

**Act 13**

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**2012 Industry  
Workshops**

## Act 13 of 2012

- Act 13 became law when Governor Corbett signed House Bill 1950 on Feb. 14, 2012.
- Effective Date: April 16, 2012
- What do I call it?
  - Act 13?
  - Chapter 32?
  - House Bill 1950?
  - 2012 Oil and Gas Act?



## Genesis of Act 13

- Executive Order 2011-01 created the Marcellus Shale Advisory Commission
- March 8 – July 22, 2011
- Goal: To outline a comprehensive plan with recommendations on the safe and responsible development of unconventional natural gas resources within Pennsylvania



## Marcellus Shale Advisory Commission

A culmination of four months of effort by the commission :

- ✓ 21 public meetings
- ✓ 60 expert presentations
- ✓ 100 citizens offered public comments
- ✓ 650 emails and letters from public
- ✓ Visits to well sites, local businesses in Lycoming and Clinton counties



## Marcellus Shale Advisory Commission

- 96 recommendations outlining a comprehensive, strategic plan for the responsible development of natural gas drilling in the Commonwealth.
- Every environmental protection recommendation that needed to be accomplished through legislation was included in the Act.
- Unanimously approved by the Commission on Friday, July 15, 2011.
- Outlines first major update of the Oil and Gas Act in nearly three decades.



## Act 13 of 2012

- Created six chapters within Title 58 of Pennsylvania's Consolidated Statutes:
  - Ch 23 – Unconventional Gas Well Fee
  - Ch 25 – Oil and Gas Lease Fund
  - Ch 27 – Natural Gas Energy Development Program
  - Ch 32 – Development
  - Ch 33 – Local Ordinances Relating to Oil and Gas Operation
  - Ch 35 – Responsibility for Fee



## Act 13 of 2012

- Common Questions:
  - What happened to the 1984 Oil and Gas Act?
  - How does this impact 25 Pa. Code Chapter 78?
  - What sections were intended to be amended?



## Chapter 32 - Development

The three categories of Significant Change:

- I. Permitting & Notifications
- II. Environmental Protections & Enhancements
- III. Inspections & Enforcement



## Chapter 32 - Development

- I. Permitting & Notifications
- II. Environmental Protections & Enhancements
- III. Inspections & Enforcement



## Permitting & Notifications



## Drilling Permit – What's New

- ✓ Additions to Plat
  - Adjacent municipalities, landowners, water purveyors
- ✓ Notice requirements
  - Host/adjacent municipalities, surface landowner, land owners and water purveyors whose water supplies are within 3,000 ft. from well
  - Storage operators within 3,000 ft. of well
- ✓ Permit Coordination
  - Well permit must be posted at well site prior to preparation and construction of the access road and the well site and during drilling, operating or alteration of the well.



## Drilling Permit – What's New

### Water Management Plan Approval

- Required for water withdrawn or used for drilling and completion
- No adverse impacts to water quality/quantity
- Maintain designated and existing uses of water sources
- Available to any person if they intend to withdraw or use water sources within this Commonwealth
- Compliance with WMP a condition of well permit

### Water withdrawals in accordance with:

- Susquehanna River Basin Commission
- Delaware River Basin Commission
- Great Lakes Commission



## Drilling Permit – What's New

### Comments by Municipalities & Storage Operators

- Municipality where well is proposed to be located.
- Storage operators within 3,000 ft. of well bore.
- Comments must be submitted to DEP and other individuals entitled to receive notification of well permit.
- Responses to comments required within 10 days of receipt of the comments.



## Bonding

- Old: \$2,500/well or \$25,000 blanket bond
- New: two bond schedules based on
  - Number of operating wells, AND
  - Total well bore length
    - < 6,000 feet or > 6,000 feet
- Maximum blanket bond increase to \$850,000



## Notifications

- Operators must notify DEP 24 hours prior to:
  - Commencement of drilling (Spud Date)\*
  - Resumption of drilling\*
    - 30-day (or longer) break in drilling
  - Cementing of all casing strings
  - Conducting pressure tests of the production casing
  - Stimulation of a well
  - Abandoning or plugging of a well

\* MUST OCCUR ELECTRONICALLY



## Chapter 32 - Development

- I. Permitting & Notifications
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## Well Location Restrictions

- Setbacks Increased for Unconventional Wells
  - Building or water wells
    - 200 ft. to 500 ft.
  - Water supply
    - 1000 ft.
  - Stream, spring, body of water or wetland greater than 1 acre in size
    - 100 ft. to 300 ft.
  - Exemption/variance/waiver
  - Variance/waiver processing may require 15 additional review days



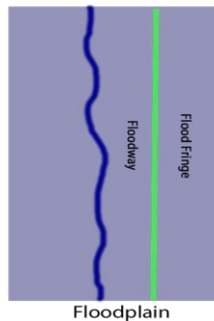
## Well Location Restrictions

### Restrictions in Floodplains

- Floodway, Floodplain, Flood Fringe
- Prohibits well site or well bore within floodplain if site will have: A pit or impoundment containing drilling cuttings, flowback water, produced water or hazardous materials, chemicals or wastes within the floodplain
- A tank containing hazardous materials, chemicals, condensate, wastes, flowback or produced water within the floodway



## Well Location Restrictions



## Protection of Water Supplies

### Rebuttable Presumption

- Increases distance and duration of rebuttable presumption.
  - From 1,000 ft. to 2,500 ft. of the water supply
  - From 6 months to 12 months after the later of well completion, drilling, stimulation or alteration
- Operator must notify landowner or water purveyor that rebuttable presumption may be void if the landowner or water purveyor refuses to allow operator to conduct pre-drilling or pre-alteration survey (3218(e.1))

### Restoration/Replacement of Water Supplies

- Temporary Water
- Permanent Water



## Protection of Water Supplies

### Quality of Replacement Water Supplies

- Restored or replaced water supply must meet Safe Drinking Water Standards or pre-drilling conditions if the water quality did not meet those standards

### Reporting Water Contamination

- DEP established a toll-free telephone number for reporting alleged cases of water contamination.
- 1-866-255-5158
- Telephone number also listed on DEP Website ("Act 13" link)

### Transparency

- If any case of subterranean water supply contamination is confirmed, it will be reported on DEP's website.



## Containment Practices

### Construction and Practices

- Well pad site must be designed & constructed to prevent spills
- Containment Practices
- DEP may establish additional protective measures for storage of hazardous chemicals within 750 ft. of stream, spring, body of water



## Well Control Emergency Response

### DEP may:

- Enter into contracts with well control specialists to provide response services in the event of an emergency.

### The Well Control Specialist:

- Shall be immune from civil liability for good faith actions (except for breach of contract, intentional tort or gross negligence).



## Chemical Disclosure

### Chemical Disclosure Registry

- All operators must use the chemical disclosure registry at [www.FracFocus.org](http://www.FracFocus.org) – Pennsylvania operators should be registering now to be able to input data after April 16.
- This registry was developed jointly by the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission.
- Data began being input as of Jan 1, 2011.
- Many well operators are already utilizing this tool voluntarily.
- Other states are also currently accepting this registry as the vehicle for chemical disclosure.



## Air Containment Emissions

### Air Source Reporting

- Owners or operators of facilities conducting natural gas operations in unconventional formations shall submit to DEP a source report identifying and quantifying actual air contaminant emissions.
- Source reports must be submitted to DEP annually by March 1 for air contaminant emissions during the preceding calendar year (unless otherwise directed by the federal Clean Air Act or other regulation adopted under Act 13).
- Under federal law, DEP is required to submit to the U.S. EPA total statewide air pollution emissions every three years.
- Pennsylvania's inventory is due to EPA on Dec. 31, 2012.



## Chapter 32 - Development

- I. Permitting & Notifications
- II. Environmental Protections & Enhancements
- III. Inspections & Enforcement



## (New) Inspection Requirements

### Inspections of E&S Controls

- An operator may not commence drilling activities until after DEP has conducted an inspection of the unconventional well site after the installation of erosion and sedimentation (E&S) control measures.

### Site Access

- The person in charge of a well site property, facility, operation or activity subject to Chapter 32 of Act 13 must provide to DEP and its agents access to the site and facilities for inspection purposes or to remediate or respond to a well control emergency.



## (New) Inspection Requirements

### Availability of Inspection Reports

- Inspection Reports are available for public review at each DEP District office (ongoing practice).
- DEP will post inspection reports on its website. The reports will include:
  - Nature and description of violations
  - Operator's written response to violation, if available
  - Status of violation
  - Remedial steps taken by operator or DEP to address a violation



## Enforcement

### Permit Denial (New)

- DEP may deny a permit if:
- Applicant, or any parent or subsidiary corporation, is in continuing violation of:
  - Act 13
  - Any other statute administered by the Department
  - Any plan approval, permit or order of the Department



## Enforcement

### Permit Revocation (New)

- DEP may suspend or revoke a well permit or registration for any well in continuing violation of:
  - Act 13
  - Clean Streams Law
  - Solid Waste Management Act
  - Any other statute administered by DEP
  - OR if the likely result of a violation is an unsafe operation or environmental damage
- Prior to suspension or revocation of the permit
  - DEP shall provide written notice to the operator or its agent



## Increased Penalties

### Summary Offenses

- Increases penalty amount from \$300 to up to \$1,000 for each day violation continues
- Willful violations are subject to penalty of up to \$5,000 for each day violation continues and up to 1 year imprisonment.

### Civil Penalties

- Up to \$25,000, plus \$1,000 for each day violation continues
- Violations arising from the construction, alteration or operation of an unconventional well shall be subject to penalty of \$75,000, plus \$5,000 for each day violation continues
- 30-days to pay penalty or file appeal with Env. Hearing Board (EHB)



## Comments or Additional Questions?

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