal has been removed from one or
4 more coal seams, the well shall be drilled and cased to prevent
5 migration of gas or fluids into the seam from which coal has
6 been removed in a manner prescribed by regulation of the
7 department. The department and the coal operator, owner or
8 lessee shall be given at least 72 hours' notice prior to
9 commencement of work protecting the mine.

10 (d) Procedure when coal has not been removed.--If a well is
11 drilled at a location where the coal seam has not been removed,
12 the well shall be drilled to a depth and of a size sufficient to
13 permit placement of casing, packers in and vents on the hole at
14 the points and in the manner prescribed by regulation to exclude
15 gas or fluids from the coal seam, except gas or fluids found
16 naturally in the seam itself, and to enable monitoring the
17 integrity of the production casing.

18 § 3218. Protection of water supplies.

19 (a) General rule.--In addition to the requirements of
20 subsection (c.1), a well operator who affects a public or
21 private water supply by pollution or diminution shall restore or
22 replace the affected supply with an alternate source of water
23 adequate in quantity or quality for the purposes served by the
24 supply. The department shall ensure that the quality of a
25 restored or replaced water supply meets the standards
26 established under the act of May 1, 1984 (P.L.206, No.43), known
27 as the Pennsylvania Safe Drinking Water Act, or is comparable to
28 the quality of the water supply before it was affected by the
29 operator if that water supply exceeded those standards. The
30 Environmental Quality Board shall promulgate regulations

1 necessary to meet the requirements of this subsection.

2 (b) Pollution or diminution of water supply.--A landowner or
3 water purveyor suffering pollution or diminution of a water
4 supply as a result of the drilling, alteration or operation of
5 an oil or gas well may so notify the department and request that
6 an investigation be conducted. Within ten days of notification,
7 the department shall investigate the claim and make a
8 determination within 45 days following notification. If the
9 department finds that the pollution or diminution was caused by
10 drilling, alteration or operation activities or if it presumes
11 the well operator responsible for pollution under subsection
12 (c), the department shall issue orders to the well operator
13 necessary to assure compliance with subsection (a), including
14 orders requiring temporary replacement of a water supply where
15 it is determined that pollution or diminution may be of limited
16 duration.

17 (b.1) (Reserved).

18 (b.2) Telephone number.--The department shall establish a
19 single Statewide toll-free telephone number that persons may use
20 to report cases of water contamination which may be associated
21 with the development of oil and gas resources. The Statewide
22 toll-free telephone number shall be provided in a conspicuous
23 manner in the notification required under section 3211(b)
24 (relating to well permits) and on the department's Internet
25 website.

26 (b.3) Responses.--The department shall develop appropriate
27 administrative responses to calls received on the Statewide
28 toll-free number for water contamination.

29 (b.4) Website.--The department shall publish, on its
30 Internet website, lists of confirmed cases of subterranean water

1 supply contamination that result from hydraulic fracturing.

2 (b.5) Facility operation qualifications.--The department
3 shall ensure that a facility which seeks a National Pollutant
4 Discharge Elimination System permit for the purposes of treating
5 and discharging wastewater originating from oil and gas
6 activities into waters of this Commonwealth is operated by a
7 competent and qualified individual.

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

11 (1) except as set forth in paragraph (2):

12 (i) the water supply is within 1,000 feet of an oil
13 or gas well; and

14 (ii) the pollution occurred within six months after
15 completion of drilling or alteration of the oil or gas
16 well; or

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

18 (i) the water supply is within 2,500 feet of the
19 unconventional vertical well bore; and

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

23 (c.1) Requirement.--If the affected water supply is within
24 the rebuttable presumption area as provided in subsection (c)
25 and the rebuttable presumption applies, the operator shall
26 provide a temporary water supply if the water user is without a
27 readily available alternative source of water. The temporary
28 water supply provided under this subsection shall be adequate in
29 quantity and quality for the purposes served by the supply.

30 (d) Defenses.--To rebut the presumption established under

1 subsection (c), a well operator must affirmatively prove any of
2 the following:

3 (1) except as set forth in paragraph (2):

4 (i) the pollution existed prior to the drilling or
5 alteration activity as determined by a predrilling or
6 prealteration survey;

7 (ii) the landowner or water purveyor refused to
8 allow the operator access to conduct a predrilling or
9 prealteration survey;

10 (iii) the water supply is not within 1,000 feet of
11 the well;

12 (iv) the pollution occurred more than six months
13 after completion of drilling or alteration activities;
14 and

15 (v) the pollution occurred as the result of a cause
16 other than the drilling or alteration activity; or

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

18 (i) the pollution existed prior to the drilling,
19 stimulation or alteration activity as determined by a
20 predrilling or prealteration survey;

21 (ii) the landowner or water purveyor refused to
22 allow the operator access to conduct a predrilling or
23 prealteration survey;

24 (iii) the water supply is not within 2,500 feet of
25 the unconventional vertical well bore;

26 (iv) the pollution occurred more than 12 months
27 after completion of drilling or alteration activities; or

28 (v) the pollution occurred as the result of a cause
29 other than the drilling or alteration activity.

30 (e) Independent certified laboratory.--An operator electing

1 to preserve a defense under subsection (d) (1) or (2) shall
2 retain an independent certified laboratory to conduct a
3 predrilling or prealteration survey of the water supply. A copy
4 of survey results shall be submitted to the department and the
5 landowner or water purveyor in the manner prescribed by the
6 department.

7 (e.1) Notice.--An operator of an unconventional well must
8 provide written notice to the landowner or water purveyor
9 indicating that the presumption established under subsection (c)
10 may be void if the landowner or water purveyor refused to allow
11 the operator access to conduct a predrilling or prealteration
12 survey. Proof of written notice to the landowner or water
13 purveyor shall be provided to the department for the operator to
14 retain the protections under subsection (d) (2) (ii). Proof of
15 written notice shall be presumed if provided in accordance with
16 section 3212(a) (relating to permit objections).

17 (f) Other remedies preserved.--Nothing in this section shall
18 prevent a landowner or water purveyor claiming pollution or
19 diminution of a water supply from seeking any other remedy at
20 law or in equity.

21 § 3218.1. Notification to public drinking water systems.

22 Upon receiving notification of a spill, the department shall,
23 after investigating the incident, notify any public drinking
24 water facility that could be affected by the event that the
25 event occurred. The notification shall contain a brief
26 description of the event and any expected impact on water
27 quality.

28 § 3218.2. Containment for unconventional wells.

29 (a) Sites.--Unconventional well sites shall be designed and
30 constructed to prevent spills to the ground surface or spills

1 off the well site. Containment practices shall meet all of the
2 following:

3 (1) Be instituted on the well site during both drilling
4 and hydraulic fracturing operations.

5 (2) Be sufficiently impervious and able to contain
6 spilled material or waste until it can be removed or treated.

7 (3) Be compatible with the waste material or waste
8 stored or used within the containment.

9 (4) Additional practices as promulgated in regulation by
10 the Environmental Quality Board.

11 (b) Plan.--The applicant shall submit a plan to the
12 department describing the containment practices to be utilized
13 and the area of the well site where containment systems will be
14 employed. The plan shall include a description of the equipment
15 to be kept onsite during drilling and hydraulic fracturing
16 operations to prevent a spill from leaving the well site.

17 (c) Materials stored.--Containment systems shall be used
18 wherever any of the following are stored:

19 (1) Drilling mud.

20 (2) Hydraulic oil.

21 (3) Diesel fuel.

22 (4) Drilling mud additives.

23 (5) Hydraulic fracturing additives.

24 (6) Hydraulic fracturing flowback.

25 (d) Capacity.--Areas where any additives, chemicals, oils or
26 fuels are to be stored must have sufficient containment capacity
27 to hold the volume of the largest container stored in the area
28 plus 10% to allow for precipitation, unless the container is
29 equipped with individual secondary containment.

30 (e) Definition.--As used in this section, the term "well

1 site" means areas occupied by all equipment or facilities
2 necessary for or incidental to drilling, production or plugging
3 a well.

4 § 3218.3. Transportation records regarding wastewater fluids.

5 (a) Requirements.--A well operator of an unconventional well
6 that transports wastewater fluids shall do all of the following:

7 (1) Maintain records for five years, in accordance with
8 regulations under subsection (b) and on a form approved by
9 the department, of the amount and destination of the fluids
10 transported.

11 (2) Make the records under paragraph (1) available to
12 the department upon request.

13 (b) Recordkeeping.--Recordkeeping requirements shall be
14 determined by the department and shall include the following:

15 (1) The number of gallons of wastewater fluids produced
16 in the drilling, stimulation or alteration of a well.

17 (2) Upon completion of the well, the name of the person
18 of or company that transported the wastewater fluids to a
19 disposal site or to a location other than the well site.

20 (3) Each location where wastewater fluids were disposed
21 of or transported and the volumes that were disposed of at
22 the location other than the well site.

23 (4) The method of disposal.

24 § 3218.4. Corrosion control requirements.

25 (a) Pipelines.--All buried metallic pipelines shall be
26 installed and placed in operation in accordance with 49 CFR Pt.
27 192 Subpt. I (relating to requirements for corrosion control).

28 (b) Tanks.--Permanent aboveground and underground tanks must
29 comply with the applicable corrosion control requirements in the
30 department's storage tank regulations.

1 (c) Other structures.--For all other buried metallic
2 structures, including well casings, the Environmental Quality
3 Board shall promulgate regulations setting forth methods of
4 determining the need for corrosion protection and installing
5 necessary corrosion protection.

6 (d) Procedures.--The corrosion control procedures under
7 subsections (a) and (b) must be carried out by or under the
8 direction of a person qualified in corrosion methods.

9 (e) Compliance.--An operator of a new, replaced, relocated
10 or otherwise changed pipeline must be in compliance with the
11 applicable requirements of this section by the date the pipeline
12 goes into service.

13 § 3218.5. Gathering lines.

14 (a) Requirement.--Owners and operators of gathering lines
15 shall comply with section 2(5)(i.1) of the act of December 10,
16 1974 (P.L.852, No.287), referred to as the Underground Utility
17 Line Protection Law.

18 (b) Definition.--As used in this section, the term
19 "gathering line" means a pipeline used to transport natural gas
20 from a production facility to a transmission line.

21 § 3219. Use of safety devices.

22 Any person engaged in drilling an oil or gas well shall equip
23 it with casings of sufficient strength, and other safety devices
24 as are necessary, in the manner prescribed by regulation of the
25 department, and shall use every effort and endeavor effectively
26 to prevent blowouts, explosions and fires.

27 § 3219.1. Well control emergency response.

28 (a) Contracts.--The department may enter into contracts with
29 well control specialists in order to provide adequate emergency
30 response services in the event of a well control emergency. The

1 department shall make available upon request by a county
2 information relating to contracts with well control specialists.

3 (b) Civil immunity.--Except as set forth in subsection (c),
4 a well control specialist with which the department has entered
5 into a contract under subsection (a) shall be immune from civil
6 liability for actions taken in good faith to carry out its
7 contractual obligations.

8 (c) Nonapplicability.--Subsection (b) shall not apply to
9 damage arising from any of the following:

10 (1) Breach of the contract under subsection (a).

11 (2) An intentional tort.

12 (3) Gross negligence.

13 § 3220. Plugging requirements.

14 (a) General rule.--Upon abandoning a well, the owner or
15 operator shall plug it in the manner prescribed by regulation of
16 the department to stop vertical flow of fluids or gas within the
17 well bore, unless the department has granted inactive status for
18 the well or it has been approved by the department as an orphan
19 well. If the department determines that a prior owner or
20 operator received economic benefit, other than economic benefit
21 derived only as a landowner or from a royalty interest, after
22 April 18, 1979, from an orphan well or an unregistered well, the
23 owner or operator shall be responsible for plugging the well. In
24 the case of a gas well penetrating a workable coal seam which
25 was drilled prior to January 30, 1956, or which was permitted
26 after that date but not plugged in accordance with this chapter,
27 if the owner or operator or a coal operator or an agent proposes
28 to plug the well to allow mining through it, the gas well shall
29 be cleaned to a depth of at least 200 feet below the coal seam
30 through which mining is proposed and, unless impracticable, to a

1 point 200 feet below the deepest mineable coal seam. The gas
2 well shall be plugged from that depth in accordance with section
3 13 of the act of December 18, 1984 (P.L.1069, No.214), known as
4 the Coal and Gas Resource Coordination Act, and the regulations
5 of the department.

6 (b) Areas underlain by coal.--Prior to the plugging and
7 abandonment of a well in an area underlain by a workable coal
8 seam, the well operator or owner shall notify the department and
9 the coal operator, lessee or owner and submit a plat, on a form
10 to be furnished by the department, showing the location of the
11 well and fixing the date and time plugging will commence, which
12 shall be not less than three working days, nor more than 30
13 days, after the notice is received, to permit representatives of
14 the persons notified to be present at the plugging. Notice and
15 the right to be present may be waived by the department and the
16 coal operator, lessee or owner, but waiver by the coal operator,
17 lessee or owner shall be in writing and a copy shall be attached
18 to the notice of abandonment filed with the department under
19 this section. Whether or not representatives attend, if the well
20 operator has fully complied with this section, the well operator
21 may proceed, at the time fixed, to plug the well in the manner
22 prescribed by regulation of the department. When plugging has
23 been completed, a certificate shall be prepared and signed, on a
24 form to be furnished by the department, by two experienced and
25 qualified people who participated in the work setting forth the
26 time and manner in which the well was plugged. One copy of the
27 certificate shall be mailed to each coal operator, lessee or
28 owner to whom notice was given by certified mail and another
29 shall be mailed to the department.

30 (c) Abandoned wells.--Prior to abandonment of a well, except

1 an uncompleted bore hole plugged immediately upon suspension of
2 drilling in an area not underlain by a workable coal seam, the
3 well operator shall notify the department of the intention to
4 plug and abandon the well and submit a plat, on a form to be
5 furnished by the department, showing the location of the well
6 and fixing the date and time at which plugging will commence,
7 which shall be not less than three working days, nor more than
8 30 days, after the notice is received, to permit a department
9 representative to be present at the plugging. The notice or
10 waiting period may be verbally waived by the department. In
11 noncoal areas where more than one well has been drilled as part
12 of the same development project and the wells are now to be
13 plugged, the department shall be given three working days'
14 notice prior to plugging the first well of the project, subject
15 to waiver of notice described in subsection (b). In the plugging
16 of subsequent wells, no additional notice shall be required if
17 plugging on the project is continuous. If plugging of subsequent
18 wells is delayed for any reason, notice shall be given to the
19 department of continuation of the project. Whether or not a
20 representative attends, if the well operator has fully complied
21 with this section, the well operator may proceed, at the time
22 fixed, to plug the well in the manner prescribed by regulation
23 of the department. When plugging has been completed, a
24 certificate shall be prepared, on a form to be furnished by the
25 department, by two experienced and qualified people who
26 participated in the work setting forth the time and manner in
27 which the well was plugged. A copy of the certificate shall be
28 mailed to the department.

29 (d) Wells abandoned upon completion of drilling.--If a well
30 is to be abandoned immediately after completion of drilling, the

1 well operator shall give at least 24 hours' notice by telephone,
2 confirmed by certified mail, to the department and to the coal
3 operator, lessee or owner, if any, fixing the date and time when
4 plugging will commence. Notice and the right to be present may
5 be waived by the department and the coal operator, lessee or
6 owner, if any. Whether or not representatives of the department
7 or coal operator, lessee or owner, if any, attend, if the well
8 operator has fully complied with the requirements of this
9 section, the well operator may proceed, at the time fixed, to
10 plug the well in the manner provided by regulation of the
11 department. The well operator shall prepare the certificate of
12 plugging and mail copies of the same as provided in subsection
13 (b).

14 (e) Orphan wells.--If a well is an orphan well or abandoned
15 without plugging, or if a well is in operation but not
16 registered under section 3213 (relating to well registration and
17 identification), the department may enter upon the well site and
18 plug the well and to sell equipment, casing and pipe at the site
19 which may have been used in production of the well in order to
20 recover the costs of plugging. The department shall make an
21 effort to determine ownership of a well which is in operation
22 but has not been registered and provide written notice to the
23 owner of pending action under this subsection. If the department
24 cannot determine ownership within 30 days, it may proceed under
25 this subsection. Costs of plugging shall have priority over all
26 liens on equipment, casing and pipe, and the sale shall be free
27 and clear of those liens to the extent that the cost of plugging
28 exceeds the sale price. If the amount obtained for casing and
29 pipe salvaged at the site is inadequate to pay for plugging, the
30 owner or operator of the abandoned or unregistered well shall be

1 liable for the additional costs.

2 (f) Definition.--For purposes of this section, the term
3 "owner" does not include the owner or possessor of surface real
4 property, on which an abandoned well is located, who did not
5 participate or incur costs in and had no right of control over
6 the drilling or extraction operation of the abandoned well.
7 § 3221. Alternative methods.

8 A well operator may request permission to use a method or
9 material other than those required by this chapter and
10 applicable regulations for casing, plugging or equipping a well
11 in an application to the department which describes the proposed
12 alternative in reasonable detail and indicates the manner in
13 which it will accomplish the goals of this chapter. Notice of
14 filing of the application shall be given by the well operator by
15 certified mail to any affected coal operators, who may, within
16 15 days after the notice, file objections to the proposed
17 alternative method or material. If no timely objections are
18 filed or raised by the department, the department shall
19 determine whether to allow use of the proposed alternative
20 method or material.

21 § 3222. Well reporting requirements.

22 (a) General rule.--Except as provided in subsection (a.1),
23 each well operator shall file with the department, on a form
24 provided by the department, an annual report specifying the
25 amount of production, on the most well-specific basis available,
26 along with the status of each well, except that in subsequent
27 years only changes in status must be reported. The Commonwealth
28 may utilize reported information in enforcement proceedings, in
29 making designations or determinations under section 1927-A of
30 the act of April 9, 1929 (P.L.177, No.175), known as The

1 Administrative Code of 1929, or in aggregate form for
2 statistical purposes.

3 (a.1) Unconventional wells.--Each operator of an
4 unconventional well shall file with the department, on a form
5 provided by the department, a semiannual report specifying the
6 amount of production on the most well-specific basis available.
7 The initial report under this subsection shall be filed by
8 August 15 and shall include production data from the preceding
9 calendar year and specify the status of each well. In subsequent
10 reports, only changes in status must be reported. Subsequent
11 semiannual reports shall be filed with the department on or
12 before February 15 and August 15 of each year and shall include
13 production data from the preceding reporting period. The
14 Commonwealth may utilize reported information in enforcement
15 proceedings, in making designations or determinations under
16 section 1927-A of The Administrative Code of 1929 or in
17 aggregate form for statistical purposes. Beginning November 1,
18 2010, the department shall make the reports available on its
19 publicly accessible Internet website. Costs incurred by the
20 department to comply with the requirements of this subsection
21 shall be paid out of the fees collected under section 3211(d)
22 (relating to well permits).

23 (b) Collection of data.--

24 (1) Well operators shall maintain a record of each well
25 drilled or altered.

26 (2) A record containing the information required by the
27 department shall be filed within 30 days after drilling of a
28 well.

29 (3) Within 30 days after completion of the well, when
30 the well is capable of production, a completion report

1 containing any additional required information shall be filed
2 and shall be maintained by the department.

3 (4) Upon request of the department, the well operator
4 shall, within 90 days of completion or recompletion of
5 drilling, submit a copy of any electrical, radioactive or
6 other standard industry logs which have been run.

7 (5) Upon request by the department within one year, the
8 well operator shall file a copy of drill stem test charts,
9 formation water analysis, porosity, permeability or fluid
10 saturation measurements, core analysis and lithologic log or
11 sample description or other similar data as compiled. No
12 information shall be required unless the well operator had it
13 compiled in the ordinary course of business, and
14 interpretation of data under this paragraph is not required
15 to be filed.

16 (b.1) Report contents.--

17 (1) The completion report shall contain the operator's
18 stimulation record. The stimulation record shall include all
19 of the following:

20 (i) A descriptive list of the chemical additives in
21 the stimulation fluids, including any acid, biocide,
22 breaker, brine, corrosion inhibitor, crosslinker,
23 demulsifier, friction reducer, gel, iron control, oxygen
24 scavenger, Ph adjusting agent, proppant, scale inhibitor
25 and surfactant.

26 (ii) The trade name, vendor and a brief descriptor
27 of the intended use or function of each chemical additive
28 in the stimulation fluid.

29 (iii) A list of the chemicals intentionally added to
30 the stimulation fluid, by name and chemical abstract

1 service number.

2 (iv) The maximum concentration, in percent by mass,
3 of each chemical intentionally added to the stimulation
4 fluid.

5 (v) The total volume of the base fluid.

6 (vi) A list of water sources used under the approved
7 water management plan and the volume of water used.

8 (vii) The pump rates and pressure used in the well.

9 (viii) The total volume of recycled water used.

10 (2) The well record shall identify all of the following:

11 (i) Whether methane was encountered in other than a
12 target formation.

13 (ii) The country of origin and manufacture of
14 tubular steel products used in the construction of the
15 well.

16 (b.2) Trade secret or confidential proprietary
17 information.--When an operator submits its stimulation record
18 under subsection (b.1), the operator may designate specific
19 portions of the stimulation record as containing a trade secret
20 or confidential proprietary information. The department shall
21 prevent disclosure of a designated trade secret or confidential
22 proprietary information to the extent permitted by the act of
23 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law
24 or other applicable State law.

25 (c) Drill cuttings and core samples.--Upon notification by
26 the department prior to commencement of drilling, the well
27 operator shall collect any additional data specified by the
28 department, including representative drill cuttings and samples
29 from cores taken and any other geological information that the
30 operator reasonably can compile. Interpretation of the data is

1 not required to be filed.

2 (d) Retention and filing.--Data required under subsection
3 (b) (5) and drill cuttings required under subsection (c) shall be
4 retained by the well operator and filed with the department no
5 more than three years after completion of the well. Upon
6 request, the department shall extend the deadline up to five
7 years from the date of completion of the well. The department
8 shall be entitled to utilize information collected under this
9 subsection in enforcement proceedings, in making designations or
10 determinations under section 1927-A of The Administrative Code
11 of 1929 and in aggregate form for statistical purposes.

12 § 3222.1. Hydraulic fracturing chemical disclosure
13 requirements.

14 (a) Applicability.--This section applies to hydraulic
15 fracturing of unconventional wells performed on or after the
16 effective date of this section.

17 (b) Required disclosures.--

18 (1) Except as provided under subsection (d), a service
19 provider who performs any part of a hydraulic fracturing
20 treatment and a vendor who provides hydraulic fracturing
21 additives directly to the operator for a hydraulic fracturing
22 treatment shall furnish the operator with the information
23 required under paragraph (2) not later than 60 days after the
24 commencement of the hydraulic fracturing.

25 (2) Within 60 days following the conclusion of hydraulic
26 fracturing, the operator of the well shall complete the
27 chemical disclosure registry form and post the form on the
28 chemical disclosure registry in accordance with regulations
29 promulgated under this chapter in a format that does not link
30 chemicals to their respective hydraulic fracturing additive.

1 (3) If the vendor, service provider or operator claims
2 that the specific identity of a chemical or the concentration
3 of a chemical, or both, are a trade secret or confidential
4 proprietary information, the operator of the well must
5 indicate that on the chemical disclosure registry form, and
6 the vendor, service provider or operator shall submit a
7 signed written statement that the record contains a trade
8 secret or confidential proprietary information. If a chemical
9 is a trade secret, the operator shall include in the chemical
10 registry disclosure form the chemical family or similar
11 description associated with the chemical.

12 (4) At the time of claiming that any of the following
13 are entitled to protection under paragraph (3), a vendor,
14 service provider or operator shall file a signed written
15 statement that the record contains a trade secret or
16 confidential proprietary information:

17 (i) A hydraulic fracturing additive.

18 (ii) A chemical.

19 (iii) A concentration.

20 (iv) Any combination of subparagraphs (i), (ii) and
21 (iii).

22 (5) Unless the information is entitled to protection as
23 a trade secret or confidential proprietary information,
24 information submitted to the department or posted to the
25 chemical disclosure registry shall be a public record.

26 (6) By January 1, 2013, the department shall determine
27 whether the chemical disclosure registry allows the
28 department and the public to search and sort Pennsylvania
29 chemical disclosure information by geographic area, chemical
30 ingredient, chemical abstract service number, time period and

1 operator. If the department determines that there is no
2 reasonable assurance that the registry will allow for
3 searches by geographic area, chemical ingredient, chemical
4 abstract service number, time period and operator, at a date
5 acceptable to the department, the department shall
6 investigate the feasibility of making the information under
7 paragraph (2) available on the department's Internet website
8 in a manner that will allow the department and the public to
9 search and sort the information by geographic area, chemical
10 ingredient, chemical abstract service number, time period and
11 operator, and shall report to the General Assembly whether
12 additional resources may be needed to implement the searches
13 and sorting.

14 (7) A vendor shall not be responsible for any inaccuracy
15 in information that is provided to the vendor by a third-
16 party manufacturer.

17 (8) A service provider shall not be responsible for any
18 inaccuracy in information that is provided to the service
19 provider by the vendor.

20 (9) An operator shall not be responsible for any
21 inaccuracy in information provided to the operator by the
22 vendor or service provider or manufacturer.

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:

30 (i) The information is needed for the purpose of

1 diagnosis or treatment of an individual.

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

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

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

22 (c) Disclosures not required.--Notwithstanding any other
23 provision of this chapter, a vendor, service provider or
24 operator shall not be required to do any of the following:

25 (1) Disclose chemicals that are not disclosed to it by
26 the manufacturer, vendor or service provider.

27 (2) Disclose chemicals that were not intentionally added
28 to the stimulation fluid.

29 (3) Disclose chemicals that occur incidentally or are
30 otherwise unintentionally present in trace amounts, may be

1 the incidental result of a chemical reaction or chemical
2 process or may be constituents of naturally occurring
3 materials that become part of a stimulation fluid.

4 (d) Trade secrets and confidential proprietary
5 information.--

6 (1) Notwithstanding any other provision of this chapter,
7 a vendor, service company or operator shall not be required
8 to disclose trade secrets or confidential proprietary
9 information to the chemical disclosure registry.

10 (2) The following shall apply:

11 (i) If the specific identity of a chemical, the
12 concentration of a chemical or both the specific identity
13 and concentration of a chemical are claimed to be a trade
14 secret or confidential proprietary information, the
15 vendor, service provider or operator may withhold the
16 specific identity, the concentration, or both the
17 specific identity and concentration, of the chemical from
18 the information provided to the chemical disclosure
19 registry.

20 (ii) Nothing under this paragraph shall prohibit any
21 of the following from obtaining from a vendor, service
22 provider or operator information that may be needed to
23 respond to a spill or release:

24 (A) The department.

25 (B) A public health official.

26 (C) An emergency manager.

27 (D) A responder to a spill, release or a
28 complaint from a person who may have been directly
29 and adversely affected or aggrieved by the spill or
30 release.

1 (iii) Upon receipt of a written statement of need
2 for the information under subparagraph (ii), the
3 information shall be disclosed by the vendor, service
4 provider or operator to the requesting official or entity
5 authorized under subparagraph (ii) and shall not be a
6 public record.

7 (e) Disclosure prevented.--The department shall prevent
8 disclosure of trade secrets or confidential proprietary
9 information under this section pursuant to the requirements of
10 the Right-to-Know Law or other applicable State law.

11 (f) Well reporting.--Notwithstanding any other provision of
12 law, nothing in this section shall be construed to reduce or
13 modify the disclosure requirements for conventional well
14 operators contained in 25 Pa. Code Ch. 78 Subch. E (relating to
15 well reporting).

16 § 3223. Notification and effect of well transfer.

17 The owner or operator of a well shall notify the department
18 in writing within 30 days, in a form directed by regulation, of
19 sale, assignment, transfer, conveyance or exchange by or to the
20 owner of the well. A transfer shall not relieve the well owner
21 or operator of an obligation accrued under this chapter, nor
22 shall it relieve the owner or operator of an obligation to plug
23 the well until the requirements of section 3225 (relating to
24 bonding) have been met, at which time the transferring owner or
25 operator shall be relieved from all obligations under this
26 chapter, including the obligation to plug the well.

27 § 3224. Coal operator responsibilities.

28 (a) General rule.--At any time prior to removing coal or
29 other underground materials from, or extending the workings in,
30 a coal mine within 500 feet of an oil or gas well of which the

1 coal operator has knowledge, or within 500 feet of an approved
2 well location of which the coal operator has knowledge, the coal
3 operator, by certified mail, shall forward to or file with the
4 well operator and the department a copy of the relevant part of
5 all maps and plans which it is presently required by law to
6 prepare and file with the department, showing the pillar which
7 the coal operator proposes to leave in place around each oil or
8 gas well in the projected workings. Thereafter, the coal
9 operator may proceed with mining operations in the manner
10 projected on the maps and plans, but the operator may not remove
11 coal or cut a passageway within 150 feet of the well or approved
12 well location without written approval under this section. If,
13 in the opinion of the well operator or the department, the plan
14 indicates that the proposed pillar is inadequate to protect
15 either the integrity of the well or public health and safety,
16 the affected well operator shall attempt to reach an agreement
17 with the coal operator on a suitable pillar, subject to approval
18 of the department. Upon failure to agree, the well operator may,
19 within ten days after receipt of the proposed plan under this
20 section, file objections under section 3251 (relating to
21 conferences), indicating the size of the pillar to be left as to
22 each well. If objections are not timely filed and the department
23 has none, the department shall grant approval, reciting that
24 maps and plans have been filed, no objections have been made
25 thereto and the pillar proposed to be left for each well is
26 approved in the manner as projected.

27 (b) Objections.--If an objection is filed by the well
28 operator or raised by the department, the department shall order
29 that a conference be held under section 3251 within ten days of
30 the filing of objections. At the conference, the coal operator

1 and the person who has objected shall attempt to agree on a
2 proposed plan, showing the pillar to be left around each well,
3 which will satisfy the objections and receive department
4 approval. If an agreement is reached, the department shall grant
5 approval to the coal operator, reciting that a plan has been
6 filed and the pillar to be left for each well is approved
7 pursuant to the agreement. If an agreement is not reached on a
8 plan showing the pillar to be left with respect to a well, the
9 department, by appropriate order, shall determine the pillar to
10 be left with respect to the well. In a proceeding under this
11 section, the department shall follow as nearly as is possible
12 the original plan filed by the coal operator. The department
13 shall not require the coal operator to leave a pillar in excess
14 of 100 feet in radius, except that the department may require a
15 pillar of up to 150 feet in radius if the existence of unusual
16 conditions is established. Pillars determined by the department
17 shall be shown on maps or plans on file with the department as
18 provided in subsection (a), and the department shall approve the
19 pillar to be left for each well.

20 (c) Pillars of reduced size.--Application may be made at any
21 time to the department by the coal operator to leave a pillar of
22 a size smaller than shown on the plan approved or determined by
23 the department under this section. If an application is filed,
24 the department shall:

25 (1) follow the appropriate procedure under subsection
26 (a) or (b);

27 (2) by appropriate order, determine a plan involving a
28 pillar of a smaller size as to any well covered by the
29 application; and

30 (3) have the discretion to grant approval for the pillar

1 to be left with respect to each well.

2 (d) Violation.--No coal operator, without written approval
3 of the department after notice and opportunity for a hearing
4 under this section, shall remove coal or cut a passageway so as
5 to leave a pillar of smaller size, with respect to an oil or gas
6 well, than that approved by the department under this chapter.

7 (e) Limitation.--With regard to a coal pillar required by
8 law to be left around a well drilled prior to April 18, 1985,
9 nothing in this chapter shall be construed to:

10 (1) require a well operator to pay for the coal pillar;

11 (2) affect a right which a coal operator may have had
12 prior to April 18, 1985, to obtain payment for the coal
13 pillar; or

14 (3) affect a duty or right which a storage operator or
15 landowner may have had prior to April 18, 1985, to pay or not
16 pay for the coal pillar.

17 (f) Mining through plugged wells.--A coal operator who
18 intends to mine through a plugged oil or gas well or otherwise
19 completely remove any pillar from around that well shall file a
20 plan under subsection (a) which shall be subject to all of the
21 provisions of this section. No coal operator may mine through a
22 plugged oil or gas well of which he has knowledge until written
23 approval has been granted by the department in accordance with
24 this section. The Bureau of Deep Mine Safety in the department
25 shall have the authority to establish conditions under which the
26 department may approve a coal operator's plan to mine through a
27 plugged oil or gas well.

28 § 3225. Bonding.

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

30 (1) Except as provided in subsection (d), upon filing an

1 application for a well permit, and before continuing to
2 operate an oil or gas well, the owner or operator of the well
3 shall file with the department a bond covering the well and
4 well site on a form to be prescribed and furnished by the
5 department. A bond filed with an application for a well
6 permit shall be payable to the Commonwealth and conditioned
7 upon the operator's faithful performance of all drilling,
8 water supply replacement, restoration and plugging
9 requirements of this chapter. A bond for a well in existence
10 on April 18, 1985, shall be payable to the Commonwealth and
11 conditioned upon the operator's faithful performance of all
12 water supply replacement, restoration and plugging
13 requirements of this chapter. The amount of the bond required
14 shall be in the following amounts and may be adjusted by the
15 Environmental Quality Board every two years to reflect the
16 projected costs to the Commonwealth of plugging the well:

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

19 (A) For operating up to 50 wells, \$4,000 per
20 well; but no bond may be required under this clause
21 in excess of \$35,000.

22 (B) For operating 51 to 150 wells, \$35,000 plus
23 \$4,000 per well for each well in excess of 50 wells;
24 but no bond may be required under this clause in
25 excess of \$60,000.

26 (C) For operating 151 to 250 wells, \$60,000 plus
27 \$4,000 per well for each well in excess of 150 wells;
28 but no bond may be required under this clause in
29 excess of \$100,000.

30 (D) For operating more than 250 wells, \$100,000

1 plus \$4,000 per well for each well in excess of 250
2 wells; but no bond may be required under this clause
3 in excess of \$250,000.

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

6 (A) For operating up to 25 wells, \$10,000 per
7 well; but no bond may be required under this clause
8 in excess of \$140,000.

9 (B) For operating 26 to 50 wells, \$140,000 plus
10 \$10,000 per well for each well in excess of 25 wells;
11 but no bond may be required under this clause in
12 excess of \$290,000.

13 (C) For operating 51 to 150 wells, \$290,000 plus
14 \$10,000 per well for each well in excess of 50 wells;
15 but no bond may be required under this clause in
16 excess of \$430,000.

17 (D) For operating more than 150 wells, \$430,000
18 plus \$10,000 per well for each well in excess of 150
19 wells; but no bond may be required under this clause
20 in excess of \$600,000.

21 (2) In lieu of individual bonds for each well, an owner
22 or operator may file a blanket bond for the applicable amount
23 under paragraph (1), on a form prepared by the department,
24 covering all of its wells in this Commonwealth, as enumerated
25 on the bond form.

26 (3) Liability under the bond shall continue until the
27 well has been properly plugged in accordance with this
28 chapter and for a period of one year after filing of the
29 certificate of plugging with the department. Each bond shall
30 be executed by the operator and a corporate surety licensed

1 to do business in this Commonwealth and approved by the
2 secretary. In lieu of a corporate surety, the operator may
3 deposit with the department:

4 (i) cash;

5 (ii) certificates of deposit or automatically
6 renewable irrevocable letters of credit, from financial
7 institutions chartered or authorized to do business in
8 this Commonwealth and regulated and examined by the
9 Commonwealth or a Federal agency, which may be terminated
10 at the end of a term only upon 90 days' prior written
11 notice by the financial institution to the permittee and
12 the department;

13 (iii) negotiable bonds of the United States
14 Government or the Commonwealth, the Pennsylvania Turnpike
15 Commission, the General State Authority, the State Public
16 School Building Authority or any municipality within the
17 Commonwealth; or

18 (iv) United States Treasury Bonds issued at a
19 discount without a regular schedule of interest payments
20 to maturity, otherwise known as Zero Coupon Bonds, having
21 a maturity date of not more than ten years after the date
22 of purchase and at the maturity date having a value of
23 not less than the applicable amount under paragraph (1).
24 The cash deposit, certificate of deposit, amount of the
25 irrevocable letter of credit or market value of the
26 securities shall be equal at least to the sum of the
27 bond.

28 (4) The secretary shall, upon receipt of a deposit of
29 cash, letters of credit or negotiable bonds, immediately
30 place the same with the State Treasurer, whose duty it shall

1 be to receive and hold the same in the name of the
2 Commonwealth, in trust, for the purpose for which the deposit
3 is made.

4 (5) The State Treasurer shall at all times be
5 responsible for custody and safekeeping of deposits. The
6 operator making the deposit shall be entitled from time to
7 time to demand and receive from the State Treasurer, on the
8 written order of the secretary, the whole or any portion of
9 collateral deposited, upon depositing with the State
10 Treasurer, in lieu of that collateral, other collateral of
11 classes specified in this section having a market value at
12 least equal to the sum of the bond, and also to demand,
13 receive and recover the interest and income from the
14 negotiable bonds as they become due and payable.

15 (6) If negotiable bonds on deposit under this subsection
16 mature or are called, the State Treasurer, at the request of
17 the owner of the bonds, shall convert them into other
18 negotiable bonds, of classes specified in this section,
19 designated by the owner.

20 (7) If notice of intent to terminate a letter of credit
21 is given, the department shall give the operator 30 days'
22 written notice to replace the letter of credit with other
23 acceptable bond guarantees as provided in this section. If
24 the owner or operator fails to timely replace the letter of
25 credit, the department shall draw upon and convert the letter
26 of credit into cash and hold it as a collateral bond
27 guarantee.

28 (b) Release.--No bond shall be fully released until the
29 requirements of subsection (a) and section 3223 (relating to
30 notification and effect of well transfer) have been fully met.

1 Upon release of bonds and collateral under this section, the
2 State Treasurer shall immediately return to the owner the
3 specified amount of cash or securities.

4 (c) Noncompliance.--If a well owner or operator fails or
5 refuses to comply with subsection (a), regulations promulgated
6 under this chapter or conditions of a permit relating to this
7 chapter, the department may declare the bond forfeited and shall
8 certify the same to the Attorney General, who shall proceed to
9 enforce and collect the full amount of the bond and, if the well
10 owner or operator has deposited cash or securities as collateral
11 in lieu of a corporate surety, the department shall declare the
12 collateral forfeited and direct the State Treasurer to pay the
13 full amount of the funds into the Well Plugging Restricted
14 Revenue Account or to sell the security to the extent forfeited
15 and pay the proceeds into the Well Plugging Restricted Revenue
16 Account. If a corporate surety or financial institution fails to
17 pay a forfeited bond promptly and in full, the corporate surety
18 or financial institution shall be disqualified from writing
19 further bonds under this chapter or any other environmental law
20 administered by the department. A person aggrieved by reason of
21 forfeiting the bond or converting collateral, as provided in
22 this section, shall have a right to appeal to the Environmental
23 Hearing Board in the manner provided by law. Upon forfeiture of
24 a blanket bond for a violation occurring at one or more well
25 sites, the person whose bond is forfeited shall, within ten days
26 of the forfeiture, submit a replacement bond to cover all other
27 wells of which the person is an owner or operator. Failure to
28 submit the replacement bond constitutes a violation of this
29 section as to each of the wells owned or operated by the person.

30 (d) Alternatives to certain bonds.--The following shall

1 apply:

2 (1) An operator of not more than 200 wells who cannot
3 obtain a bond for a well drilled prior to April 18, 1985, as
4 required under subsection (a), due to inability to
5 demonstrate sufficient financial resources may, in lieu of
6 the bond:

7 (i) Submit to the department a fee in the amount of
8 \$50 per well, a blanket fee of \$500 for ten to 20 wells
9 or a blanket fee of \$1,000 for more than 20 wells, which
10 shall be a nonrefundable fee paid each year that the
11 operator has not filed a bond with the department. All
12 fees collected in lieu of a bond under this subsection
13 shall be used for the purposes authorized by this
14 chapter. The Environmental Quality Board shall have the
15 power, by regulation, to increase the amount of the fees
16 established under this subsection.

17 (ii) Make phased deposits of collateral to fully
18 collateralize the bond, subject to the following:

19 (A) Payment shall be based on the number of
20 wells owned or operated. The operator shall make an
21 initial deposit and make annual deposits in
22 accordance with the schedule in clause (B). Interest
23 accumulated by the collateral shall become a part of
24 the bond until the collateral plus accumulated
25 interest equals the amount of the required bond. The
26 collateral shall be deposited, in trust, with the
27 State Treasurer as provided in this subsection or
28 with a bank selected by the department which shall
29 act as trustee for the benefit of the Commonwealth to
30 guarantee the operator's compliance with the

1 drilling, water supply replacement, restoration and
2 plugging requirements of this chapter. The operator
3 shall be required to pay all costs of the trust.

4 (B) An operator of up to ten existing wells who
5 does not intend to operate additional wells shall
6 deposit \$250 per well and shall, thereafter, annually
7 deposit \$50 per well until the obligations of this
8 section are fully met. An operator of 11 to 25 wells
9 or an operator of up to ten wells who applies for one
10 or more permits for additional wells shall deposit
11 \$2,000 and shall, thereafter, annually deposit \$1,150
12 plus \$150 for each additional well to be permitted
13 that year until the obligations of this section are
14 fully met. An operator of 26 to 50 wells shall
15 deposit \$3,000 and shall, thereafter, annually
16 deposit \$1,300 plus \$400 for each additional well to
17 be permitted that year until the obligations of this
18 section are fully met. An operator of 51 to 100 wells
19 shall deposit \$4,000 and shall, thereafter, annually
20 deposit \$1,500 plus \$400 for each additional well to
21 be permitted that year until the obligations of this
22 section are fully met. Operators of 101 to 200 wells
23 shall deposit \$8,000 and shall, thereafter, annually
24 deposit \$1,600 plus \$1,000 for each additional well
25 to be permitted that year until the obligations of
26 this section are fully met. Operators of more than
27 200 wells shall fully bond their wells immediately.

28 (C) The department shall reduce the amount of
29 phased collateral payments or the period of time over
30 which phased collateral payments shall be made on

1 behalf of owners or operators who, prior to August 1,
2 1992, have paid a fee in lieu of bond under
3 subparagraph (i), and who, by August 1, 1993, choose
4 to enter the phased collateral program under this
5 subparagraph rather than continue to make payments in
6 lieu of bond. Payments made prior to August 1, 1992,
7 in lieu of bond shall not be credited in any other
8 manner, and the department shall not be required to
9 refund the fees. The Environmental Quality Board, by
10 regulation, may change the annual deposits
11 established under clause (B) if necessary to
12 accommodate a change in the amount of the bond
13 required under this section.

14 (2) An operator may continue to pay a fee in lieu of
15 bond or make phased deposits of collateral to fully
16 collateralize the bond so long as the operator does not miss
17 a payment under this subsection and remains in compliance
18 with this chapter. If an operator misses a payment under this
19 subsection, the operator shall:

20 (i) immediately submit the appropriate bond amount
21 in full; or

22 (ii) cease all operations and plug all wells.

23 (d.1) Individuals.--The following shall apply:

24 (1) An individual who is unable to obtain a bond to
25 drill new wells due to inability to demonstrate financial
26 resources may meet the collateral bond requirements of
27 subsection (a) by making phased deposits of collateral to
28 fully collateralize the bond. The individual shall be limited
29 to drilling ten new wells per calendar year and, for each
30 well to be drilled, deposit \$500 and make an annual deposit

1 of 10% of the remaining bond amount for a period of ten
2 years. Interest accumulated shall become a part of the bond
3 until the collateral plus accumulated interest equals the
4 amount of the required bond. The collateral shall be
5 deposited in trust with the State Treasurer under subsection
6 (a) or with a bank selected by the department which shall act
7 as trustee for the benefit of the Commonwealth to guarantee
8 the individual's compliance with the drilling, water supply
9 replacement, restoration and plugging requirements of this
10 chapter. The individual shall pay all costs of the trust.

11 (2) Individuals may continue to use phased collateral to
12 obtain permits if they have not missed a payment for a well
13 drilled under this provision and remain in compliance with
14 this chapter. If an individual misses a payment, the
15 individual shall:

- 16 (i) immediately submit the appropriate bond amount
17 in full; or
18 (ii) cease all operations and plug all wells.

19 (3) For purposes of this subsection, an "individual"
20 means a natural person doing business under his own name.

21 (e) Reservation of remedies.--All remedies for violations of
22 this chapter, regulations adopted under this chapter and
23 conditions of permits are expressly preserved. Nothing in this
24 section shall be construed as an exclusive penalty or remedy for
25 violations of law. No action taken under this section shall
26 waive or impair any other remedy or penalty provided in law.

27 (f) Change of law.--Owners or operators who have failed to
28 meet the requirements of this section prior to August 1, 1992,
29 shall not be required to make payments under this section on a
30 retroactive basis as a condition of obtaining a permit under

1 this chapter, nor shall the failure be deemed a violation of
2 this chapter.

3 (g) Definition.--As used in this section, the term "well
4 site" means areas occupied by all equipment or facilities
5 necessary for or incidental to drilling, production or plugging
6 a well.

7 § 3226. Oil and Gas Technical Advisory Board.

8 (a) Creation of board.--The Oil and Gas Technical Advisory
9 Board is created, consisting of the following members, all of
10 whom shall be chosen by the Governor and shall be residents of
11 this Commonwealth:

12 (1) Three individuals, each of whom shall be:

13 (i) a petroleum engineer;

14 (ii) a petroleum geologist; or

15 (iii) an experienced driller representative of the
16 oil and gas industry with three years of experience in
17 this Commonwealth.

18 (2) One mining engineer from the coal industry with
19 three years of experience in this Commonwealth.

20 (3) One geologist or petroleum engineer with three years
21 of experience in this Commonwealth, who shall be chosen from
22 a list of three names submitted by the Citizens Advisory
23 Council to the Governor and who shall sit as a representative
24 of the public interest.

25 (b) Reimbursement.--Board members shall not receive a salary
26 but shall be reimbursed for all necessary expenses incurred in
27 the performance of their duties.

28 (c) Majority vote.--All actions of the board shall be by
29 majority vote. The board shall meet as called by the secretary,
30 but not less than semiannually, to carry out its duties under

1 this chapter. The board shall select a chairman and other
2 officers deemed appropriate.

3 (d) Consultation.--The department shall consult with the
4 board in the formulation, drafting and presentation stages of
5 all regulations of a technical nature promulgated under this
6 chapter. The board shall be given a reasonable opportunity to
7 review and comment on all regulations of a technical nature
8 prior to submission to the Environmental Quality Board for
9 initial consideration. The written report of the board shall be
10 presented to the Environmental Quality Board with any regulatory
11 proposal. The chairman of the board shall be invited to
12 participate in the presentation of all regulations of a
13 technical nature before the Environmental Quality Board to the
14 extent allowed by procedures of the Environmental Quality Board.
15 Nothing herein shall preclude any member of the board from
16 filing a petition for rulemaking with the Environmental Quality
17 Board in accordance with procedures established by the
18 Environmental Quality Board.

19 § 3227. Air contaminant emissions.

20 (a) Natural gas operations.--An owner or operator of a
21 facility conducting natural gas operations in unconventional
22 formations including development, production, transmission and
23 processing shall submit to the department a source report
24 identifying and quantifying actual air contaminant emissions
25 from any air contamination source. The report shall include a
26 description of the methods used to calculate annual emissions.

27 (b) Air contamination sources.--An owner or operator of a
28 stationary air contamination source shall complete the reports
29 required under this section using forms and procedures specified
30 by the department.

1 (c) Nitrogen oxides and volatile organic compounds.--A
2 statement under 25 Pa. Code Ch. 135 (relating to reporting of
3 sources) for nitrogen oxides and volatile organic compounds
4 shall be submitted to the department according to the schedule
5 specified in subsection (d).

6 (d) Time.--The report for 2011 actual emissions shall be
7 submitted to the department on a schedule established by the
8 department. Each year after 2011, the report shall be submitted
9 to the department by March 1 for air contaminant emissions
10 during the preceding calendar year unless a different reporting
11 schedule is required by the Clean Air Act (69 Stat. 322, 42
12 U.S.C. § 7401 et seq.) or regulations adopted under that act.

13 SUBCHAPTER C

14 UNDERGROUND GAS STORAGE

15 Sec.

16 3231. Reporting requirements for gas storage operations.

17 3232. Reporting requirements for coal mining operations.

18 3233. General gas storage reservoir operations.

19 3234. Gas storage reservoir operations in coal areas.

20 3235. Inspection of facilities and records.

21 3236. Reliance on maps and burden of proof.

22 3237. Exemptions and prohibitions.

23 § 3231. Reporting requirements for gas storage operations.

24 (a) General duties.--The following shall apply:

25 (1) A person injecting into or storing gas in a storage
26 reservoir underlying or within 3,000 linear feet of an
27 operating coal mine in a coal seam that extends over the
28 storage reservoir or reservoir protective area shall, within
29 60 days, file with the department a copy of a map and certain
30 data in the form and manner provided in this subsection or as

1 otherwise prescribed by regulation of the department.

2 (2) A person injecting gas into or storing gas in a
3 storage reservoir which is not under or within 3,000 linear
4 feet of, but less than 10,000 linear feet from, an operating
5 coal mine in a coal seam that extends over the storage
6 reservoir or reservoir protective area shall file the map and
7 data within 60 days or a longer period set by departmental
8 regulation.

9 (3) A person proposing to inject or store gas in a
10 storage reservoir located as defined in paragraph (1) or (2)
11 shall file the appropriate required map and data with the
12 department not less than six months prior to starting the
13 actual injection or storage.

14 (4) A map required by this subsection shall be prepared
15 by a competent engineer or geologist, showing:

16 (i) the stratum in which the existing or proposed
17 storage reservoir is or is proposed to be located;

18 (ii) the geographic location of the outside
19 boundaries of the storage reservoir and reservoir
20 protective area;

21 (iii) the location of all known oil or gas wells in
22 the reservoir or within 3,000 linear feet thereof which
23 have been drilled into or through the storage stratum,
24 indicating which have been or are to be cleaned out and
25 plugged or reconditioned for storage along with the
26 proposed location of all additional wells which are to be
27 drilled within the storage reservoir or within 3,000
28 linear feet thereof.

29 (5) The following, if available, shall be furnished for
30 all known oil or gas wells which have been drilled into or

1 through the storage stratum within the storage reservoir or
2 within 3,000 linear feet thereof: name of the operator, date
3 drilled, total depth, depth of production if the well was
4 productive of oil or gas, the initial rock pressure and
5 volume, the depths at which all coal seams were encountered
6 and a copy of the driller's log or other similar information.
7 At the time of the filing of the maps and data, a statement
8 shall be filed:

9 (i) detailing efforts made to determine that the
10 wells shown are accurately located on the map;

11 (ii) affirming that the wells shown represent, to
12 the best of the operator's knowledge, all oil or gas
13 wells which have ever been drilled into or below the
14 storage stratum within the proposed storage reservoir or
15 within the reservoir protective area;

16 (iii) stating whether the initial injection is for
17 testing purposes;

18 (iv) stating the maximum pressure at which injection
19 and storage of gas is contemplated; and

20 (v) providing a detailed explanation of the methods
21 to be used or which previously have been used in
22 drilling, cleaning out, reconditioning and plugging wells
23 in the storage reservoir or within the reservoir
24 protective area.

25 (6) The map and data required to be filed under
26 paragraph (5) shall be amended or supplemented semiannually
27 if material changes occur. The department may require a
28 storage operator to amend or supplement the map or data at
29 more frequent intervals if material changes have occurred
30 justifying the earlier filing.

1 (b) Other reporting requirements.--A person who is injecting
2 gas into or storing gas in a storage reservoir not at the time
3 subject to subsection (a), by a process other than that of
4 secondary recovery or gas recycling, shall, within 60 days, or a
5 longer period set by departmental regulations, file maps and
6 data required by departmental regulation and as follows:

7 (1) A person who, after April 18, 1985, proposes to
8 inject or store gas in a storage reservoir in an area not
9 covered by subsection (a) by a process other than that of
10 secondary recovery or gas recycling shall file the required
11 map and data with the department not less than six months
12 prior to the starting of actual injection or storage.

13 (2) The map shall be prepared by a competent engineer or
14 competent geologist and show:

15 (i) the stratum in which the existing or proposed
16 storage reservoir is or is to be located;

17 (ii) the geographic location of the outside
18 boundaries of the storage reservoir; and

19 (iii) the location of all known oil or gas wells
20 within the reservoir, or within 3,000 linear feet
21 thereof, which have been drilled into or through the
22 storage stratum, indicating which have been or are to be
23 cleaned out and plugged or reconditioned for storage and
24 the proposed location of all additional wells which are
25 to be drilled within the storage reservoir or within
26 3,000 linear feet thereof.

27 (3) The following, if available, shall be furnished for
28 all known oil or gas wells which have been drilled into or
29 through the storage stratum within the storage reservoir or
30 within 3,000 linear feet thereof: name of the operator, date

1 drilled, total depth, depth of production if the well was
2 productive of oil or gas, the initial rock pressure and
3 volume and a copy of the driller's log or other similar
4 information. At the time of the filing of the maps and data,
5 a statement shall be filed:

6 (i) detailing efforts made to determine that the
7 wells shown are accurately located on the map;

8 (ii) affirming that the wells shown represent, to
9 the best of the operator's knowledge, all oil or gas
10 wells which have ever been drilled into or below the
11 storage stratum within the proposed storage reservoir;

12 (iii) stating whether the initial injection is for
13 testing purposes;

14 (iv) stating the maximum pressure at which injection
15 and storage of gas is contemplated; and

16 (v) providing a detailed explanation of the methods
17 to be used or which previously have been used in
18 drilling, cleaning out, reconditioning and plugging wells
19 in the storage reservoir.

20 (4) The map and data required to be filed under
21 paragraph (3) shall be amended or supplemented semiannually
22 if material changes occur. The department may require a
23 storage operator to amend or supplement the map or data at
24 more frequent intervals if material changes have occurred
25 justifying the earlier filing.

26 (c) Political subdivisions.--Storage operators shall give
27 notice to the department of the name of each political
28 subdivision and county in which the operator maintains and
29 operates a gas storage reservoir.

30 (d) Notice to affected persons.--At the time of the filing

1 of maps and data and the filing of amended or supplemental maps
2 or data required by this section, the person filing the
3 information shall give written notice of the filing to all
4 persons who may be affected under the provisions of this chapter
5 by the storage reservoir described in the maps or data. Notices
6 shall contain a description of the boundaries of the storage
7 reservoir. When a person operating a coal mine or owning an
8 interest in coal properties which are or may be affected by the
9 storage reservoir requests, in writing, a copy of any map or
10 data filed with the department, the copy shall be furnished by
11 the storage operator.

12 (e) Outside boundaries.--For purposes of this chapter, the
13 outside boundaries of a storage reservoir shall be defined by
14 the location of those wells around the periphery of the storage
15 reservoir which had no gas production when drilled in the
16 storage stratum. The boundaries shall be originally fixed or
17 subsequently changed if, based on the number and nature of the
18 wells and the geological and production knowledge of the storage
19 stratum, its character, permeability, distribution and operating
20 experience, it is determined in a conference under section 3251
21 (relating to conferences) that modifications should be made.

22 (f) Inapplicability of section.--The requirements of this
23 section shall not apply to the operator of an underground gas
24 storage reservoir so long as the reservoir is located more than
25 10,000 linear feet from an operating coal mine, except that the
26 storage operator shall give notice to the department of the name
27 of each political subdivision and county in which the operator
28 maintains and operates a gas storage reservoir. In political
29 subdivisions and counties where both gas storage reservoirs and
30 coal mines are being operated, the department may request the

1 storage operator to furnish maps showing geographical locations
2 and outside boundaries of the storage reservoirs. The department
3 shall keep a record of the information and promptly notify the
4 coal operator and the storage operator when notified by them
5 that the coal mine and storage reservoir are within 10,000
6 linear feet of each other.

7 § 3232. Reporting requirements for coal mining operations.

8 (a) General rule.--A person owning or operating a coal mine
9 shall file with the department a map prepared and sealed by a
10 competent individual licensed as a professional engineer or
11 professional land surveyor under the provisions of the act of
12 May 23, 1945 (P.L.913, No.367), known as the Engineer, Land
13 Surveyor and Geologist Registration Law, showing the outside
14 coal boundaries of the operating coal mine, the existing
15 workings and exhausted areas and the relationship of the
16 boundaries to identifiable surface properties and landmarks. A
17 person owning or operating an operating coal mine which has been
18 penetrated by a well shall furnish a mine map to the department
19 each year indicating the excavations for the preceding year and
20 the projections for the ensuing year. The map required by this
21 subsection shall be furnished to a person storing or
22 contemplating the storage of gas in the vicinity of operating
23 coal mines, upon written request, by the coal operator, and the
24 person and the department shall thereafter be informed of any
25 boundary changes at the time the changes occur. The department
26 shall keep a record of the information and promptly notify the
27 coal operator and storage operator when notified by them that
28 the coal mine and the storage reservoir are within 10,000 linear
29 feet of each other.

30 (b) Mines near certain reservoirs.--A person owning or

1 operating any coal mine which is or which comes within 10,000
2 linear feet of a storage reservoir and where the coal seam being
3 operated extends over the storage reservoir or reservoir
4 protective area shall, within 45 days after receiving notice
5 from the storage operator of that fact, file with the department
6 and furnish to the person operating the storage reservoir a map
7 in the form required by subsection (a) showing, in addition to
8 the requirements of subsection (a), existing and projected
9 excavations and workings of the operating coal mine for the
10 ensuing 18-month period and the location of oil or gas wells of
11 which the coal operator has knowledge. The person owning or
12 operating the coal mine shall, each six months thereafter, file
13 with the department and furnish to the person operating the
14 storage reservoir a revised map showing any additional
15 excavations and workings, together with the projected
16 excavations and workings for the then ensuing 18-month period,
17 which may be within 10,000 linear feet of the storage reservoir.
18 The department may require a coal operator to file revised maps
19 at more frequent intervals if material changes have occurred
20 justifying earlier filing. The person owning or operating the
21 coal mine shall also file with the department and furnish the
22 person operating the reservoir prompt notice of any wells which
23 have been cut into, together with all available pertinent
24 information.

25 (c) Mines near gas storage reservoirs.--A person owning or
26 operating a coal mine who has knowledge that it overlies or is
27 within 2,000 linear feet of a gas storage reservoir shall,
28 within 30 days, notify the department and the storage operator
29 of that fact.

30 (d) Mines projected to be near storage reservoirs.--When a

1 person owning or operating a coal mine expects that, within the
2 ensuing nine-month period, the coal mine will be extended to a
3 point which will be within 2,000 linear feet of any storage
4 reservoir, the person shall notify the department and storage
5 operator in writing of that fact.

6 (e) New mines.--A person intending to establish or
7 reestablish an operating coal mine which will be over a storage
8 reservoir or within 2,000 linear feet of a storage reservoir or
9 may, within nine months thereafter, be expected to be within
10 2,000 linear feet of a storage reservoir shall immediately
11 notify the department and storage operator in writing. Notice
12 shall include the date on which the person intends to establish
13 or reestablish the operating coal mine.

14 (f) Misdemeanor.--A person who serves notice as required by
15 this subsection of an intention to establish or reestablish an
16 operating coal mine, without intending in good faith to
17 establish or reestablish the mine, is liable for continuing
18 damages to a storage operator injured by the improper notice and
19 commits a misdemeanor subject to the penalties of section 3255
20 (relating to penalties).

21 § 3233. General gas storage reservoir operations.

22 (a) General rule.--A person who operates or proposes to
23 operate a storage reservoir, except one filled by the secondary
24 recovery or gas recycling process, shall:

25 (1) Use every known method which is reasonable under the
26 circumstances for discovering and locating all wells which
27 have or may have been drilled into or through the storage
28 reservoir.

29 (2) Plug or recondition, as provided in departmental
30 regulations, all known wells drilled into or through the

1 storage reservoir, except to the extent otherwise provided in
2 subsections (b) and (c).

3 (b) Wells to be plugged.--To comply with subsection (a),
4 wells which are to be plugged shall be plugged in the manner
5 specified in section 3220 (relating to plugging requirements).

6 (b.1) Wells plugged prior to enactment of section.--If a
7 well located in the storage reservoir area has been plugged
8 prior to April 18, 1985, and on the basis of data, information
9 and other evidence submitted to the department, it is determined
10 that the plugging was done in the manner required by section
11 3220 or approved as an alternative method under section 3221
12 (relating to alternative methods) and the plugging is still
13 sufficiently effective to meet the requirements of this chapter,
14 the obligations under subsection (a) with regard to plugging the
15 well shall be considered to have been fully satisfied.

16 (c) Wells to be reconditioned.--The following shall apply:

17 (1) To comply with subsection (a), wells which are to be
18 reconditioned shall, unless the department by regulation
19 specifies a different procedure, be cleaned out from the
20 surface through the storage horizon, and the producing casing
21 and casing strings determined not to be in good physical
22 condition shall be replaced with new casing, using the same
23 procedure as is applicable to drilling a new well under this
24 chapter. In the case of wells to be used for gas storage, the
25 annular space between each string of casing and the annular
26 space behind the largest diameter casing to the extent
27 possible shall be filled to the surface with cement or
28 bentonitic mud or a nonporous material approved by the
29 department under section 3221. At least 15 days prior to
30 reconditioning, the storage operator shall give notice to the

1 department, setting forth in the notice the manner in which
2 it is planned to recondition the well and any pertinent data
3 known to the storage operator which will indicate the
4 condition of the well existing at that time. In addition, the
5 storage operator shall give the department at least 72 hours'
6 notice of the time when reconditioning is to begin. If no
7 objections are raised by the department within ten days, the
8 storage operator may proceed with reconditioning in
9 accordance with the plan as submitted. If objections are made
10 by the department, the department may fix a time and place
11 for a conference under section 3251 (relating to conferences)
12 at which the storage operator and department shall endeavor
13 to agree on a plan to satisfy the objections and meet the
14 requirements of this section. If no agreement is reached, the
15 department may, by an appropriate order, determine whether
16 the plan as submitted meets the requirements of this section
17 or what changes, if any, are required. If, in reconditioning
18 a well in accordance with the plan, physical conditions are
19 encountered which justify or necessitate a change in the
20 plan, the storage operator may request that the plan be
21 changed. If the request is denied, the department shall fix a
22 conference under section 3251 and proceed in the same manner
23 as with original objections. An application may be made in
24 the manner prescribed by section 3221 for approval of an
25 alternative method of reconditioning a well. If a well
26 located within the storage reservoir was reconditioned, or
27 drilled and equipped, prior to April 18, 1985, the
28 obligations imposed by subsection (a), as to reconditioning
29 the well, shall be considered fully satisfied if, on the
30 basis of the data, information and other evidence submitted

1 to the department, it is determined that:

2 (i) The conditioning or previous drilling and
3 equipping was done in the manner required in this
4 subsection, in regulations promulgated under this chapter
5 or in a manner approved as an alternative method in
6 accordance with section 3221.

7 (ii) The reconditioning or previous drilling and
8 equipping is still sufficiently effective to meet the
9 requirements of this chapter.

10 (2) If a well requires emergency repairs, this chapter
11 shall not be construed to require the storage operator to
12 give any notice required by this subsection before making the
13 repairs.

14 (d) Exception.--The requirements of subsection (a) shall not
15 apply to injection of gas into a stratum when the sole purpose
16 of injection, referred to in this subsection as testing, is to
17 determine whether the stratum is suitable for storage purposes.
18 Testing shall be conducted only in compliance with the following
19 requirements:

20 (1) The person testing or proposing to test shall comply
21 with section 3231 (relating to reporting requirements for gas
22 storage operations) and verify the statement required to be
23 filed by that section.

24 (2) The storage operator shall give at least six months'
25 written notice to the department of the fact that injection
26 of gas for testing purposes is proposed.

27 (3) If the department has objections, the department
28 shall fix a time and place for a conference under section
29 3251, not more than ten days from the date of notice to the
30 storage operator, at which time the storage operator and

1 department shall attempt to resolve the issues presented. If
2 an agreement cannot be reached, the department may issue an
3 appropriate order.

4 (e) Failure to execute lawful order.--In a proceeding under
5 this chapter, if the department determines that an operator of a
6 storage reservoir has failed to carry out a lawful order issued
7 under this chapter, the department may require the operator to
8 suspend operation of the reservoir and withdraw the gas until
9 the violation is remedied, in which case the storage operator,
10 limited by due diligence insofar as existing facilities utilized
11 to remove gas from the reservoir will permit, shall:

12 (1) if possible, remove the amount required by the
13 department to be removed; or

14 (2) in any event, remove the maximum amount which can be
15 withdrawn in accordance with recognized engineering and
16 operating procedures.

17 (f) Duty of storage reservoir operator.--The following shall
18 apply:

19 (1) A person owning or operating a storage reservoir
20 subject to this chapter shall have a duty to:

21 (i) Maintain all wells drilled into or through the
22 reservoir in a condition, and operate them in a manner,
23 sufficient to prevent the escape of gas.

24 (ii) Operate and maintain the reservoir and its
25 facilities as prescribed by departmental regulations and
26 at a pressure which will prevent gas from escaping, but
27 the pressure shall not exceed the highest rock pressure
28 found to have existed during the production history of
29 the reservoir or another high pressure limit approved by
30 the department after holding a conference under section

1 3251 based on geological and production knowledge of the
2 reservoir, its character, permeability distribution and
3 operating experience.

4 (2) The duty under paragraph (1) shall not be construed
5 to include inability to prevent the escape of gas when gas
6 escapes as a result of an act of God or a person not under
7 the control of the storage operator. In that instance, the
8 storage operator shall have a duty to take action reasonably
9 necessary to prevent further escape of gas. This paragraph
10 does not apply to a well which the storage operator failed to
11 locate and make known to the department.

12 § 3234. Gas storage reservoir operations in coal areas.

13 (a) General rule.--A person operating a storage reservoir
14 which underlies or is within 2,000 linear feet of a coal mine
15 operating in a coal seam that extends over the storage reservoir
16 or the reservoir protective area shall:

17 (1) Use every known reasonable method for discovering
18 and locating all wells which have or may have been drilled
19 into or through the storage stratum in the acreage lying
20 within the outside coal boundaries of the operating coal mine
21 overlying the storage reservoir or the reservoir protective
22 area.

23 (2) Plug or recondition, as provided by section 3220
24 (relating to plugging requirements) and subsection (e), all
25 known wells, except to the extent provided in subsections
26 (e), (f), (g) and (h), drilled into or through the storage
27 stratum and located within the portion of the acreage of the
28 operating coal mine overlying the storage reservoir or the
29 reservoir protective area. If an objection is raised as to
30 use of a well as a storage well and after a conference under

1 section 3251 (relating to conferences), it is determined by
2 the department, taking into account all circumstances and
3 conditions, that the well should not be used as a storage
4 well, the well shall be plugged unless, in the opinion of the
5 storage operator, the well may be used as a storage well in
6 the future, in which case, upon approval of the department
7 after taking into account all circumstances and conditions,
8 the storage operator may recondition and inactivate the well
9 rather than plug it.

10 (3) The requirements of paragraph (2) shall be deemed to
11 have been fully complied with if, as the operating coal mine
12 is extended, all wells which from time to time come within
13 the acreage described in paragraph (2) are reconditioned or
14 plugged as provided in section 3220 and subsection (e) or (f)
15 so that, by the time the coal mine has reached a point within
16 2,000 linear feet of the wells, they will have been
17 reconditioned or plugged in accordance with section 3220 and
18 subsection (e) or (f).

19 (b) Verified statement.--A person operating a storage
20 reservoir referred to in subsection (a) shall file with the
21 department and furnish a copy to the person operating the
22 affected operating coal mine a verified statement setting forth:

23 (1) That the map and any supplemental maps required by
24 section 3231(a) (relating to reporting requirements for gas
25 storage operations) have been prepared and filed in
26 accordance with section 3231.

27 (2) A detailed explanation of what the storage operator
28 has done to comply with the requirements of subsection (a) (1)
29 and (2) and the results of those actions.

30 (3) Such additional efforts, if any, as the storage

1 operator is making and intends to make to locate all wells.

2 (4) Any additional wells that are to be plugged or
3 reconditioned to meet the requirements of subsection (a) (2).

4 (b.1) Order of department.--If the statement required under
5 subsection (b) is not filed by the storage reservoir operator
6 within the time specified by this chapter or the regulations of
7 the department, the department may order the operator to file
8 the statement.

9 (c) Procedure.--Within 120 days after receipt of a statement
10 required by this section, the department may direct that a
11 conference be held in accordance with section 3251 to determine
12 whether the requirements of section 3231 and subsection (a) have
13 been fully met. At the conference, if any person believes the
14 requirements have not been fully met, the parties shall attempt
15 to agree on additional actions to be taken and the time for
16 completion, subject to approval of the department. If an
17 agreement cannot be reached, the department shall make a
18 determination and, if the department determines any requirements
19 have not been met, the department shall issue an order
20 specifying in detail the extent to which the requirements have
21 not been met and the actions which the storage operator must
22 complete to meet the requirements. The order shall grant as much
23 time as is reasonably necessary to fully comply. If the storage
24 operator encounters conditions not known to exist at the time of
25 issuance of the order and which materially affect the validity
26 of the order or the ability of the storage operator to comply
27 with it, the storage operator may apply for a rehearing or
28 modification of the order.

29 (d) Notification.--If, in complying with subsection (a), a
30 storage operator, after filing the statement provided for in

1 subsection (b), plugs or reconditions a well, the storage
2 operator shall notify the department and the coal operator
3 affected, in writing, setting forth facts indicating the manner
4 in which the plugging or reconditioning was done. Upon receipt
5 of the notification, the coal operator or department may request
6 a conference under section 3251.

7 (e) Plugging wells.--In order to meet the requirements of
8 subsection (a), wells which are to be plugged shall be plugged
9 in the manner specified in regulations promulgated under section
10 3211 (relating to well permits). When a well located within the
11 storage reservoir or the reservoir protective area has been
12 plugged prior to April 18, 1985, and, on the basis of the data
13 information and other evidence submitted to the department, it
14 is determined that the plugging was done in the manner required
15 by section 3220, or in a manner approved as an alternative
16 method in accordance with section 3221 (relating to alternative
17 methods), and the plugging is still sufficiently effective to
18 meet the requirements of this chapter, the requirements of
19 subsection (a) as to plugging the well shall be considered to
20 have been fully satisfied.

21 (f) Reconditioned wells.--The following shall apply:

22 (1) In order to comply with subsection (a), unless the
23 department by regulation specifies a different procedure,
24 wells which are to be reconditioned shall be cleaned out from
25 the surface through the storage horizon, and the following
26 casing strings shall be pulled and replaced with new casing,
27 using the procedure applicable to drilling a new well under
28 this chapter:

29 (i) the producing casing;

30 (ii) the largest diameter casing passing through the

1 lowest workable coal seam unless it extends at least 25
2 feet below the bottom of the coal seam and is determined
3 to be in good physical condition, but the storage
4 operator may, instead of replacing the largest diameter
5 casing, replace the next largest casing string if the
6 casing string extends at least 25 feet below the lowest
7 workable coal seam; and

8 (iii) casing strings determined not to be in good
9 physical condition.

10 (2) In the case of a well to be used for gas storage,
11 the annular space between each string of casing and the
12 annular space behind the largest diameter casing, to the
13 extent possible, shall be filled to the surface with cement
14 or bentonitic mud or an equally nonporous material approved
15 by the department under section 3221.

16 (3) At least 15 days before a well is to be
17 reconditioned, the storage operator shall give notice to the
18 department and the coal operator, lessee or owner, setting
19 forth the manner in which reconditioning is planned and
20 pertinent data known to the storage operator which will
21 indicate the current condition of the well, along with at
22 least 72 hours' notice of the date and time when
23 reconditioning will begin. The coal operator, lessee or owner
24 shall have the right to file, within ten days after receipt
25 of the notice, objections to the plan of reconditioning as
26 submitted by the storage operator. If no objections are filed
27 and none are raised by the department within ten days, the
28 storage operator may proceed with reconditioning in
29 accordance with the plan as submitted. If an objection is
30 filed or made by the department, the department shall fix a

1 time and place for a conference under section 3251, at which
2 conference the storage operator and the person having
3 objections shall attempt to agree on a plan of reconditioning
4 that meets the requirements of this section. If no agreement
5 is reached, the department shall, by an appropriate order,
6 determine whether the plan as submitted meets the
7 requirements of this section or what changes should be made
8 to meet the requirements. If, in reconditioning the well in
9 accordance with the plan, physical conditions are encountered
10 which justify or necessitate a change in the plan, the
11 storage operator or coal operator may request that the plan
12 be changed. If the parties cannot agree on a change, the
13 department shall arrange for a conference to determine the
14 matter in the same manner as set forth in connection with
15 original objections to the plan.

16 (4) Application may be made to the department in the
17 manner prescribed in section 3221 for approval of an
18 alternative method of reconditioning a well. When a well
19 located within the storage reservoir or the reservoir
20 protective area has been reconditioned or drilled and
21 equipped prior to April 18, 1985, and, on the basis of the
22 data, information and other evidence submitted to the
23 department, the obligations imposed by subsection (a) as to
24 reconditioning the well shall be considered to be fully
25 satisfied if it is determined that reconditioning or previous
26 drilling and equipping:

27 (i) was done in the manner required in this
28 subsection, or in regulations promulgated hereunder, or
29 in a manner approved as an alternative method in
30 accordance with section 3221; or

1 (ii) is still sufficiently effective to meet the
2 requirements of this chapter.

3 (5) If a well requires emergency repairs, this
4 subsection shall not be construed to require the storage
5 operator to give the notices specified herein before making
6 the repairs.

7 (g) Producing wells.--If a well located within the reservoir
8 protective area is a producing well in a stratum below the
9 storage stratum, the obligations imposed by subsection (a) shall
10 not begin until the well ceases to be a producing well.

11 (h) Certain other wells.--If a well within a storage
12 reservoir or reservoir protective area penetrates the storage
13 stratum but does not penetrate the coal seam being mined by an
14 operating coal mine, the department may, upon application of the
15 operator of the storage reservoir, exempt the well from the
16 requirements of this section. Either party affected may request
17 a conference under section 3251 with respect to exemption of a
18 well covered by this subsection.

19 (i) Plugging limitation.--In fulfilling the requirements of
20 subsection (a)(2) with respect to a well within the reservoir
21 protective area, the storage operator shall not be required to
22 plug or recondition the well until the storage operator has
23 received from the coal operator written notice that the mine
24 workings will, within the period stated in the notice, be within
25 2,000 linear feet of the well. Upon the receipt of the notice,
26 the storage operator shall use due diligence to complete the
27 plugging or reconditioning of the well in accordance with the
28 requirements of this section and section 3220. If the mine
29 workings do not, within a period of three years after the well
30 has been plugged, come within 2,000 linear feet of the well, the

1 coal operator shall reimburse the storage operator for the cost
2 of plugging, provided that the well is still within the
3 reservoir protective area as of that time.

4 (j) Retreat mining.--If retreat mining approaches a point
5 where, within 90 days, it is expected that the retreat work will
6 be at the location of the pillar surrounding an active storage
7 well, the coal operator shall give written notice to the storage
8 operator, and by agreement, the parties shall determine whether
9 it is necessary or advisable to effectively and temporarily
10 inactivate the well. The well shall not be reactivated until a
11 reasonable period, determined by the parties, has elapsed. If
12 the parties cannot agree as required by this subsection, the
13 matter shall be submitted to the department for resolution. The
14 number of wells required to be temporarily inactivated during
15 the retreat period shall not be of a number that materially
16 affects efficient operation of the storage pool, except that
17 this provision shall not preclude temporary inactivation of a
18 particular well if the practical effect of inactivating it is to
19 render the pool temporarily inoperative.

20 (k) Exceptions.--The requirements of subsections (a), (l)
21 and (m) shall not apply to injection of gas into a stratum when
22 the whole purpose of injection, referred to in this subsection
23 as testing, is to determine whether the stratum is suitable for
24 storage purposes. Testing shall be conducted only in compliance
25 with the following requirements:

26 (1) The person testing or proposing to test shall comply
27 with all provisions and requirements of section 3231 and
28 verify the statement required to be filed by that section.

29 (2) If any part of the proposed storage reservoir is
30 under or within 2,000 linear feet of an operating coal mine

1 which is operating in a coal seam that extends over the
2 proposed storage reservoir or the reservoir protective area,
3 the storage operator shall give at least six months' written
4 notice to the department and coal operator of the fact that
5 injection of gas for testing purposes is proposed.

6 (3) The coal operator affected may at any time file
7 objections with the department, whereupon the department
8 shall fix a time and place for a conference under section
9 3251, not more than ten days from the date of the notice to
10 the storage operator. At the conference, the storage operator
11 and the objecting party shall attempt to agree, subject to
12 approval of the department, on the questions involved. If an
13 agreement cannot be reached, the department may issue an
14 appropriate order.

15 (4) If at any time a proposed storage reservoir being
16 tested comes under or within 2,000 linear feet of an
17 operating coal mine because of extension of the storage
18 reservoir being tested or because of extension or
19 establishment or reestablishment of the operating coal mine,
20 the requirements of this subsection shall immediately become
21 applicable to the testing.

22 (1) Storage reservoirs near operating coal mines.--A person
23 who proposes to establish a storage reservoir under or within
24 2,000 linear feet of a coal mine operating in a coal seam that
25 extends over the storage reservoir or the reservoir protective
26 area shall, prior to establishing the reservoir, and in addition
27 to complying with section 3231 and subsection (a), file the
28 verified statement required by subsection (b) and fully comply
29 with any order of the department in the manner provided under
30 subsection (b) or (c) before commencing operation of the storage

1 reservoir. After the person proposing to operate the storage
2 reservoir complies with the requirements of this subsection and
3 commences operations, the person shall continue to be subject to
4 all provisions of this chapter.

5 (m) Gas storage reservoirs.--If a gas storage reservoir is
6 in operation on April 18, 1985, and at any time thereafter it is
7 under or within 2,000 linear feet of an operating coal mine, or
8 if a gas storage reservoir is put in operation after April 18,
9 1985, and at any time after storage operations begin it is under
10 or within 2,000 linear feet of an operating coal mine, the
11 storage operator shall comply with all of the provisions of this
12 section, except that:

13 (1) the time for filing the verified statement under
14 subsection (b) shall be 60 days after the date stated in the
15 notice filed by the coal operator under section 3232(d) and
16 (e) (relating to reporting requirements for coal mining
17 operations);

18 (2) the coal operator shall give notice of the delay to
19 the department;

20 (3) the department shall, upon the request of the
21 storage operator, extend the time for filing the statement by
22 the additional time which will be required to extend or
23 establish or reestablish the operating coal mine to a point
24 within 2,000 linear feet of the reservoir;

25 (4) the verified statement shall also indicate that the
26 map referred to in section 3231(a) has been currently amended
27 as of the time of the filing of the statement; and

28 (5) the person operating the storage reservoir shall
29 continue to be subject to all of the provisions of this
30 chapter.

1 (n) Failure to comply with order.--If, in any proceeding
2 under this chapter, the department determines that an operator
3 of a storage reservoir has failed to comply with a lawful order
4 issued under this chapter, the department may require the
5 storage operator to suspend operation of the reservoir and
6 withdraw the gas from it until the violation is remedied, in
7 which case the storage operator, limited by due diligence
8 insofar as existing facilities utilized to remove gas from the
9 reservoir will permit, shall:

10 (1) if possible, remove the amount required by the
11 department to be removed; or

12 (2) in any event, remove the maximum amount which can be
13 withdrawn in accordance with recognized engineering and
14 operating procedures.

15 (o) Prevention of escape of gas.--In addition to initial
16 compliance with other provisions of this chapter and lawful
17 orders issued under this chapter, it shall be the duty, at all
18 times, of a person owning or operating a storage reservoir
19 subject to this chapter to keep all wells drilled into or
20 through the storage stratum in a condition, and operate the
21 wells in a manner, which is designed to prevent the escape of
22 gas out of the storage reservoir and its facilities, and to
23 operate and maintain the storage reservoir and its facilities in
24 the manner prescribed by regulation of the department and at a
25 pressure that will prevent gas from escaping from the reservoir
26 or its facilities. This duty shall not be construed to include
27 inability to prevent the escape of gas when escape results from
28 an act of God or a person not under the control of the storage
29 operator, except that this exception does not apply to a well
30 which the storage operator has failed to locate and make known

1 to the department. If an escape of gas results from an act of
2 God or a person not under the control of the storage operator,
3 the storage operator shall be under the duty to take any action
4 reasonably necessary to prevent further escape of gas out of the
5 storage reservoir and its facilities.

6 § 3235. Inspection of facilities and records.

7 (a) General rule.--The person operating a storage reservoir
8 affected by this chapter shall, at all reasonable times, be
9 permitted to inspect applicable records and facilities of a coal
10 mine overlying the storage reservoir or reservoir protective
11 area. The person operating a coal mine affected by this chapter
12 shall, at all reasonable times, be permitted to inspect
13 applicable records and facilities of a storage reservoir
14 underlying the coal mine.

15 (b) Order.--If a storage operator or coal operator subject
16 to subsection (a) refuses to permit inspection of records or
17 facilities, the department may, on its own motion or on
18 application of the party seeking inspection, after reasonable
19 written notice and a hearing if requested by an affected party,
20 order inspection.

21 § 3236. Reliance on maps and burden of proof.

22 (a) General rule.--In determining whether a coal mine or
23 operating coal mine is or will be within a particular distance
24 from a storage reservoir which is material under this chapter,
25 the owner or operator of the coal mine and the storage operator
26 may rely on the most recent map of the storage reservoir or coal
27 mine filed by the other party with the department.

28 (b) Accuracy.--Where accuracy of a map or data filed under
29 this chapter is in issue, the person that filed the map or data
30 shall:

1 (1) at the request of an objecting party, disclose the
2 information and method used to compile the map or data, along
3 with any information available to the person that might
4 affect current validity of the map or data; and

5 (2) have the burden of proving accuracy of the map or
6 data.

7 § 3237. Exemptions and prohibitions.

8 (a) Inapplicability of chapter to certain coal mines.--This
9 chapter shall not apply to the following types of coal mines:

10 (1) Strip mines and auger mines operating from the
11 surface.

12 (2) Mines to which the former act of June 9, 1911
13 (P.L.756, No.319), entitled "An act to provide for the health
14 and safety of persons employed in and about the bituminous
15 coal-mines of Pennsylvania, and for the protection and
16 preservation of property connected therewith," did not apply
17 in accordance with section 3 of that act.

18 (3) Mines to which the former act of June 2, 1891
19 (P.L.176, No.177), entitled "An act to provide for the health
20 and safety of persons employed in and about the anthracite
21 coal mines of Pennsylvania and for the protection and
22 preservation of property connected therewith," did not apply
23 in accordance with section 32 of that act.

24 (b) Workable coal seams.--Injection of gas for storage
25 purposes in a workable coal seam, whether or not it is being or
26 has been mined, is prohibited.

27 (b.1) Original extraction.--Nothing in this chapter
28 prohibits original extraction of natural gas, crude oil or coal.

29 (c) Certain rock formations.--Nothing in this chapter
30 applies to storage of gas or liquids in storage reservoirs

1 excavated in rock formations specifically for storage purposes.

2 SUBCHAPTER D

3 EMINENT DOMAIN

4 Sec.

5 3241. Appropriation of interest in real property.

6 § 3241. Appropriation of interest in real property.

7 (a) General rule.--Except as provided in this subsection, a
8 corporation empowered to transport, sell or store natural gas or
9 manufactured gas in this Commonwealth may appropriate an
10 interest in real property located in a storage reservoir or
11 reservoir protective area for injection, storage and removal
12 from storage of natural gas or manufactured gas in a stratum
13 which is or previously has been commercially productive of
14 natural gas. The right granted by this subsection shall not be
15 exercised to acquire any of the following for the purpose of gas
16 storage:

17 (1) An interest in a geological stratum within the area
18 of a proposed storage reservoir or reservoir protective area:

19 (i) unless the original recoverable oil or gas
20 reserves in the proposed storage reservoir have been
21 depleted or exhausted by at least 80%; and

22 (ii) until the condemnor has acquired the right, by
23 grant, lease or other agreement, to store gas in the
24 geological stratum underlying at least 75% of the area of
25 the proposed storage reservoir.

26 (2) An interest in a geological stratum within the area
27 of a proposed storage reservoir or reservoir protective area
28 owned directly or indirectly by a gas company or other person
29 engaged in local distribution of natural gas, if the interest
30 to be acquired is presently being used by the gas company or

1 other person for storage of gas in performance of service to
2 customers in its service area.

3 (b) Construction.--The following shall apply:

4 (1) This chapter authorizes appropriation within a
5 storage reservoir or reservoir protective area of the
6 following:

7 (i) a stratum to be used for storage;

8 (ii) any gas reserve remaining a stratum to be used
9 for storage;

10 (iii) an active or abandoned well or wells drilled
11 into a stratum to be used for storage; and

12 (iv) the right to enter upon and use the surface of
13 lands to:

14 (A) locate, recondition, maintain, plug or
15 replug an active or abandoned well; or

16 (B) operate a well drilled into or through a
17 stratum to be used for storage.

18 (2) This chapter does not preclude the owner of
19 nonstorage strata from drilling wells to produce oil or gas
20 from a stratum above or below the storage stratum
21 appropriated by another person, but a person appropriating or
22 holding storage rights may access, inspect and examine the
23 drilling, the completed well, drilling logs and other records
24 relating to drilling, equipping or operating the well in
25 order to determine whether the storage stratum is being
26 adequately protected to prevent escape of gas stored therein.

27 (3) This chapter does not authorize appropriation of a
28 coal or coal measure, regardless of whether it is being
29 mined, or an interest in the coal mine or coal measure.

30 (c) Activities through appropriated strata.--A person

1 drilling, operating, using or plugging a well through a stratum
2 appropriated under this chapter shall drill, case, equip,
3 operate or plug it in a manner designed to prevent avoidable
4 escape of gas that may be stored in the storage stratum. Upon
5 violation of this subsection, the court of common pleas of the
6 county where the land in question is situated may compel
7 compliance by injunction or grant other appropriate relief in an
8 action brought by the person storing gas in the storage stratum.

9 (d) Prerequisites to appropriation.--Before appropriating
10 under this chapter, a person shall attempt to agree with owners
11 of interests in the real property involved as to damages payable
12 for rights and interests to be appropriated, if the owners can
13 be found and are sui juris. If the parties fail to agree, the
14 person shall tender a surety bond to the owners to secure them
15 in the payment of damages. If the owners refuse to accept the
16 bond, cannot be found or are not sui juris, and after reasonable
17 notice to the owners by advertisement or otherwise, the bond
18 shall be presented for approval to the court of common pleas of
19 the county in which the tract of land is situated. Upon the
20 approval of the bond by the court, the right of the person to
21 appropriate in accordance with the provisions of this chapter
22 shall be complete.

23 (e) Appointment of viewers.--Upon petition of a property
24 owner or a person appropriating under this chapter, the court
25 shall:

26 (1) appoint three disinterested freeholders of the
27 county to serve as viewers to assess damages to be paid to
28 the property owner for the rights appropriated;

29 (2) fix a time for the parties to meet;

30 (3) provide notice to the parties; and

1 (4) after the viewers have filed their report, fix
2 reasonable compensation for the service of the viewers.

3 (f) Appeal.--Within 20 days after the filing of a report by
4 viewers appointed under subsection (e), a party may appeal and
5 proceed to a jury trial as in ordinary cases.

6 (g) Requirements.--Nothing in this section shall relieve a
7 person operating a storage reservoir from the requirements of
8 this chapter.

9 SUBCHAPTER E

10 ENFORCEMENT AND REMEDIES

11 Sec.

12 3251. Conferences.

13 3252. Public nuisances.

14 3253. Enforcement orders.

15 3254. Restraining violations.

16 3254.1. Well control emergency response cost recovery.

17 3255. Penalties.

18 3256. Civil penalties.

19 3257. Existing rights and remedies preserved and cumulative
20 remedies authorized.

21 3258. Inspection and production of materials, witnesses,
22 depositions and rights of entry.

23 3259. Unlawful conduct.

24 3260. Collection of fines and penalties.

25 3261. Third party liability.

26 3262. Inspection reports.

27 § 3251. Conferences.

28 (a) General rule.--The department or any person having a
29 direct interest in a matter subject to this chapter may, at any
30 time, request that a conference be held to discuss and attempt

1 to resolve by mutual agreement a matter arising under this
2 chapter. Unless otherwise provided, conferences shall be held
3 within 90 days after a request is received by the department,
4 and notice shall be given by the department to all interested
5 parties. A representative of the department shall attend the
6 conference and the department may make recommendations. An
7 agreement reached at a conference shall be consistent with this
8 chapter and, if approved by the department, it shall be reduced
9 to writing and shall be effective, unless reviewed and rejected
10 by the department within ten days after the conference. The
11 record of an agreement approved by the department shall be kept
12 on file by the department and copies shall be furnished to the
13 parties. The scheduling of a conference shall have no effect on
14 the department's authority to issue orders to compel compliance
15 with this chapter.

16 (b) Notification.--When a coal operator is to be notified of
17 a proceeding under this section, the department simultaneously
18 shall send a copy of the notice to the collective bargaining
19 representative of employees of the coal operator.

20 § 3252. Public nuisances.

21 A violation of section 3217 (relating to protection of fresh
22 groundwater and casing requirements), 3218 (relating to
23 protection of water supplies), 3219 (relating to use of safety
24 devices) or 3220 (relating to plugging requirements), or a
25 regulation, order, term or condition of a permit relating to any
26 of those sections constitutes a public nuisance.

27 § 3253. Enforcement orders.

28 (a) General rule.--Except as modified by subsections (b),
29 (c) and (d), the department may issue orders necessary to aid in
30 enforcement of this chapter. An order issued under this chapter

1 shall take effect upon notice, unless the order specifies
2 otherwise. The power of the department to issue an order under
3 this chapter is in addition to any other remedy available to the
4 department under this chapter or under any other law.

5 (b) Suspension and revocation.--

6 (1) The department may suspend or revoke a well permit
7 or well registration for any well:

8 (i) in continuing violation of any of the following:

9 (A) This chapter.

10 (B) The act of June 22, 1937 (P.L.1987, No.394),
11 known as The Clean Streams Law.

12 (C) The act of July 7, 1980 (P.L.380, No.97),
13 known as the Solid Waste Management Act.

14 (D) Any other statute administered by the
15 department;

16 and

17 (ii) the likely result of a violation is an unsafe
18 operation or environmental damage.

19 (2) A suspension order of the department shall
20 automatically terminate if the violation upon which it is
21 based is corrected by the operator to the satisfaction of the
22 department in order to bring the well into compliance with
23 this chapter.

24 (c) Written notice.--Prior to suspension or revocation of a
25 well permit or registration, the department shall serve written
26 notice on the well operator or its agent, stating specifically
27 the statutory provision, regulation or other reason relied upon,
28 along with factual circumstances surrounding the alleged
29 violation. If the department suspends or revokes the permit or
30 registration, the department may order the operator to cap the

1 well if the likely result of the violation is an unsafe
2 operation or environmental damage.

3 (d) Immediate orders.--An order of the department requiring
4 immediate cessation of drilling operations shall be effective
5 only if authorized by the secretary or a designee.

6 (e) Grievances.--A person aggrieved by a department order
7 issued under this section shall have the right, within 30 days
8 of receipt of the notice, to appeal to the Environmental Hearing
9 Board.

10 § 3254. Restraining violations.

11 (a) General rule.--In addition to any other remedy provided
12 in this chapter, the department may institute a suit in equity
13 in the name of the Commonwealth for an injunction to restrain a
14 violation of this chapter or rules, regulations, standards or
15 orders adopted or issued under this chapter and to restrain the
16 maintenance or threat of a public nuisance. Upon motion of the
17 Commonwealth, the court shall issue a prohibitory or mandatory
18 preliminary injunction if it finds that the defendant is
19 engaging in unlawful conduct, as defined by this chapter, or
20 conduct causing immediate and irreparable harm to the public.
21 The Commonwealth shall not be required to furnish bond or other
22 security in connection with the proceeding. In addition to an
23 injunction, the court in equity may level civil penalties as
24 specified in section 3256 (relating to civil penalties).

25 (b) District attorney.--In addition to other remedies in
26 this chapter, upon relation of the district attorney of a county
27 affected, or upon relation of the solicitor of a municipality
28 affected, an action in equity may be brought in a court of
29 competent jurisdiction for an injunction to restrain a violation
30 of this chapter or rules and regulations promulgated under this

1 chapter or to restrain a public nuisance or detriment to health.

2 (c) Concurrent penalties.--Penalties and remedies under this
3 chapter shall be deemed concurrent. Existence or exercise of one
4 remedy shall not prevent the department from exercising another
5 remedy at law or in equity.

6 (d) Jurisdiction.--Actions under this section may be filed
7 in the appropriate court of common pleas or in Commonwealth
8 Court, and those courts are hereby granted jurisdiction to hear
9 actions under this section.

10 § 3254.1. Well control emergency response cost recovery.

11 A person liable for a well control emergency is responsible
12 for all response costs incurred by the department to respond to
13 the well control emergency. In an action before a court of
14 competent jurisdiction, the department may recover all its
15 response costs, including the cost of regaining control of the
16 well, controlling the perimeter of the well site, preparing
17 water sprays, establishing trenches or dikes to capture runoff
18 fluids and providing the resources and equipment needs for the
19 incident.

20 § 3255. Penalties.

21 (a) General violation.--A person violating a provision of
22 this chapter commits a summary offense and, upon conviction,
23 shall be sentenced to pay a fine of not more than \$1,000 or to
24 imprisonment of not more than 90 days, or both. Each day during
25 which the violation continues is a separate and distinct
26 offense.

27 (b) Willful violation.--A person willfully violating a
28 provision of this chapter or an order of the department issued
29 under this chapter commits a misdemeanor and, upon conviction,
30 shall be sentenced to pay a fine of not more than \$5,000 or to

1 imprisonment of not more than one year, or both. Each day during
2 which the violation continues is a separate and distinct
3 offense.

4 (c) Authority.--The department may institute a prosecution
5 against any person or municipality for a violation of this
6 chapter.

7 § 3256. Civil penalties.

8 In addition to other remedies available at law or in equity
9 for a violation of this chapter, a regulation of the department,
10 a departmental order or a permit condition, the department,
11 after a hearing, may assess a civil penalty regardless of
12 whether the violation was willful. The penalty shall not exceed
13 \$25,000 plus \$1,000 for each day during which the violation
14 continues or, in the case of a violation arising from the
15 construction, alteration or operation of an unconventional well,
16 \$75,000 plus \$5,000 for each day during which the violation
17 continues. In determining the amount, the department shall
18 consider willfulness of the violation, damage or injury to
19 natural resources of this Commonwealth or their uses,
20 endangerment of safety of others, the cost of remedying the
21 harm, savings resulting to the violator as a result of the
22 violation and any other relevant factor. When the department
23 proposes to assess a civil penalty, it shall notify the person
24 of the proposed amount of the penalty. The person charged with
25 the penalty must, within 30 days of notification, pay the
26 proposed penalty in full or file an appeal of the assessment
27 with the Environmental Hearing Board. Failure to comply with the
28 time period under this section shall result in a waiver of all
29 legal rights to contest the violation or the amount of the
30 penalty. The civil penalty shall be payable to the Commonwealth

1 and collectible in any manner provided at law for collection of
2 debts. If a violator neglects or refuses to pay the penalty
3 after demand, the amount, together with interest and costs that
4 may accrue, shall become a lien in favor of the Commonwealth on
5 the real and personal property of the violator, but only after
6 the lien has been entered and docketed of record by the
7 prothonotary of the county where the property is situated. The
8 department may transmit to the prothonotaries of the various
9 counties certified copies of all liens. It shall be the duty of
10 each prothonotary to enter and docket the liens of record in the
11 prothonotary's office and index them as judgments are indexed,
12 without requiring payment of costs as a condition precedent to
13 entry.

14 § 3257. Existing rights and remedies preserved and cumulative
15 remedies authorized.

16 Nothing in this chapter stops the Commonwealth or a district
17 attorney from proceeding in a court of law or in equity to abate
18 pollution forbidden under this chapter or a nuisance under
19 existing law. It is hereby declared to be the purpose of this
20 chapter to provide additional and cumulative remedies to control
21 activities related to drilling for, or production of, oil and
22 gas in this Commonwealth, and nothing contained in this chapter
23 abridges or alters rights of action or remedies existing, or
24 which existed previously, in equity or under common or statutory
25 law, criminal or civil. Neither this chapter, the grant of a
26 permit under this chapter nor an act done by virtue of this
27 chapter stops the Commonwealth, in exercising rights under
28 common or decisional law or in equity, from suppressing a
29 nuisance, abating pollution or enforcing common law or statutory
30 rights. No court of this Commonwealth with jurisdiction to abate

1 public or private nuisances shall be deprived of jurisdiction in
2 an action to abate a private or public nuisance instituted by
3 any person on grounds that the nuisance constitutes air or water
4 pollution.

5 § 3258. Inspection and production of materials, witnesses,
6 depositions and rights of entry.

7 (a) General rule.--The department may make inspections,
8 conduct tests or sampling or examine books, papers and records
9 pertinent to a matter under investigation under this chapter to
10 determine compliance with this chapter. For this purpose, the
11 duly authorized agents and employees of the department may at
12 all reasonable times enter and examine any involved property,
13 facility, operation or activity.

14 (a.1) Preoperation inspections.--The operator may not
15 commence drilling activities until the department has conducted
16 an inspection of the unconventional well site after the
17 installation of erosion and sediment control measures. The
18 department may conduct follow-up inspections of well sites and
19 related activities to determine compliance with this chapter.

20 (b) Access.--The owner, operator or other person in charge
21 of a property, facility, operation or activity under this
22 chapter, upon presentation of proper identification and purpose
23 either for inspection or to remediate or otherwise respond to a
24 well control emergency, by agents or employees of the
25 department, shall provide free and unrestricted entry and
26 access. Upon refusal, the agent or employee may obtain a search
27 warrant or other suitable order authorizing entry and
28 inspection, remediation or response. It shall be sufficient to
29 justify issuance of a search warrant authorizing examination and
30 inspection if:

1 (1) there is probable cause to believe that the object
2 of the investigation is subject to regulation under this
3 chapter; and

4 (2) access, examination or inspection is necessary to
5 enforce the provisions of this chapter.

6 (c) Witnesses.--In any part of this Commonwealth, the
7 department may subpoena witnesses, administer oaths, examine
8 witnesses, take testimony and compel production of books,
9 records, maps, plats, papers, documents and other writings
10 pertinent to proceedings or investigations conducted by the
11 department under this chapter. Upon refusal to obey a subpoena
12 by any person and on application of the department, a court may
13 enforce a subpoena in contempt proceedings. Fees for serving a
14 subpoena shall be the same as those paid to sheriffs for similar
15 services.

16 (d) Deposition.--The department or a party to a proceeding
17 before the department may cause the deposition of a witness who
18 resides in or outside of this Commonwealth to be taken in the
19 manner prescribed by law for taking depositions in civil
20 actions.

21 (e) Witness fee.--Witnesses summoned before the department
22 shall be paid the same fees as are paid to witnesses in courts
23 of record of general jurisdiction. Witnesses whose depositions
24 are taken under this chapter, and the officers taking those
25 depositions, shall be entitled to the same fees as those paid
26 for like services in court.

27 (f) Purchasers.--Upon request, a purchaser of oil or gas
28 shall provide the department information necessary to determine
29 ownership of facilities from which the purchaser obtained oil or
30 gas. The information shall be kept confidential for a period of

1 five years, and the department may utilize it in enforcement
2 proceedings. The department may request information under this
3 section only when a well does not comply with section 3211(h)
4 (relating to well permits).

5 § 3259. Unlawful conduct.

6 It shall be unlawful for any person to:

7 (1) Drill, alter, operate or utilize an oil or gas well
8 without a permit or registration from the department as
9 required by this chapter or in violation of rules or
10 regulations adopted under this chapter, orders of the
11 department or a term or condition of a permit issued by the
12 department.

13 (2) Conduct an activity related to drilling for, or
14 production of, oil and gas:

15 (i) contrary to this chapter, rules or regulations
16 adopted under this chapter, an order of the department or
17 a term or condition of a permit issued by the department;
18 or

19 (ii) in any manner as to create a public nuisance or
20 adversely affect public health, safety, welfare or the
21 environment.

22 (3) Refuse, obstruct, delay or threaten an agent or
23 employee of the department acting in the course of lawful
24 performance of a duty under this chapter, including, but not
25 limited to, entry and inspection.

26 (4) Attempt to obtain a permit or identify a well as an
27 orphan well by misrepresentation or failure to disclose all
28 relevant facts.

29 (5) Cause abandonment of a well by removal of casing or
30 equipment necessary for production without plugging the well

1 in the manner prescribed under section 3220 (relating to
2 plugging requirements), except that the owner or operator of
3 a well may temporarily remove casing or equipment necessary
4 for production, but only if it is part of the normal course
5 of production activities.

6 § 3260. Collection of fines and penalties.

7 Fines and penalties shall be collectible in a manner provided
8 by law for collection of debts. If a person liable to pay a
9 penalty neglects or refuses to pay after demand, the amount,
10 together with interest and costs that may accrue, shall be a
11 judgment in favor of the Commonwealth on the person's property,
12 but only after the judgment has been entered and docketed of
13 record by the prothonotary of the county where the property is
14 situated. The department may transmit to prothonotaries of the
15 various counties certified copies of all judgments, and it shall
16 be the duty of each prothonotary to enter and docket them of
17 record in the prothonotary's office and index them as judgments
18 are indexed, without requiring payment of costs as a condition
19 precedent to entry.

20 § 3261. Third party liability.

21 If a person other than a well operator renders a service or
22 product to a well or well site, that person is liable with the
23 well owner or operator for violations of this chapter arising
24 out of and caused by the person's actions at the well or well
25 site, in accordance with State law.

26 § 3262. Inspection reports.

27 The department shall post inspection reports on its publicly
28 accessible Internet website. The inspection reports shall
29 include:

- 30 (1) The nature and description of violations.

1 (2) The operator's written response to the violation, if
2 available.

3 (3) The status of the violation.

4 (4) The remedial steps taken by the operator or the
5 department to address the violation.

6 SUBCHAPTER F

7 MISCELLANEOUS PROVISIONS

8 Sec.

9 3271. Well plugging funds.

10 3272. (Reserved).

11 3273. Effect on department authority.

12 3273.1. Relationship to solid waste and surface mining.

13 3274. Regulations.

14 § 3271. Well plugging funds.

15 (a) Appropriation.--Fines, civil penalties and permit and
16 registration fees collected under this chapter are appropriated
17 to the department to carry out the purposes of this chapter.

18 (b) Surcharge.--To aid in indemnifying the Commonwealth for
19 the cost of plugging abandoned wells, a \$50 surcharge is added
20 to the permit fee established by the department under section
21 3211 (relating to well permits) for new wells. Money collected
22 as a result of the surcharge shall be paid into a restricted
23 revenue account in the State Treasury to be known as the
24 Abandoned Well Plugging Fund and expended by the department to
25 plug abandoned wells threatening the health and safety of
26 persons or property or pollution of waters of this Commonwealth.

27 (c) Orphan Well Plugging Fund.--The following shall apply:

28 (1) A restricted revenue account to be known as the
29 Orphan Well Plugging Fund is created. A \$100 surcharge for
30 wells to be drilled for oil production and a \$200 surcharge

1 for wells to be drilled for gas production are added to the
2 permit fee established by the department under section 3211
3 for new wells. The surcharges shall be placed in the Orphan
4 Well Plugging Fund and expended by the department to plug
5 orphan wells. If an operator rehabilitates a well abandoned
6 by another operator or an orphan well, the permit fee and the
7 surcharge for the well shall be waived.

8 (2) The department shall study its experience in
9 implementing this section and shall report its findings to
10 the Governor and the General Assembly by August 1, 1992. The
11 report shall contain information relating to the balance of
12 the fund, number of wells plugged, number of identified wells
13 eligible for plugging and recommendations as to alternative
14 funding mechanisms.

15 (3) Expenditures by the department for plugging orphan
16 wells are limited to fees collected under this chapter. No
17 money from the General Fund shall be expended for this
18 purpose.

19 § 3272. (Reserved).

20 § 3273. Effect on department authority.

21 This chapter does not affect, limit or impair any right or
22 authority of the department under the act of June 22, 1937
23 (P.L.1987, No.394), known as The Clean Streams Law; the act of
24 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
25 Pollution Control Act; the act of November 26, 1978 (P.L.1375,
26 No.325), known as the Dam Safety and Encroachments Act; or the
27 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
28 Management Act.

29 § 3273.1. Relationship to solid waste and surface mining.

30 (a) General rule.--The obligation to obtain a permit and

1 post a bond under Articles III and V of the act of July 7, 1980
2 (P.L.380, No.97), known as the Solid Waste Management Act, and
3 to provide public notice under section 1905-A(b) (1) (v) of the
4 act of April 9, 1929 (P.L.177, No.175), known as The
5 Administrative Code of 1929, for any pit, impoundment, method or
6 facility employed for the disposal, processing or storage of
7 residual wastes generated by the drilling of an oil or gas well
8 or from the production of wells which is located on the well
9 site, shall be considered to have been satisfied if the owner or
10 operator of the well meets the following conditions:

11 (1) the well is permitted under the requirements of
12 section 3211 (relating to well permits) or registered under
13 section 3213 (relating to well registration and
14 identification);

15 (2) the owner or operator has satisfied the financial
16 security requirements of section 3225 (relating to bonding)
17 by obtaining a surety or collateral bond for the well and
18 well site; and

19 (3) the owner or operator maintains compliance with this
20 chapter and applicable regulations of the Environmental
21 Quality Board.

22 (b) Noncoal surface mining.--Obligations under the act of
23 December 19, 1984 (P.L.1093, No.219), known as the Noncoal
24 Surface Mining Conservation and Reclamation Act, or a
25 regulation promulgated under the Noncoal Surface Mining
26 Conservation and Reclamation Act, for any borrow area where
27 minerals are extracted solely for the purpose of oil and gas
28 well development, including access road construction, shall be
29 considered to have been satisfied if the owner or operator of
30 the well meets the conditions imposed under subsection (a) (1)

1 and (2) and maintains compliance with this chapter and
2 applicable regulations of the Environmental Quality Board.

3 (c) Solid Waste Management Act.--This section does not
4 diminish or otherwise affect duties or obligations of an owner
5 or operator under the Solid Waste Management Act. This section
6 does not apply to waste classified as hazardous waste under the
7 Solid Waste Management Act or the Resource Conservation and
8 Recovery Act of 1976 (Public Law 94-580, 90 Stat. 2795, 42
9 U.S.C. § 6901 et seq.).

10 (d) Definition.--As used in this section, the term "well
11 site" means areas occupied by all equipment or facilities
12 necessary for or incidental to drilling, production or plugging
13 a well.

14 § 3274. Regulations.

15 The Environmental Quality Board shall promulgate regulations
16 to implement this chapter.

17 CHAPTER 33

18 LOCAL ORDINANCES RELATING TO

19 OIL AND GAS OPERATIONS

20 Sec.

21 3301. Definitions.

22 3302. Oil and gas operations regulated pursuant to Chapter 32.

23 3303. Oil and gas operations regulated by environmental acts.

24 3304. Uniformity of local ordinances.

25 3305. Commission.

26 3306. Civil actions.

27 3307. Attorney fees and costs.

28 3308. Ineligibility.

29 3309. Applicability.

30 § 3301. Definitions.

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

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

6 "Commission." The Pennsylvania Public Utility Commission.

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

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

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

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

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

22 (1) well location assessment, including seismic
23 operations, well site preparation, construction, drilling,
24 hydraulic fracturing and site restoration associated with an
25 oil or gas well of any depth;

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

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

30 (i) oil and gas pipelines;

1 (ii) natural gas compressor stations; and
2 (iii) natural gas processing plants or facilities
3 performing equivalent functions; and
4 (4) construction, installation, use, maintenance and
5 repair of all equipment directly associated with activities
6 specified in paragraphs (1), (2) and (3), to the extent that:

7 (i) the equipment is necessarily located at or
8 immediately adjacent to a well site, impoundment area,
9 oil and gas pipeline, natural gas compressor station or
10 natural gas processing plant; and

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

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

18 § 3302. Oil and gas operations regulated pursuant to Chapter
19 32.

20 Except with respect to local ordinances adopted pursuant to
21 the MPC and the act of October 4, 1978 (P.L.851, No.166), known
22 as the Flood Plain Management Act, all local ordinances
23 purporting to regulate oil and gas operations regulated by
24 Chapter 32 (relating to development) are hereby superseded. No
25 local ordinance adopted pursuant to the MPC or the Flood Plain
26 Management Act shall contain provisions which impose conditions,
27 requirements or limitations on the same features of oil and gas
28 operations regulated by Chapter 32 or that accomplish the same
29 purposes as set forth in Chapter 32. The Commonwealth, by this
30 section, preempts and supersedes the regulation of oil and gas

1 operations as provided in this chapter.

2 § 3303. Oil and gas operations regulated by environmental acts.

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

10 § 3304. Uniformity of local ordinances.

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

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

20 (1) Shall allow well and pipeline location assessment
21 operations, including seismic operations and related
22 activities conducted in accordance with all applicable
23 Federal and State laws and regulations relating to the
24 storage and use of explosives throughout every local
25 government.

26 (2) May not impose conditions, requirements or
27 limitations on the construction of oil and gas operations
28 that are more stringent than conditions, requirements or
29 limitations imposed on construction activities for other
30 industrial uses within the geographic boundaries of the local

1 government.

2 (3) May not impose conditions, requirements or
3 limitations on the heights of permanent structures, screening
4 and fencing, lighting or noise relating to oil and gas
5 operations that are more stringent than the conditions,
6 requirements or limitations imposed on other industrial uses
7 within the geographic boundaries of the local government.

8 (4) Shall have a review period for permitted uses that
9 does not exceed 30 days for complete submissions or that does
10 not exceed 120 days for conditional uses.

11 (5) Shall authorize oil and gas operations, other than
12 activities at impoundment areas, compressor stations and
13 processing plants, as a permitted use in all zoning
14 districts.

15 (5.1) Notwithstanding section 3215 (relating to well
16 location restrictions), may prohibit, or permit only as a
17 conditional use, wells or well sites otherwise permitted
18 under paragraph (5) within a residential district if the
19 well site cannot be placed so that the wellhead is at least
20 500 feet from any existing building. In a residential
21 district, all of the following apply:

22 (i) A well site may not be located so that the outer
23 edge of the well pad is closer than 300 feet from an
24 existing building.

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

30 (6) Shall authorize impoundment areas used for oil and

1 gas operations as a permitted use in all zoning districts,
2 provided that the edge of any impoundment area shall not be
3 located closer than 300 feet from an existing building.

4 (7) Shall authorize natural gas compressor stations as a
5 permitted use in agricultural and industrial zoning districts
6 and as a conditional use in all other zoning districts, if
7 the natural gas compressor building meets the following
8 standards:

9 (i) is located 750 feet or more from the nearest
10 existing building or 200 feet from the nearest lot line,
11 whichever is greater, unless waived by the owner of the
12 building or adjoining lot; and

13 (ii) the noise level does not exceed a noise
14 standard of 60dbA at the nearest property line or the
15 applicable standard imposed by Federal law, whichever is
16 less.

17 (8) Shall authorize a natural gas processing plant as a
18 permitted use in an industrial zoning district and as
19 conditional uses in agricultural zoning districts if all of
20 the following apply:

21 (i) The natural gas processing plant building is
22 located at the greater of at least 750 feet from the
23 nearest existing building or at least 200 feet from the
24 nearest lot line.

25 (ii) The noise level of the natural gas processing
26 plant building does not exceed a noise standard of 60dbA
27 at the nearest property line or the applicable standard
28 imposed by Federal law, whichever is less.

29 (9) Shall impose restrictions on vehicular access routes
30 for overweight vehicles only as authorized under 75 Pa.C.S.

1 (relating to vehicles) or the MPC.

2 (10) May not impose limits or conditions on subterranean
3 operations or hours of operation of compressor stations and
4 processing plants or hours of operation for the drilling of
5 oil and gas wells or the assembly and disassembly of drilling
6 rigs.

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

13 § 3305. Commission.

14 (a) Advisory opinions to municipalities.--

15 (1) A municipality may, prior to the enactment of a
16 local ordinance, in writing, request the commission to review
17 a proposed local ordinance to issue an opinion on whether it
18 violates the MPC, this chapter or Chapter 32 (relating to
19 development).

20 (2) Within 120 days of receiving a request under
21 paragraph (1), the commission shall, in writing, advise the
22 municipality whether or not the local ordinance violates the
23 MPC, this chapter or Chapter 32.

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

26 (b) Orders.--

27 (1) An owner or operator of an oil or gas operation, or
28 a person residing within the geographic boundaries of a local
29 government, who is aggrieved by the enactment or enforcement
30 of a local ordinance may request the commission to review the

1 local ordinance of that local government to determine whether
2 it violates the MPC, this chapter or Chapter 32.

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

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

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

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

17 (1) 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
18 procedure of Commonwealth agencies);

19 (2) 65 Pa.C.S. Ch. 7 (relating to open meetings); or

20 (3) 66 Pa.C.S. Ch. 3 Subch. B (relating to
21 investigations and hearings).

22 (d) Authority.--The commission has the following powers to
23 carry out this chapter:

24 (1) Employ individuals.

25 (2) Issue orders.

26 (3) Promulgate regulations.

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

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

1 (ii) are exempt from:

2 (A) sections 201, 202 and 203 of the act of July
3 31, 1968 (P.L.769, No.240), referred to as the
4 Commonwealth Documents Law; and

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

7 § 3306. Civil actions.

8 The following shall apply:

9 (1) Notwithstanding any provision of 42 Pa.C.S. Ch. 85
10 Subch. C (relating to actions against local parties), any
11 person who is aggrieved by the enactment or enforcement of a
12 local ordinance that violates the MPC, this chapter or
13 Chapter 32 may bring an action in Commonwealth Court to
14 invalidate the ordinance or enjoin its enforcement.

15 (2) An aggrieved person may proceed under this section
16 without first obtaining review of the ordinance by the
17 commission.

18 (3) In an action relating to the enactment or
19 enforcement of a local ordinance, a determination of the
20 commission made under section 3305(b) (relating to
21 commission) shall become part of the record before the court.

22 § 3307. Attorney fees and costs.

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

25 (1) If the court determines that the local government
26 enacted or enforced a local ordinance with willful or
27 reckless disregard of the MPC, this chapter or Chapter 32
28 (relating to development), it may order the local government
29 to pay the plaintiff reasonable attorney fees and other
30 reasonable costs incurred by the plaintiff in connection with

1 the action.

2 (2) If the court determines that the action brought by
3 the plaintiff was frivolous or was brought without
4 substantial justification in claiming that the local
5 ordinance in question was contrary to the MPC, this chapter
6 or Chapter 32, it may order the plaintiff to pay the local
7 government reasonable attorney fees and other reasonable
8 costs incurred by the local government in defending the
9 action.

10 § 3308. Ineligibility.

11 If the commission, the Commonwealth Court or the Supreme
12 Court issues an order or makes a determination that a local
13 ordinance violates the MPC, this chapter or Chapter 32 (relating
14 to development), the municipality enacting or enforcing the
15 local ordinance shall be immediately ineligible to receive any
16 funds collected under Chapter 23 (relating to unconventional gas
17 well fee). The local government shall remain ineligible to
18 receive funds under Chapter 23 until the local government amends
19 or repeals its ordinance in accordance with this chapter or the
20 order or determination that the local ordinance is unlawful is
21 reversed on appeal.

22 § 3309. Applicability.

23 (a) Ordinances.--This chapter shall apply to the enforcement
24 of local ordinances existing on the effective date of this
25 chapter and to the enactment or enforcement of a local ordinance
26 enacted on or after the effective date of this chapter.

27 (b) Local governments.--A local government that has enacted
28 a local ordinance relating to oil and gas operations prior to
29 the effective date of this chapter shall have 120 days from the
30 effective date of this chapter to review and amend an ordinance

1 in order to comply with this chapter.

2 CHAPTER 35

3 RESPONSIBILITY FOR FEE

4 Sec.

5 3501. Declaration of policy.

6 3502. Prohibition.

7 3503. Existing agreements.

8 3504. Future agreements.

9 § 3501. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) The enactment of this chapter is an exercise of the
12 authority of the Commonwealth to safeguard the vital
13 interests of its citizens.

14 (2) This chapter is intended to advance the significant
15 and legitimate public purpose of ensuring that entities
16 responsible for the impacts of unconventional oil and gas
17 well development are solely responsible for payment of impact
18 fees.

19 § 3502. Prohibition.

20 A producer may not make a fee, or any other levy related to
21 the removal or extraction of natural gas, an obligation,
22 indebtedness or liability of a landowner, leaseholder or other
23 person in possession of real property, upon which the removal or
24 extraction occurs.

25 § 3503. Existing agreements.

26 A provision of an agreement in existence prior to the
27 effective date of this section which violates section 3502
28 (relating to prohibition) is declared to be illegal and contrary
29 to public policy and shall be null and void.

30 § 3504. Future agreements.

1 On or after the effective date of this section, a provision
2 of an agreement in violation of section 3502 (relating to
3 prohibition) is declared to be illegal and contrary to public
4 policy and shall be null and void.

5 Section 2. For fiscal year 2011-2012, \$250,000 is
6 appropriated from the General Fund to the Pennsylvania Public
7 Utility Commission for costs associated with implementation of
8 this act.

9 Section 3. Repeals are as follows:

10 (1) The General Assembly declares that the repeal under
11 paragraph (2) is necessary to effectuate the addition of 58
12 Pa.C.S. Ch. 32.

13 (2) The act of December 19, 1984 (P.L.1140, No.223),
14 known as the Oil and Gas Act, is repealed.

15 Section 4. The addition of 58 Pa.C.S. Ch. 32 and 58 Pa.C.S.
16 § 3302 is a continuation of the act of December 19, 1984
17 (P.L.1140, No.223), known as the Oil and Gas Act. The following
18 apply:

19 (1) Except as otherwise provided in 58 Pa.C.S. Ch. 32 or
20 58 Pa.C.S. § 3302, all activities initiated under the Oil and
21 Gas Act shall continue and remain in full force and effect
22 and may be completed under 58 Pa.C.S. Ch. 32 or 58 Pa.C.S.
23 § 3302. Orders, regulations, rules and decisions which were
24 made under the Oil and Gas Act and which are in effect on the
25 effective date of section 3(2) of this act shall remain in
26 full force and effect until revoked, vacated or modified
27 under 58 Pa.C.S. Ch. 32. Except as provided in 58 Pa.C.S. Ch.
28 35, contracts, obligations and collective bargaining
29 agreements entered into under the Oil and Gas Act are not
30 affected nor impaired by the repeal of the Oil and Gas Act.

1 (2) Except as set forth in paragraph (3), any difference
2 in language between 58 Pa.C.S. Ch. 32 and 58 Pa.C.S. § 3302,
3 and the Oil and Gas Act is intended only to conform to the
4 style of the Pennsylvania Consolidated Statutes and is not
5 intended to change or affect the legislative intent, judicial
6 construction or administration and implementation of the Oil
7 and Gas Act.

8 (3) Paragraph (2) does not apply to the addition of the
9 following provisions of 58 Pa.C.S.:

- 10 (i) Section 3203.
- 11 (ii) Section 3211.
- 12 (iii) Section 3212.1.
- 13 (iv) Section 3215.
- 14 (v) Section 3216.
- 15 (vi) Section 3218.
- 16 (vii) Section 3218.1.
- 17 (viii) Section 3218.2.
- 18 (ix) Section 3218.3.
- 19 (x) Section 3218.4.
- 20 (xi) Section 3218.5.
- 21 (xii) Section 3219.1.
- 22 (xiii) Section 3222.
- 23 (xiv) Section 3222.1.
- 24 (xv) Section 3225.
- 25 (xvi) Section 3227.
- 26 (xvii) Section 3252.
- 27 (xviii) Section 3253.
- 28 (xix) Section 3254.1.
- 29 (xx) Section 3255.
- 30 (xxi) Section 3256.

1 (xxii) Section 3258.

2 (xxiii) Section 3261.

3 (xxiv) Section 3262.

4 Section 5. The addition of 58 Pa.C.S. Ch. 23 shall apply to
5 all oil and gas deposits and oil and gas development activities
6 and operations subject to the jurisdiction of the Commonwealth.
7 With respect to oil and gas deposits on national forest lands
8 identified under section 17(o) of the Mineral Leasing Act (106
9 Stat. 3108, 30 U.S.C. § 226(o)), the application of regulations
10 and statutes adopted by the Commonwealth shall be the exclusive
11 method and means by which any requirements may be imposed on any
12 feature, aspect or process of oil and gas operations pertaining
13 to the development of the deposits.

14 Section 6. It is not the intent of the General Assembly to
15 change, repeal or otherwise affect any of the provisions of the
16 act of December 18, 1984 (P.L.1069, No.214), known as the Coal
17 and Gas Resource Coordination Act, or to change, repeal or
18 otherwise affect any of the provisions of the act of January 26,
19 2011 (P.L.7, No.2), entitled "An act amending the act of
20 December 18, 1984 (P.L.1069, No.214), entitled 'An act requiring
21 coordination of coal mine and gas well operators; authorizing
22 Department of Environmental Resources enforcement powers; and
23 providing penalties,' further providing for definitions, for
24 permits, for permit application, for minimum distance between
25 gas wells, for well class designation and for coordination of
26 gas well drilling through active coal mines; providing for a
27 pillar support study; and further providing for plugging gas
28 wells penetrating workable coal seams, for penalties and for
29 validity of other laws," which amended the Coal and Gas Resource
30 Coordination Act.

1 Section 7. Within 90 days of the effective date of this
2 section, the Department of Transportation shall issue a
3 statement of policy, effective upon publication in the
4 Pennsylvania Bulletin, adopting an appropriate methodology to
5 provide letters of local determination that identify particular
6 vehicles, routes or uses as local in nature. The Department of
7 Transportation may determine that hauling related to
8 unconventional oil and gas development is excluded from local
9 traffic status based on its disproportionate and qualitatively
10 different impact upon highways and bridges. The methodology
11 shall allow for exemptions from 67 Pa. Code Ch. 189 (relating to
12 hauling in excess of posted weight limit) related to at-risk
13 industry sectors in this Commonwealth that have experienced a
14 20% or more decline in Statewide employment since 2002 or that
15 demonstrate other evidence of economic decline as determined by
16 the department in consultation with the Department of Labor and
17 Industry. The exemptions and related requirements shall remain
18 in existence until December 31, 2015.

19 Section 8. The Energy Executive of the Governor shall
20 consult with the Department of Environmental Protection, the
21 Pennsylvania Public Utility Commission, local government
22 organizations, natural gas industry representatives,
23 conservationists and other affected entities on the issue of
24 pipeline placement for natural gas gathering lines. The Energy
25 Executive of the Governor shall submit a report to the General
26 Assembly within one year of the effective date of this section.

27 Section 9. This act shall take effect as follows:

28 (1) The following provisions shall take effect
29 immediately:

30 (i) The addition of 58 Pa.C.S. Ch. 23.

- 1 (ii) Section 6 of this act.
2 (iii) Section 7 of this act.
3 (iv) This section.
4 (2) The remainder of this act shall take effect in 60
5 days.

