

Attachment I

Amendments to House
Bill No. 1144

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 1144

Sponsor:

Printer's No. 1199

1 Amend Bill, page 1, lines 1 through 6, by striking out all of
2 said lines and inserting

3 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
4 Statutes, providing for conventional development and for
5 annual fees; and making an editorial change.

6 Amend Bill, page 1, lines 7 through 16; page 2, lines 1
7 through 30; page 3, lines 1 through 15; by striking out all of
8 said lines on said pages

9 Amend Bill, page 3, lines 18 through 30; pages 4 through 67,
10 lines 1 through 30; page 68, lines 1 through 14; by striking out
11 all of said lines on said pages and inserting

12 Section 1. The heading of Chapter 32 of Title 58 of the
13 Pennsylvania Consolidated Statutes is amended to read:

CHAPTER 32

UNCONVENTIONAL DEVELOPMENT

16 Section 2. Title 58 is amended by adding chapters to read:

CHAPTER 36

CONVENTIONAL DEVELOPMENT

19 Subchapter

20 A. Preliminary Provisions

21 B. General Requirements

22 C. Enforcement and Remedies

23 D. Miscellaneous Provisions

SUBCHAPTER APRELIMINARY PROVISIONS

26 Sec.

27 3601. Scope of chapter.

28 3602. Declaration of purpose of chapter.

29 3603. Definitions.

30 § 3601. Scope of chapter.

31 This chapter relates to conventional oil and gas development.

32 § 3602. Declaration of purpose of chapter.

33 The purposes of this chapter are to:

1 (1) Permit optimal development of oil and gas resources
2 of this Commonwealth consistent with the property rights of
3 owners of the oil and gas resources and the protection of the
4 health, safety, environment and the property rights of
5 Pennsylvania citizens.

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

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

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

14 § 3603. Definitions.

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

18 "Abandoned well." Any of the following:

19 (1) A well:

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

23 (ii) for which equipment necessary for production,
24 extraction or injection has been removed; or

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

27 (2) The term does not include wells granted inactive
28 status.

29 "Additive." A hydraulic fracturing chemical.

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

34 (1) Repairing or replacing of the casing if the activity
35 does not affect the depth or diameter of the well bore, the
36 use or purpose of the well does not change and the activity
37 complies with regulations promulgated under this chapter,
38 except that this exclusion does not apply:

39 (i) to production casings in coal areas when the
40 production casings are also the coal protection casings;
41 or

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

44 (2) Stimulation of a well.

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

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

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

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

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

1 (2) A mixture of materials adequate for bonding or
2 sealing of well bores as approved by regulations promulgated
3 under this chapter.

4 "Certified mail." Any verifiable means of paper document
5 delivery that confirms receipt of the document by the intended
6 recipient or the attempt to deliver the document to the proper
7 address for the intended recipient.

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

11 "Coal mine." Operations in a coal seam, which include the
12 excavated and abandoned portions as well as the places actually
13 being worked, all underground workings and shafts, slopes,
14 tunnels and other ways and openings and all shafts, slopes,
15 tunnels and other openings in the course of being sunk or
16 driven, together with all roads and facilities connected with
17 them below the surface.

18 "Coal operator." A person who proposes or has a permit to
19 operate or operates a coal mine either as owner or lessee.

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

23 "Conventional well." A bore hole drilled or being drilled
24 for the purpose of or to be used for construction of a well
25 regulated under this chapter that is not an unconventional well,
26 irrespective of technology or design. The term includes:

27 (1) A well drilled to produce oil.

28 (2) A well drilled to produce natural gas from
29 formations other than shale formations.

30 (3) A well drilled to produce natural gas from shale
31 formations located above the base of the Elk Group or its
32 stratigraphic equivalent.

33 (4) A well drilled to produce natural gas from shale
34 formations located below the base of the Elk Group where
35 natural gas can be produced at economic flow rates or in
36 economic volumes without the use of vertical or nonvertical
37 well bores stimulated by hydraulic fracture treatments or
38 multilateral well bores or other techniques to expose more of
39 the formation to the well bore.

40 (5) Irrespective of formation, a well drilled for
41 collateral purposes, such as monitoring, geologic logging,
42 secondary and tertiary recovery or disposal injection.

43 "Council." The Pennsylvania Grade Crude Development Advisory
44 Council.

45 "Department." The Department of Environmental Protection of
46 the Commonwealth.

47 "Drilling." The drilling or redrilling of a well or the
48 deepening of an existing well.

49 "Fresh groundwater." Water in that portion of the generally
50 recognized hydrologic cycle which occupies the pore spaces and
51 fractures of saturated subsurface materials.

1 "Gas." Any of the following:

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

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

8 "Home or consumptive use well." A conventional well
9 producing natural gas solely for consumptive use by the
10 permitted or registered operator of the well.

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

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

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

22 "Noncoal area." An area where there are no workable coal
23 seams.

24 "Notice." For the purpose of providing nonrequired notice to
25 the department, includes notice provided by telephone, email or
26 other available electronic means, unless a specific form of, or
27 location for, notice is required by this act, regulations
28 promulgated thereunder or otherwise established by the
29 department.

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

33 "Operating coal mine." The portion of a workable coal seam
34 which is covered by an underground mining permit issued by the
35 department. Coal mines that have already been projected and
36 platted for which a technically complete mine permit application
37 has been filed with the department shall also meet this
38 definition.

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

40 "Operator." A well operator.

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

46 "Outside coal boundaries." When used in conjunction with the
47 term "operating coal mine," the boundaries of the coal acreage
48 assigned to the coal mine under an underground mine permit
49 issued by the department.

50 "Owner." A person who owns, manages, leases, controls or
51 possesses a well or coal property. The term does not apply to

1 orphan wells, except where the department determines a prior
2 owner or operator benefited from the well as provided in section
3 3620(a) (relating to plugging requirements).

4 "Person." An individual, association, partnership,
5 corporation, political subdivision or agency of the Federal
6 Government, State government or other legal entity.

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

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

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

14 "Retreat mining." Removal of coal pillars, ribs and stumps
15 remaining after development mining has been completed in that
16 section of a coal mine.

17 "Secretary." The Secretary of Environmental Protection of
18 the Commonwealth.

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

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

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

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

35 "Water purveyor." Any of the following:

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

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

41 "Well." A bore hole drilled or being drilled for the purpose
42 of or to be used for producing, extracting or injecting gas,
43 petroleum or another liquid related to oil or gas production or
44 storage, including brine disposal, but excluding a bore hole
45 drilled to produce potable water. The term does not include a
46 bore hole drilled or being drilled for the purpose of or to be
47 used for:

48 (1) Systems of monitoring, producing or extracting gas
49 from solid waste disposal facilities, if the bore hole is a
50 well subject to the act of July 7, 1980 (P.L.380, No.97),
51 known as the Solid Waste Management Act, which does not

1 penetrate a workable coal seam.

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

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

11 (ii) used to vent methane to the outside atmosphere
12 under a federally funded or State-funded abandoned mine
13 reclamation project.

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

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

24 "Well operator." Any of the following:

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

27 (2) If a permit or well registration was not issued, a
28 person who locates, drills, operates, alters or plugs a well
29 or reconditions a well with the purpose of production from
30 the well.

31 (3) If a well is used in connection with underground
32 storage of gas, a storage operator.

33 "Well site." The areas occupied by equipment or facilities
34 necessary for or incidental to drilling, completion, production
35 or plugging a well, including auxiliary pads, staging areas,
36 access roads and tank batteries.

37 "Wetland." Areas inundated or saturated by surface water or
38 groundwater at a frequency and duration sufficient to support,
39 and which normally support, a prevalence of vegetation typically
40 adapted for life in saturated soil conditions, including swamps,
41 marshes, bogs and similar areas.

42 "Workable coal seams." The term includes:

43 (1) A coal seam in fact being mined in the area in
44 question under this chapter by underground methods.

45 (2) A coal seam which is:

46 (i) laterally extensive and one of either of the
47 potential Washington, Waynesburg, Sewickley, Redstone,
48 Pittsburgh, U. Freeport, L. Freeport, U. Kittanning, M.
49 Kittanning, L. Kittanning, Clarion, Brookville or Mercer
50 bituminous coal seams;

51 (ii) at least 28 inches thick; and

1 (iii) deeper than 100 feet from the ground surface.
2 (3) A coal seam which is, in the judgment of the
3 department, otherwise reasonably expected to be mined by
4 underground methods.

5 SUBCHAPTER B
6 GENERAL REQUIREMENTS

7 Sec.

8 3611. Well permits.

9 3612. Permit objections.

10 3613. Well identification.

11 3614. Inactive status.

12 3615. Well location restrictions.

13 3616. Well site restoration.

14 3617. Protection of fresh groundwater and casing requirements.

15 3618. Protection of water supplies.

16 3618.1. Notification to public drinking water systems.

17 3619. Use of safety devices.

18 3619.1. Well control emergency response.

19 3620. Plugging requirements.

20 3621. Alternative methods.

21 3622. Well reporting requirements.

22 3623. Notification and effect of well transfer.

23 3624. Coal operator responsibilities.

24 3625. Bonding.

25 § 3611. Well permits.

26 (a) Permit required.--No person shall construct a well site,
27 drill or alter a well, except for alterations which satisfy the
28 requirements of subsection (j), without having first obtained a
29 well permit under subsections (b), (c), (d) and (e), or operate
30 an abandoned or orphan well unless in compliance with subsection
31 (l). A copy of the permit shall be kept at the well site during
32 preparation and construction of the well site or access road
33 during drilling or alteration of the well. No person shall be
34 required to obtain a permit to redrill a nonproducing well if
35 the redrilling:

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

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

43 (b) Plat.--

44 (1) The permit application shall be accompanied by a
45 complete and accurate plat prepared by a person trained in
46 the preparation of plats on forms furnished by the
47 department, showing the political subdivision and county in
48 which the tract of land upon which the well to be drilled,
49 operated or altered is located; the name of the surface
50 landowner of record and lessor; the name of all surface
51 landowners and water purveyors whose water supplies are

1 within 1,000 feet of the proposed well location; the name of
2 the owner of record or operator of all known underlying
3 workable coal seams; the acreage in the tract to be drilled;
4 the proposed location of the well determined by plat, courses
5 and distances of the location from two or more permanent
6 identifiable points or landmarks on the tract boundary
7 corners; the proposed angle and direction of the well if the
8 well is to be deviated substantially from a vertical course;
9 the number or other identification to be given the well; the
10 workable coal seams underlying the tract of land upon which
11 the well is to be drilled or altered and which shall be cased
12 off under section 3617 (relating to protection of fresh
13 groundwater and casing requirements); and any other
14 information needed by the department to administer this
15 chapter.

16 (2) The applicant shall forward by certified mail a copy
17 of the plat to the surface landowner; the municipality in
18 which the tract of land upon which the well to be drilled is
19 located; all surface landowners and water purveyors, whose
20 water supplies are within 1,000 feet of the proposed well
21 location; the owner and lessee of any workable coal seams;
22 and each coal operator required to be identified on the well
23 permit application.

24 (b.1) Notification.--The applicant shall submit proof of
25 notification with the well permit application. Notification of
26 surface owners shall be performed by sending notice to those
27 persons to whom the tax notices for the surface property are
28 sent, as indicated in the assessment books in the county in
29 which the property is located. Notification of surface
30 landowners or water purveyors shall be on forms, and in a manner
31 prescribed by the department, sufficient to identify the rights
32 afforded those persons under section 3618 (relating to
33 protection of water supplies) and to advise them of the
34 advantages of taking their own predrilling or prealteration
35 survey.

36 (b.2) Approval.--If the applicant submits to the department
37 written approval of the proposed well location by the surface
38 landowner and the coal operator, lessee or owner of any workable
39 coal underlying the proposed well location and no objections are
40 raised by the department within 15 days of filing, or if no
41 approval has been submitted and no objections are made to the
42 proposed well location within 15 days from receipt of notice by
43 the department, the surface landowner or any coal operator,
44 lessee or owner, the written approval shall be filed and become
45 a permanent record of the well location, subject to inspection
46 at any time by any interested person. The application form to
47 operate an abandoned or orphan well shall provide notification
48 to the applicant of its responsibilities to plug the well upon
49 abandonment.

50 (c) Applicants.--If the applicant for a well permit is a
51 corporation, partnership or person that is not a resident of

1 this Commonwealth, the applicant shall designate the name and
2 address of an agent for the operator who shall be the attorney-
3 in-fact for the operator and who shall be a resident of this
4 Commonwealth upon whom notices, orders or other communications
5 issued under this chapter may be served and upon whom process
6 may be served. Each well operator required to designate an agent
7 under this section shall, within five days after termination of
8 the designation, notify the department of the termination and
9 designate a new agent.

10 (d) Permit fee.--In addition to any annual fee under Chapter
11 37, each application for a well permit shall be accompanied by a
12 permit fee, established by the Environmental Quality Board.

13 (e) Issuance of permit.--The department shall issue a permit
14 within 45 days of submission of a permit application unless the
15 department denies the permit application for one or more of the
16 reasons set forth in subsection (e.1), except that the
17 department shall have the right to extend the period for 15 days
18 for cause shown upon notification to the applicant of the
19 reasons for the extension. The department may impose permit
20 terms and conditions necessary to assure compliance with this
21 chapter or other laws administered by the department.

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

24 (1) The well site for which a permit is requested is in
25 violation of any of this chapter or issuance of the permit
26 would result in a violation of this chapter or other
27 applicable law.

28 (2) The permit application is incomplete.

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

31 (4) The requirements of section 3625 (relating to
32 bonding) have not been met.

33 (5) The department finds that the applicant, or any
34 parent or subsidiary corporation of the applicant, is in
35 continuing violation of this chapter, any other statute
36 administered by the department, any regulation promulgated
37 under this chapter or a statute administered by the
38 department or any plan approval, permit or order of the
39 department, unless the violation is being corrected to the
40 satisfaction of the department. The right of the department
41 to deny a permit under this paragraph shall not take effect
42 until the department has taken a final action on the
43 violations and:

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

47 (ii) if an appeal has been filed, no supersedeas has
48 been issued.

49 (6) The applicant failed to pay the fee or file a report
50 under section 2303(c) (relating to administration), unless an
51 appeal is pending. The commission shall notify the department

1 of any applicant who has failed to pay the fee or file a
2 report and who does not have an appeal pending.

3 (f) Drilling.--

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

13 (2) Prior to drilling each additional project well, the
14 well operator shall notify the department and provide
15 reasonable notice of the date on which drilling will
16 commence.

17 (3) Whenever, before or during the drilling of a well
18 not within the boundaries of an operating coal mine, the well
19 operator encounters conditions of a nature which renders
20 drilling of the bore hole or a portion thereof impossible, or
21 more hazardous than usual, the well operator, upon verbal
22 notice to the department, may immediately plug all or part of
23 the bore hole, if drilling has occurred, and commence a new
24 bore hole not more than 50 feet from the old bore hole if the
25 location of the new bore hole does not violate section 3615
26 (relating to well location restrictions) and, in the case of
27 a well subject to the act of July 25, 1961 (P.L.825, No.359),
28 known as the Oil and Gas Conservation Law, if the new
29 location complies with existing laws, regulations and spacing
30 orders and the new bore hole is at least 330 feet from the
31 nearest lease boundary.

32 (4) If drilling occurred at the original well bore,
33 within 10 days of commencement of the new bore hole, the well
34 operator shall file with the department a written notice of
35 intention to plug, a well record, a completion report, a
36 plugging certificate for the original bore hole and an
37 amended plat for the new bore hole.

38 (5) The well operator shall forward a copy of the
39 amended plat to the surface landowner identified on the well
40 permit application within ten days of commencement of the new
41 well bore.

42 (g) Labeling.--The well operator shall install the permit
43 number issued by the department in a legible, visible and
44 permanent manner on the well upon completion.

45 (h) Expiration.--Well permits issued for drilling wells
46 under this chapter shall expire three years after issuance
47 unless operations for drilling the well are commenced within the
48 period and pursued with due diligence or unless the permit is
49 renewed in accordance with regulations of the department. If
50 drilling is commenced during the permit term, the well permit
51 shall remain in force until the well is plugged in accordance

1 with section 3620 (relating to plugging requirements) or the
2 permit is revoked. A drilling permit issued prior to April 18,
3 1985, for a well which is an operating well on April 18, 1985,
4 shall remain in force as a well permit until the well is plugged
5 in accordance with section 3620.

6 (i) Exceptions.--The Environmental Quality Board may
7 establish by regulation certain categories of alterations of
8 permitted or registered wells for which permitting requirements
9 of this section shall not apply. A well operator or owner who
10 proposes to conduct the alteration activity shall first obtain a
11 permit or registration modification from the department. The
12 Environmental Quality Board shall promulgate regulations as to
13 the requirements for modifications.

14 (j) No transfer permitted.--No permit issued under this
15 section or registration issued under section 3613 (relating to
16 well registration and identification) may be transferred without
17 prior approval of the department. A request for approval of a
18 transfer shall be on the forms, and in the manner, prescribed by
19 the department. Transfer of a well requires a bond for the well
20 and the well site on forms prescribed by the department in an
21 amount sufficient to plug the well and restore the well site as
22 determined by the department. A bond filed with a transfer
23 request for a home use well shall be payable to the Commonwealth
24 and conditioned on the operator's faithful performance of all
25 water supply replacement, restoration and plugging requirements
26 of this chapter. The department shall approve or deny a transfer
27 request within 45 days of receipt of a complete and accurate
28 application. The department may deny a request only for reasons
29 set forth in subsection (e.1)(1), (4) and (5) or if the well is
30 abandoned. Approval of a transfer request shall permanently
31 transfer responsibility to plug the well under section 3620 to
32 the recipient of the transferred permit or registration.

33 (k) Regulations.--The Environmental Quality Board may
34 establish by regulation requirements for the permitting and
35 operation of abandoned or orphan wells. A person who proposes to
36 conduct abandoned or orphan well operations shall first obtain a
37 permit to operate an abandoned or orphan well.

38 § 3612. Permit objections.

39 (a) General rule.--If a well referred to in section 3611(b)
40 (relating to well permits) will be located on a tract whose
41 surface is owned by a person other than the well operator, the
42 surface landowner affected shall be notified of the intent to
43 drill and may file objections, in accordance with section 3651
44 (relating to conferences), based on the assertion that the well
45 location violates section 3615 (relating to well location
46 restrictions) or that information in the application is untrue
47 in any material respect, within 15 days of the receipt by the
48 surface owner of the plat under section 3611(b). Receipt of
49 notice by the surface owner shall be presumed to have occurred
50 15 days from the date of the certified mailing when the well
51 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 3611(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 3651 to the
18 proposed location within 15 days of the receipt by the coal
19 operator of the plat under section 3611(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 or
25 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 3651
31 not more than ten days from the date of service of the objection
32 to allow the parties to consider the objection and attempt to
33 agree on a location. If they fail to agree, the department, by
34 an appropriate order, shall determine a location on the tract of
35 land as near to the original location as possible where, in the
36 judgment of the department, the well can be safely drilled
37 without unduly interfering with or endangering the mine as
38 defined in subsection (b). The new location agreed upon by the
39 parties or determined by the department shall be indicated on
40 the plat on file with the department and become a permanent
41 record upon which the department shall proceed to issue or deny
42 the permit.

43 (d) Survey.--Within 120 days after commencement of drilling
44 operations, the coal operator shall accurately locate the well
45 by a closed survey on the same datum as the mine workings or
46 coal boundaries are mapped, file the results of the survey with
47 the department and forward a copy by certified mail to the well
48 operator.

49 § 3613. Well identification.

50 (a) General rule.--Each person who owns or operates a well
51 in existence prior to the effective date of this section, which

1 has not been registered with the department and for which no
2 drilling permit has been issued by the department, shall apply
3 to adopt the well using forms developed by the department. No
4 fee shall be charged for well adoption unless the well must also
5 be altered in accordance with section 3611 (relating to well
6 permits) prior to operation.

7 (b) Orphaned and abandoned wells.--A well owner, well
8 operator or other person discovering an abandoned well on
9 property purchased or leased by the well owner, well operator or
10 other person shall identify it to the department within 60 days
11 of discovery. A well owner or well operator shall advise the
12 department that it is seeking classification of the well as an
13 orphan well or abandoned well. The classification request or
14 identification notice shall include any available information
15 relating to the well's operating and ownership interests. No fee
16 shall be required for identification.

17 (c) Area of review.--An operator shall undertake reasonable
18 diligence to avoid inadvertent communication with abandoned,
19 orphan, plugged, active and inactive wells during hydraulic
20 fracturing by conducting an area of review survey consisting of
21 the following:

22 (1) Review of records and reports.

23 (2) Field investigation.

24 (3) Monitoring of orphan and abandoned wells that could
25 be potentially impacted by hydraulic fracturing.

26 (d) Notice.--An operator shall provide notice to the
27 department as soon as practicable if a well undergoing hydraulic
28 fracturing communicates with any abandoned, orphan, plugged,
29 active or inactive well in a manner that has the potential to
30 cause an adverse environmental, public health or safety impact.
31 In coal areas when the affected well is within an active mine or
32 2,000 linear feet or less from an active mine, the coal operator
33 shall also be notified as soon as practicable.

34 (e) Remedial actions.--An operator inadvertently
35 communicating with any abandoned, orphan, plugged, active or
36 inactive well shall implement remedial actions necessary to
37 prevent pollution and protect the environment, public health and
38 safety. Remedial actions may include but are not limited to
39 cessation of hydraulic fracturing and plugging.

40 (f) Permit.--A person who proposes to operate an orphan or
41 abandoned well affected by hydraulic fracturing operations shall
42 first obtain a permit to adopt and operate the well in
43 accordance with subsection (a) if the well complies with the
44 spacing requirements in coal areas under the act of December 18,
45 1984 (P.L.1069, No.214), known as the Coal and Gas Resource
46 Coordination Act, or for wells subject to the act of July 25,
47 1961 (P.L.825, No.359), known as the Oil and Gas Conservation
48 Law.

49 (g) Regulations.--The Environmental Quality Board shall have
50 the authority to adopt regulations regarding the area of review
51 provisions in subsections (c), (d) and (e).

1 § 3614. Inactive status.

2 (a) General rule.--Within 60 days of receipt of an
3 application for inactive status, the department may grant
4 inactive status for a period of five years for a permitted or
5 registered well, if the following requirements are met:

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

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

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

19 (4) the well to be granted inactive status is bonded in
20 an amount sufficient to plug the well and restore the well
21 site as determined by the department. The bond required by
22 this paragraph shall be in addition to the bond required by
23 section 3625 (relating to bonding). A bond filed with an
24 inactive status application shall be payable to the
25 Commonwealth and conditioned on the operator's faithful
26 performance of all water supply replacement, restoration and
27 plugging requirements of this chapter.

28 (b) Inactive status.--If the department has not made a final
29 determination on an application for inactive status within 60
30 days, the well will be considered inactive for purposes of
31 compliance with the reporting requirements in this act until the
32 department makes a final determination on the application for
33 inactive status.

34 (c) Monitoring.--The owner or operator of a well granted
35 inactive status shall be responsible for monitoring the
36 mechanical integrity of the well to ensure that the requirements
37 of subsection (a)(1) and (2) are met. The owner or operator of a
38 well granted inactive status shall submit a report on an annual
39 basis to the department in a manner and form as provided by the
40 department that demonstrates that the well complies with
41 subsection (a)(1), (2) and (3). The owner or operator of a well
42 granted inactive status under subsection (a) shall immediately
43 notify the department when the well no longer meets the
44 requirements of subsection (a) and plug the well in accordance
45 with section 3620 (relating to plugging requirements) or repaint
46 the well in order to meet the requirements of subsection (a)(1)
47 and (2).

48 (d) Return to active status.--An inactive status well under
49 subsection (a) or (b) shall be plugged in accordance with
50 section 3620 or returned to active status within five years of
51 the date inactive status commenced, unless the owner or operator

1 applies for an extension of inactive status which may be granted
2 once for up to five years if the department determines that the
3 owner or operator has demonstrated an ability to continue
4 meeting the requirements of this section and the owner or
5 operator certifies that the well will be of future use within a
6 reasonable period of time. An owner or operator who has been
7 granted inactive status for a well which is returned to active
8 status prior to expiration of the five-year period set forth in
9 subsection (a) shall notify the department that the well has
10 been returned to active status and shall not be permitted to
11 apply for another automatic five-year period of inactive status
12 for the well. The owner or operator may make application to
13 return the well to inactive status, and the application may be
14 approved on a year-to-year basis if the department determines
15 that the owner or operator has demonstrated an ability to
16 continue meeting the requirements of this section and the owner
17 or operator certifies that the well will be of future use within
18 a reasonable period of time. The department shall approve or
19 deny an application to extend a period of inactive status or to
20 return a well to inactive status within 60 days of receipt of
21 the application, and the application shall not be unreasonably
22 denied. If the department has not completed its review of the
23 application within 60 days, the inactive status shall continue
24 until the department has made a determination on the request. An
25 owner or operator may in no circumstances extend the total
26 period of inactive status for a well beyond 10 years. If the
27 department denies an application to extend the period of
28 inactive status or to return a well to inactive status, a well
29 owner or operator aggrieved by the denial shall have the right
30 to appeal the denial to the Environmental Hearing Board within
31 30 days of receipt of the denial. Upon cause shown by a well
32 owner or operator, the board may grant a supersedeas under
33 section 4 of the act of July 13, 1988 (P.L.530, No.94), known as
34 the Environmental Hearing Board Act, so that the well in
35 question may retain inactive status during the period of the
36 appeal.

37 (e) Revocation of inactive status.--The department may
38 revoke inactive status and order immediate plugging of a well if
39 the well is in violation of this chapter or rules or regulations
40 promulgated under this chapter or if the owner or operator
41 demonstrates inability to perform obligations under this chapter
42 or becomes financially insolvent, or upon receipt by the
43 department of notice of bankruptcy proceedings by the permittee.
44 § 3615. Well location restrictions.

45 (a) General rule.--Wells may not be drilled within 200 feet
46 measured horizontally from the vertical well bore to a building
47 or water well, existing when the copy of the plat is mailed as
48 required by section 3611(b) (relating to well permits) without
49 written consent of the owner of the building or water well. If
50 consent is not obtained and the distance restriction would
51 deprive the owner of the oil and gas rights of the right to

1 produce or share in the oil or gas underlying the surface tract,
2 the well operator shall be granted a variance from the distance
3 restriction upon submission of a plan identifying the additional
4 measures, facilities or practices as prescribed by the
5 department to be employed during well site construction,
6 drilling and operations. The variance shall include additional
7 terms and conditions required by the department to ensure safety
8 and protection of affected persons and property, including
9 insurance, bonding, indemnification and technical requirements.
10 Notwithstanding section 3611(e), if a variance request has been
11 submitted, the department may extend its permit review period
12 for up to 15 days upon notification to the applicant of the
13 reasons for the extension.

14 (b) Limitation.--

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

23 (2) The department may waive the distance restrictions
24 upon submission of a plan identifying additional measures,
25 facilities or practices to be employed during well site
26 construction, drilling and operations necessary to protect
27 the waters of this Commonwealth. The waiver, if granted,
28 shall include additional terms and conditions required by the
29 department necessary to protect the waters of this
30 Commonwealth. Notwithstanding section 3611(e), if a waiver
31 request has been submitted, the department may extend its
32 permit review period for up to 15 days upon notification to
33 the applicant of the reasons for the extension.

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

37 (1) Publicly owned parks, forests, game lands and
38 wildlife areas.

39 (2) National or State scenic rivers.

40 (3) National natural landmarks.

41 (4) Habitats of rare and endangered flora and fauna and
42 species of special concern.

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

45 (6) Sources used for public drinking supplies in
46 accordance with subsection (b).

47 (d) Regulation criteria.--The Environmental Quality Board
48 shall develop by regulation criteria:

49 (1) For the department to utilize for conditioning a
50 well permit based on its impact to the public resources
51 identified under subsection (c) and for ensuring optimal

1 development of oil and gas resources and respecting property
2 rights of oil and gas owners.

3 (2) For appeal to the Environmental Hearing Board of a
4 permit containing conditions imposed by the department. The
5 regulations shall also provide that the department has the
6 burden of proving that the conditions were necessary to
7 protect against a probable harmful impact of the public
8 resources.

9 (e) Floodplains.--

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

12 (i) a pit or impoundment containing drilling
13 cuttings, flowback water, produced water or hazardous
14 materials, chemicals or wastes within the floodplain; or

15 (ii) a tank containing hazardous materials,
16 chemicals, condensate, wastes, flowback or produced water
17 within the floodway.

18 (2) A well site shall not be eligible for a floodplain
19 restriction waiver if the well site will have a tank
20 containing condensate, flowback or produced water within the
21 flood fringe unless all the tanks have adequate floodproofing
22 in accordance with the National Flood Insurance Program
23 standards and accepted engineering practices.

24 (3) The department may waive restrictions upon
25 submission of a plan that shall identify the additional
26 measures, facilities or practices to be employed during well
27 site construction, drilling and operations. The waiver, if
28 granted, shall impose permit conditions necessary to protect
29 the waters of this Commonwealth.

30 (4) Best practices as determined by the department to
31 ensure the protection of the waters of this Commonwealth must
32 be utilized for the storage and handling of all water,
33 chemicals, fuels, hazardous materials or solid waste on a
34 well site located in a floodplain. The department may request
35 that the well site operator submit a plan for the storage and
36 handling of the materials for approval by the department and
37 may impose conditions or amend permits to include permit
38 conditions as are necessary to protect the environment,
39 public health and safety.

40 (5) Unless otherwise specified by the department, the
41 boundary of the floodplain shall be as indicated on maps and
42 flood insurance studies provided by the Federal Emergency
43 Management Agency. In an area where no Federal Emergency
44 Management Agency maps or studies have defined the boundary
45 of the 100-year frequency floodplain, absent evidence to the
46 contrary, the floodplain shall extend from:

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

49 (ii) from any intermittent stream up to 50 feet
50 horizontally from the top of the bank of the intermittent
51 stream.

1 (f) Applicability.--

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

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

9 § 3616. Well site restoration.

10 (a) General rule.--Each oil or gas well owner or operator
11 shall restore the land surface within the area disturbed in
12 siting, drilling, completing, producing and plugging the well.
13 Restoration includes, but is not limited to, reclamation of the
14 land affected to preconstruction contours so that it closely
15 resembles the general surface configuration of the land prior to
16 construction activities, if known, and blends into and
17 complements the drainage pattern of the surrounding terrain, and
18 can support the land uses that existed prior to the applicable
19 oil and gas operations and to the extent practicable based on
20 current land conditions.

21 (b) Plan.--During and after earthmoving or soil disturbing
22 activities, including, but not limited to, activities related to
23 siting, drilling, completing, producing and plugging the well,
24 erosion and sedimentation control and storm water management
25 measures shall be implemented in accordance with a plan prepared
26 in accordance with the act of June 22, 1937 (P.L.1987, No.394),
27 known as The Clean Streams Law.

28 (c) Pits, drilling supplies and equipment.--Within nine
29 months after completion of drilling of a well or expiration of
30 the well permit, the owner or operator shall restore the well
31 site and remove or fill all pits used to contain produced fluids
32 or industrial wastes and remove all drilling supplies and
33 equipment not needed for production. Drilling supplies and
34 equipment not needed for production may be stored on the well
35 site if express written consent of the surface landowner is
36 obtained so long as such storage and any remaining disturbed
37 areas that are not included in a restoration plan, and other
38 remaining impervious surfaces, comply with all requirements in
39 The Clean Streams Law.

40 (d) Items related to production or storage.--Within nine
41 months after plugging a well, the owner or operator shall remove
42 all production or storage facilities, supplies and equipment and
43 restore the well site.

44 (e) Clean Streams Law.--Restoration activities required by
45 this chapter or in regulations promulgated under this chapter
46 shall also comply with all applicable provisions of The Clean
47 Streams Law.

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

51 (g) Extension.--

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

4 (i) the extension will result in less earth
5 disturbance, increased water reuse or more efficient
6 development of the resources; or

7 (ii) site restoration cannot be achieved due to
8 adverse weather conditions or a lack of essential fuel,
9 equipment or labor.

10 (2) The demonstration under paragraph (1) shall do all
11 of the following:

12 (i) Include a site restoration plan that shall
13 provide for:

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

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

18 (C) the stabilization of the well site that
19 shall include interim postconstruction storm water
20 management best management practices; or

21 (D) other measures to be employed to minimize
22 accelerated erosion and sedimentation in accordance
23 with The Clean Streams Law.

24 (ii) Provide for returning the portions of the site
25 not occupied by production facilities or equipment
26 consistent with subsection (a).

27 (3) The department may condition an extension under this
28 subsection as is necessary in accordance with The Clean
29 Streams Law.

30 § 3617. Protection of fresh groundwater and casing
31 requirements.

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

38 (b) Casing.--To prevent migration of gas or fluids into
39 sources of fresh groundwater and pollution or diminution of
40 fresh groundwater, a string or strings of casing shall be run
41 and permanently cemented in each well drilled through the fresh
42 water-bearing strata to a depth and in a manner prescribed by
43 regulation by the department. The regulation shall be consistent
44 with practices that have proven to be protective in regional
45 areas and consider the use of alternative cement formulations
46 and casing materials to protect the casing from corrosion,
47 lithologic and physical conditions of the surrounding well bore.

48 (c) Noncoal areas.--In noncoal areas, the surface casing may
49 be employed as production casing for oil or gas production,
50 provided:

51 (1) The operator pumps a volume of cement equal to or

1 greater than 120% of the calculated annular space.

2 (2) The operator circulates cement using the
3 displacement method.

4 (3) The location of cement within the annular space, as
5 determined by logging, and the function of the casing string
6 satisfy the requirements of subsection (b) and other
7 regulations prescribed by the department. To achieve
8 sufficient cement coverage in the annular space, the operator
9 may install a cement basket immediately above the depth of an
10 anticipated lost circulation zone and fill the annular space
11 by pumping from the surface if a casing and cementing plan
12 detailing the procedure is approved by the department.

13 (d) Procedure when coal has been removed.--If a well is
14 drilled at a location where coal has been removed from one or
15 more coal seams, the well shall be drilled and cased to prevent
16 migration of gas or fluids into the seam from which coal has
17 been removed in a manner prescribed by regulation of the
18 department. The department and the coal operator, owner or
19 lessee shall be given at least 72 hours' notice prior to
20 commencement of work protecting the mine.

21 (e) Procedure when coal has not been removed.--If a well is
22 drilled at a location where the coal seam has not been removed,
23 the casing shall be installed and permanently cemented in a
24 manner prescribed by regulation to exclude gas or fluids from
25 the coal seam, except gas or fluids found naturally in the seam
26 itself, and to enable monitoring the integrity of the production
27 casing.

28 § 3618. Protection of water supplies.

29 (a) General rule.--In addition to the requirements of
30 subsection (c.1), a well operator who affects a public or
31 private water supply by pollution or diminution shall restore or
32 replace the affected supply with an alternate source of water
33 adequate in quantity or quality for the purposes served by the
34 supply. The department shall ensure that the quality of a
35 restored or replaced water supply meets the standards
36 established under the act of May 1, 1984 (P.L.206, No.43), known
37 as the Pennsylvania Safe Drinking Water Act, or is comparable to
38 the quality of the water supply before it was affected by the
39 operator if that water supply exceeded those standards. The
40 Environmental Quality Board shall promulgate regulations
41 necessary to meet the requirements of this subsection.

42 (b) Pollution or diminution of water supply.--A landowner or
43 water purveyor suffering pollution or diminution of a water
44 supply as a result of the drilling, alteration or operation of
45 an oil or gas well may so notify the department and request that
46 an investigation be conducted. Within ten days of notification,
47 the department shall investigate the claim and make a
48 determination within 45 days following notification. If the
49 department finds that the pollution or diminution was caused by
50 drilling, alteration or operation activities or if it presumes
51 the well operator responsible for pollution under subsection

1 (c), the department shall issue orders to the well operator
2 necessary to assure compliance with subsection (a), including
3 orders requiring temporary replacement of a water supply where
4 it is determined that pollution or diminution may be of limited
5 duration.

6 (b.1) (Reserved).

7 (b.2) Telephone number.--The department shall establish a
8 single Statewide toll-free telephone number that persons may use
9 to report cases of water contamination which may be associated
10 with the development of oil and gas resources. The Statewide
11 toll-free telephone number shall be provided in a conspicuous
12 manner in the notification required under section 3611(b)
13 (relating to well permits) and on the department's Internet
14 website.

15 (b.3) Responses.--The department shall develop appropriate
16 administrative responses to calls received on the Statewide
17 toll-free telephone number for water contamination.

18 (b.4) Website.--The department shall publish, on its
19 Internet website, lists of confirmed cases of subterranean water
20 supply contamination that result from hydraulic fracturing.

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

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

30 (1) the water supply is within 1,000 feet of an oil or
31 gas well; and

32 (2) the pollution occurred within six months after
33 completion of drilling or alteration of the oil or gas well.

34 (c.1) Requirement.--If the affected water supply is within
35 the rebuttable presumption area as provided in subsection (c)
36 and the rebuttable presumption applies, the operator shall
37 provide a temporary water supply if the water user is without a
38 readily available alternative source of water. The temporary
39 water supply provided under this subsection shall be adequate in
40 quantity and quality for the purposes served by the supply.

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

44 (1) the pollution existed prior to the drilling or
45 alteration activity as determined by a predrilling or
46 prealteration survey;

47 (2) the landowner or water purveyor refused to allow the
48 operator access to conduct a predrilling or prealteration
49 survey;

50 (3) the water supply is not within 1,000 feet of the
51 well;

1 (4) the pollution occurred more than six months after
2 completion of drilling or alteration activities; and

3 (5) the pollution occurred as the result of a cause
4 other than the drilling or alteration activity.

5 (e) Independent certified laboratory.--An operator electing
6 to preserve a defense under subsection (d) (1) or (2) shall
7 retain an independent certified laboratory to conduct a
8 predrilling or prealteration survey of the water supply. A copy
9 of survey results shall be submitted to the department and the
10 landowner or water purveyor in the manner prescribed by the
11 department.

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

16 § 3619. Use of safety devices.

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

22 § 3619.1. Well control emergency response.

23 (a) Contracts.--The department may enter into contracts with
24 well control specialists in order to provide adequate emergency
25 response services in the event of a well control emergency. The
26 department shall make available, upon request by a county,
27 information relating to contracts with well control specialists.

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

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

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

36 (2) An intentional tort.

37 (3) Gross negligence.

38 § 3620. Plugging requirements.

39 (a) General rule.--Conventional wells shall be plugged in
40 accordance with this act. Prior to abandoning a well, the owner
41 or operator shall plug it in the manner prescribed by regulation
42 of the department to stop vertical flow of fluids or gas within
43 the well bore, unless the department has determined that the
44 flow is an acceptable artesian flow of freshwater, the well is
45 on inactive status or it has been approved by the department as
46 an orphan well. If the department determines that a prior owner
47 or operator received economic benefit, other than economic
48 benefit derived only as a landowner or from a royalty interest,
49 after April 18, 1979, from an orphan well or an unregistered
50 well, the owner or operator shall be responsible for plugging
51 the well. In the case of a gas well penetrating a workable coal

1 seam which was drilled prior to January 30, 1956, or which was
2 permitted after that date but not plugged in accordance with
3 this chapter, if the owner or operator or a coal operator or an
4 agent proposes to plug the well to allow mining through it, the
5 gas well shall be cleaned to a depth of at least 200 feet below
6 the coal seam through which mining is proposed and, unless
7 impracticable, to a point 200 feet below the deepest mineable
8 coal seam. The gas well shall be plugged from that depth in
9 accordance with the regulations of the department.

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

34 (c) Abandoned wells.--Prior to abandonment of a well, except
35 an uncompleted bore hole plugged immediately upon suspension of
36 drilling in an area not underlain by a workable coal seam, the
37 well operator shall notify the department of the intention to
38 plug and abandon the well and submit a plat showing the location
39 of the well and fixing the date and time at which plugging will
40 commence, which shall be not less than three working days, nor
41 more than 30 days, after the notice is received, to permit a
42 department representative to be present at the plugging. The
43 notice or waiting period may be verbally waived by the
44 department. In noncoal areas where more than one well has been
45 drilled as part of the same development project and the wells
46 are now to be plugged, the department shall be given three
47 working days' notice prior to plugging the first well of the
48 project, subject to waiver of notice described in subsection
49 (b). In the plugging of subsequent wells, no additional notice
50 shall be required if plugging on the project is continuous. If
51 plugging of subsequent wells is delayed for any reason, notice

1 shall be given to the department of continuation of the project.
2 Whether or not a representative attends, if the well operator
3 has fully complied with this section, the well operator may
4 proceed, at the time fixed, to plug the well in the manner
5 prescribed by regulation of the department. When plugging has
6 been completed, a certificate shall be prepared, on a form to be
7 furnished by the department, by two experienced and qualified
8 people who participated in the work setting forth the time and
9 manner in which the well was plugged. A copy of the certificate
10 shall be mailed to the department.

11 (d) Wells abandoned upon completion of drilling.--If a well
12 is to be abandoned immediately after completion of drilling, the
13 well operator shall give at least 24 hours' notice, confirmed by
14 certified mail, to the department and to the coal operator,
15 lessee or owner, if any, fixing the date and time when plugging
16 will commence. Notice and the right to be present may be waived
17 by the department and the coal operator, lessee or owner, if
18 any. Whether or not representatives of the department or coal
19 operator, lessee or owner, if any, attend, if the well operator
20 has fully complied with the requirements of this section, the
21 well operator may proceed, at the time fixed, to plug the well
22 in the manner provided by regulation of the department. The well
23 operator shall prepare the certificate of plugging and mail
24 copies of the same as provided in subsection (b).

25 (e) Orphan and abandoned wells.--If a well is an orphan well
26 or abandoned without plugging or if a well is in operation but
27 not registered, the department may enter upon the well site and
28 plug the well and sell equipment, casing and pipe at the site
29 which may have been used in production of the well in order to
30 recover the costs of plugging. The department shall make an
31 effort to determine ownership of a well which is in operation
32 but has not been registered and provide written notice to the
33 owner of pending action under this subsection. If the department
34 cannot determine ownership within 30 days, it may proceed under
35 this subsection. Costs of plugging shall have priority over all
36 liens on equipment, casing and pipe, and the sale shall be free
37 and clear of those liens to the extent that the cost of plugging
38 exceeds the sale price. If the amount obtained for casing and
39 pipe salvaged at the site is inadequate to pay for plugging, the
40 owner or operator of the abandoned or unregistered well shall be
41 liable for the additional costs.

42 (f) Environmental Good Samaritans.--A person undertaking the
43 plugging of an orphan well or abandoned well without a
44 responsible owner or operator with approval from the department
45 under 27 Pa.C.S. Ch. 81 (relating to good samaritan), including
46 by way of a grant or payment from the Commonwealth Financing
47 Authority, shall not be subject to the notice requirements of 27
48 Pa.C.S. § 8105(b) (relating to eligibility and project
49 inventory) provided that the surface landowner is notified and
50 grants access to the well. Notice to the department and the
51 surface landowner shall be provided on forms developed by the

1 department. When plugging has been completed, a certificate
2 shall be prepared and signed on a form to be furnished by the
3 department by two experienced and qualified individuals who
4 participated in the work and set forth the time and manner in
5 which the well was plugged. A copy of the certificate shall be
6 provided to the department.

7 (g) Persons who voluntarily plug an orphan or abandoned well
8 in accordance with this section.--

9 (1) Persons who voluntarily plug an orphan well or
10 abandoned well without a responsible owner or operator may
11 either:

12 (i) Apply to the Commonwealth Financing Authority,
13 on forms developed by the Commonwealth Financing
14 Authority, for a payment per well plugged payable from
15 the Marcellus Legacy Fund established under section 2315
16 (relating to Statewide initiatives) according to the
17 following schedule:

18 (A) \$10,000 for each well 2,000 feet or less
19 below ground surface.

20 (B) \$20,000 for each well between 2,001 and
21 3,000 feet below ground surface.

22 (C) \$30,000 for each well greater than 3,000
23 feet below ground surface.

24 (ii) Be credited for each plugged well in the form
25 of a permit-fee waiver for any succeeding conventional
26 well permit application.

27 (2) Persons who voluntarily plug an orphan well or
28 abandoned well without a responsible owner or operator and
29 receive payment under this section shall not be disqualified
30 from liability protections under 27 Pa.C.S. Ch. 81.

31 (h) Notification.--With respect to the owner of a workable
32 coal seam, if any, notification shall be accomplished under this
33 section by sending notice to the persons to whom tax notices for
34 the workable coal seams are sent, as indicated in the assessment
35 books, if available, or as indicated in the records of the
36 recorder of deeds office in the county in which such seams are
37 located. If certified mail or notification is returned
38 undeliverable, the applicant shall include a completed affidavit
39 attesting to the attempted delivery, which shall satisfy the
40 notification requirements under this section.

41 (i) Definition.--For purposes of this section, the term
42 "owner" does not include the owner or possessor of surface real
43 property, on which an abandoned well is located, who did not
44 participate or incur costs in and had no right of control over
45 the drilling or extraction operation of the abandoned well.
46 § 3621. Alternative methods.

47 A well operator may request permission to use a method or
48 material other than those required by this chapter and
49 applicable regulations for casing, plugging or equipping a well
50 in an application to the department which describes the proposed
51 alternative in reasonable detail and indicates the manner in

1 which it will accomplish the goals of this chapter. Notice of
2 filing of the application shall be given by the well operator by
3 certified mail to any affected coal operators, who may, within
4 15 days after the notice, file objections to the proposed
5 alternative method or material. If no timely objections are
6 filed or raised by the department, the department shall
7 determine whether to allow use of the proposed alternative
8 method or material.

9 § 3622. Well reporting requirements.

10 (a) General rule.--Each well operator shall file with the
11 department, on a form provided by the department, an annual
12 report specifying the amount of production, on the most well-
13 specific basis available, along with the status of each well,
14 except that in subsequent years only changes in status must be
15 reported. Except for home use wells, wells producing less than
16 50 mcf per year or 10 barrels of oil per year shall be evaluated
17 for future utility by the operator and the results of this
18 evaluation shall be included in the production report. The
19 department may require a well to be plugged if the operator does
20 not demonstrate that the well has adequate future utility. The
21 Commonwealth may utilize reported information in enforcement
22 proceedings, in making designations or determinations under
23 section 1927-A of the act of April 9, 1929 (P.L.177, No.175),
24 known as The Administrative Code of 1929, or in aggregate form
25 for statistical purposes.

26 (b) Collection of data.--

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

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

32 (3) Within 30 days after completion of the well, when
33 the well is capable of production, a completion report
34 containing any additional required information shall be filed
35 and shall be maintained by the department.

36 (4) The well operator shall, within 90 days of
37 completion or recompletion of drilling, submit a copy of any
38 electrical, radioactive or other standard industry logs which
39 have been run.

40 (5) Upon request by the department within one year, the
41 well operator shall file a copy of drill stem test charts,
42 formation water analysis, porosity, permeability or fluid
43 saturation measurements, core analysis and lithologic log or
44 sample description or other similar data as compiled. No
45 information shall be required unless the well operator had it
46 compiled in the ordinary course of business, and
47 interpretation of data under this paragraph is not required
48 to be filed.

49 (b.1) Report contents.--

50 (1) The completion report shall contain the operator's
51 stimulation record. The stimulation record shall include all

1 of the following:

2 (i) A descriptive list of the chemical additives in
3 the stimulation fluids, including any acid, biocide,
4 breaker, brine, corrosion inhibitor, crosslinker,
5 demulsifier, friction reducer, gel, iron control, oxygen
6 scavenger, Ph adjusting agent, proppant, scale inhibitor
7 and surfactant.

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

11 (iii) A list of the chemicals intentionally added to
12 the stimulation fluid, by name and chemical abstract
13 service number.

14 (iv) The maximum concentration, in percent by mass,
15 of each chemical intentionally added to the stimulation
16 fluid.

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

18 (vi) The pump rates and pressure used in the well.

19 (vii) The total volume of recycled water used.

20 (2) The well record shall identify whether methane was
21 encountered in other than a target formation.

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

31 (c) Drill cuttings and core samples.--Upon notification by
32 the department prior to commencement of drilling, the well
33 operator shall collect any additional data specified by the
34 department, including representative drill cuttings and samples
35 from cores taken and any other geological information that the
36 operator reasonably can compile. Interpretation of the data is
37 not required to be filed.

38 (d) Retention and filing.--Data required under subsection
39 (b) (5) and drill cuttings required under subsection (c) shall be
40 retained by the well operator and filed with the department no
41 more than three years after completion of the well. Upon
42 request, the department shall extend the deadline up to five
43 years from the date of completion of the well. The department
44 shall be entitled to utilize information collected under this
45 subsection in enforcement proceedings, in making designations or
46 determinations under section 1927-A of The Administrative Code
47 of 1929 and in aggregate form for statistical purposes.
48 § 3623. Notification and effect of well transfer.

49 The owner or operator of a well shall notify the department
50 in writing within 30 days, in a form directed by regulation, of
51 sale, assignment, transfer, conveyance or exchange by or to the

1 owner of the well. A transfer shall not relieve the well owner
2 or operator of an obligation accrued under this chapter, nor
3 shall it relieve the owner or operator of an obligation to plug
4 the well until the requirements of section 3625 (relating to
5 bonding) have been met, at which time the transferring owner or
6 operator shall be relieved from all obligations under this
7 chapter, including the obligation to plug the well.

8 § 3624. Coal operator responsibilities.

9 (a) General rule.--

10 (1) At any time prior to removing coal or other
11 underground material or extending the workings in a coal mine
12 within 500 feet of an oil or gas well of which the coal
13 operator has knowledge or an approved well location of which
14 the coal operator has knowledge, the coal operator shall
15 forward, by certified mail, to or file with the well operator
16 and the department a copy of the relevant part of the coal
17 operator's maps and plans which it is presently required by
18 law to prepare and file with the department, showing the
19 pillar which the coal operator proposes to leave in place
20 around each oil or gas well in the projected workings.

21 (2) Following the filing of maps and plans, the coal
22 operator may proceed with mining operations in the manner
23 projected on the maps and plans, but the coal operator shall
24 not remove any coal or cut any passageway within 150 feet of
25 a well or approved well location until written approval has
26 been granted as provided in this section.

27 (3) If, in the opinion of the well operator or the
28 department, the plan indicates that the pillar proposed to be
29 left around a well or approved well location is inadequate to
30 protect either the integrity of the well or the public health
31 and safety, the well operator affected shall attempt to agree
32 with the coal operator upon a suitable pillar, subject to the
33 approval of the department, but, failing to agree, the well
34 operator may, within 10 days from receipt of the plan, file
35 objections in accordance with section 3651 (relating to
36 conferences) to the proposed plan indicating the size of the
37 pillar to be left with respect to each well.

38 (4) If no objections are filed within the 10-day period
39 or if none are raised by the department, the department shall
40 grant approval to the coal operator reciting the following:

41 (i) The filing of the maps or plans.

42 (ii) That no objections have been made to the plan.

43 (iii) That the pillar proposed to be left for each
44 well is approved in the manner as projected.

45 (b) Objections.--

46 (1) If objections are filed by a well operator or are
47 raised by the department, the department shall direct that a
48 conference be held in accordance with section 3651 within 10
49 days of the filing of the objections.

50 (2) At the conference the coal operator and the person
51 who has filed the objections shall attempt to agree upon a

1 proposed plan showing the pillar to be left around each well,
2 which will satisfy the objections and be approved by the
3 department, and if the plan is agreed upon, the department
4 shall grant approval to the coal operator reciting the filing
5 of the plan and that the pillar to be left for each well is
6 approved as agreed upon.

7 (3) If no plan showing the pillar to be left with
8 respect to each well can be agreed upon at the conference,
9 the department shall, by an appropriate order, determine the
10 pillar to be left with respect to the well.

11 (4) In a proceeding under this section, the department
12 shall follow as nearly as possible the original plan filed by
13 the coal operator. The department shall not require the coal
14 operator to leave a pillar in excess of 100 feet in radius,
15 except that, if it is established that unusual conditions
16 exist requiring the leaving of a larger pillar, the
17 department may require a pillar up to but not exceeding 150
18 feet in radius.

19 (5) The pillar to be left with respect to each well as
20 determined by the department shall be shown on the maps or
21 plans on file with the department as provided in subsection
22 (a) and the department shall approve the pillar to be left
23 for each well.

24 (c) Pillars of reduced size.--Application may be made at any
25 time to the department by a coal operator to leave a pillar of
26 less size than that shown on the plan filed by the operator or
27 approved or determined by the department under the provisions of
28 this section. If an application is filed, the department may,
29 following the procedure prescribed in this section, by an
30 appropriate order, determine a different plan showing a pillar
31 of less size with respect to all wells covered by the
32 application and shall grant approval for the pillar to be left
33 with respect to each well.

34 (d) Violation.--No coal operator shall, without the written
35 approval of the department after notice and opportunity for
36 hearing as prescribed in this section, remove any coal or cut
37 any passageway so as to leave a pillar of less size with respect
38 to an oil or gas well than that approved by the department under
39 this chapter.

40 (e) Construction.--Nothing in this chapter shall be
41 construed to require a well operator to pay for a coal pillar
42 required by law to be left around a well drilled prior to April
43 18, 1985. A requirement for a coal operator to leave a pillar of
44 coal of a certain size around a well drilled after April 18,
45 1985, shall not in any way affect the rights which the coal
46 operator would have had prior to April 18, 1985, to obtain
47 payment for the coal, nor any duty or right which the well
48 operator or land owner may have had prior to April 18, 1985, to
49 pay for or not to pay for the coal.

50 (f) Mining through plugged wells.--A coal operator who
51 intends to mine through a plugged oil or gas well must file a

1 plan to completely remove a pillar from around the well in
2 accordance with subsection (a). This plan shall be subject to
3 the requirements of this section. No coal operator may mine
4 through a plugged oil or gas well of which the coal operator has
5 knowledge until written approval has been granted by the
6 department in accordance with this section.

7 (g) Establishment of conditions.--The Bureau of Deep Mine
8 Safety in the department shall have the authority to establish
9 the conditions under which the department may approve a coal
10 operator's plan to mine through a plugged oil or gas well.

11 § 3625. Bonding.

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

13 (1) Upon filing an application for a well permit and
14 before continuing to operate any oil or gas well, the owner
15 or operator thereof shall file with the department a bond for
16 the well and the well site on a form to be prescribed and
17 furnished by the department. Any bond filed with an
18 application for a well permit or any bond filed with the
19 department for a well in existence on or after the effective
20 date of this act shall be payable to the Commonwealth and
21 conditioned that the operator shall comply with the
22 requirements of this act, the act of June 22, 1937 (P.L.1987,
23 No.394), known as The Clean Streams Law, the act of May 31,
24 1945 (P.L.1198, No.418), known as the Surface Mining
25 Conservation and Reclamation Act, the act of July 7, 1980
26 (P.L.380, No.97), known as the Solid Waste Management Act,
27 the act of January 8, 1960 (1959 P.L.2119, No.787), known as
28 the Air Pollution Control Act, and the act of November 26,
29 1978 (P.L.1375, No.325), known as the Dam Safety and
30 Encroachments Act. The department may require additional bond
31 amounts for the well and well site should such as increase be
32 determined by the department to be necessary to meet the
33 requirements of this act. The amount of the bond required
34 shall be in an amount determined by the secretary based upon
35 the total estimated cost of the Commonwealth of completing
36 well plugging activities according to the permit granted to
37 the well and well site and such measures as are necessary to
38 prevent adverse effects upon the environment. The bond amount
39 shall reflect the additional cost to the Commonwealth which
40 may be entailed by being required to bring personnel and
41 equipment to the site. All permits shall be bonded for at
42 least \$30,000.

43 (2) The minimum bond amount required by this chapter may
44 be adjusted by the Environmental Quality Board to reflect the
45 projected costs to the Commonwealth of performing well
46 plugging.

47 (3) Liability under the bond shall continue until the
48 well has been properly plugged in accordance with this
49 chapter and for a period of one year after filing of the
50 certificate of plugging with the department. Each bond shall
51 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
31 be to receive and hold the same in the name of the
32 Commonwealth, in trust, for the purpose for which the deposit
33 is made.

34 (5) The State Treasurer shall at all times be
35 responsible for custody and safekeeping of deposits. The
36 operator making the deposit shall be entitled from time to
37 time to demand and receive from the State Treasurer, on the
38 written order of the secretary, the whole or any portion of
39 collateral deposited, upon depositing with the State
40 Treasurer, in lieu of that collateral, other collateral of
41 classes specified in this section having a market value at
42 least equal to the sum of the bond, and also to demand,
43 receive and recover the interest and income from the
44 negotiable bonds as they become due and payable.

45 (6) If negotiable bonds on deposit under this subsection
46 mature or are called, the State Treasurer, at the request of
47 the owner of the bonds, shall convert them into other
48 negotiable bonds, of classes specified in this section,
49 designated by the owner.

50 (7) If notice of intent to terminate a letter of credit
51 is given, the department shall give the operator 30 days'

1 written notice to replace the letter of credit with other
2 acceptable bond guarantees as provided in this section. If
3 the owner or operator fails to timely replace the letter of
4 credit, the department shall draw upon and convert the letter
5 of credit into cash and hold it as a collateral bond
6 guarantee.

7 (b) Release.--No bond shall be fully released until the
8 requirements of subsection (a) and section 3623 (relating to
9 notification and effect of well transfer) have been fully met.
10 Upon release of bonds and collateral under this section, the
11 State Treasurer shall immediately return to the owner the
12 specified amount of cash or securities.

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

39 (d) Reservation of remedies.--All remedies for violations of
40 this chapter, regulations adopted under this chapter and
41 conditions of permits are expressly preserved. Nothing in this
42 section shall be construed as an exclusive penalty or remedy for
43 violations of law. No action taken under this section shall
44 waive or impair any other remedy or penalty provided in law.

45 (e) Change of law.--Owners or operators who have failed to
46 meet the requirements of this section prior to August 1, 1992,
47 shall not be required to make payments under this section on a
48 retroactive basis as a condition of obtaining a permit under
49 this chapter, nor shall the failure be deemed a violation of
50 this chapter.

51 (f) 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 SUBCHAPTER C
5 ENFORCEMENT AND REMEDIES

6 Sec.

7 3651. Conferences.

8 3652. Public nuisances.

9 3653. Enforcement orders.

10 3654. Restraining violations.

11 3654.1. Well control emergency response cost recovery.

12 3655. Penalties.

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14 3657. Existing rights and remedies preserved and cumulative
15 remedies authorized.

16 3658. Inspection and production of materials, witnesses,
17 depositions and rights of entry.

18 3659. Unlawful conduct.

19 3660. Collection of fines and penalties.

20 3661. Third-party liability.

21 3662. Inspection reports.

22 § 3651. Conferences.

23 (a) General rule.--The department or any person having a
24 direct interest in a matter subject to this chapter may, at any
25 time, request that a conference be held to discuss and attempt
26 to resolve by mutual agreement a matter arising under this
27 chapter. Unless otherwise provided, conferences shall be held
28 within 90 days after a request is received by the department,
29 and notice shall be given by the department to all interested
30 parties. A representative of the department shall attend the
31 conference and the department may make recommendations. An
32 agreement reached at a conference shall be consistent with this
33 chapter and, if approved by the department, it shall be reduced
34 to writing and shall be effective, unless reviewed and rejected
35 by the department within ten days after the conference. The
36 record of an agreement approved by the department shall be kept
37 on file by the department and copies shall be furnished to the
38 parties. The scheduling of a conference shall have no effect on
39 the department's authority to issue orders to compel compliance
40 with this chapter.

41 (b) Notification.--When a coal operator is to be notified of
42 a proceeding under this section, the department simultaneously
43 shall send a copy of the notice to the collective bargaining
44 representative of employees of the coal operator.

45 § 3652. Public nuisances.

46 A violation of section 3617 (relating to protection of fresh
47 groundwater and casing requirements), 3618 (relating to
48 protection of water supplies), 3619 (relating to use of safety
49 devices) or 3620 (relating to plugging requirements), or a
50 regulation, order, term or condition of a permit relating to any
51 of those sections constitutes a public nuisance.

1 § 3653. Enforcement orders.

2 (a) General rule.--Except as modified by subsections (b),
3 (c) and (d), the department may issue orders necessary to aid in
4 enforcement of this chapter. An order issued under this chapter
5 shall take effect upon notice, unless the order specifies
6 otherwise. The power of the department to issue an order under
7 this chapter is in addition to any other remedy available to the
8 department under this chapter or under any other law.

9 (b) Suspension and revocation.--

10 (1) The department may suspend or revoke a well permit
11 or well registration for any well:

12 (i) in continuing violation of any of the following:

13 (A) This chapter.

14 (B) The act of June 22, 1937 (P.L.1987, No.394),
15 known as The Clean Streams Law.

16 (C) The act of July 7, 1980 (P.L.380, No.97),
17 known as the Solid Waste Management Act.

18 (D) Any other statute administered by the
19 department.

20 (ii) the likely result of a violation is an unsafe
21 operation or environmental damage.

22 (2) A suspension order of the department shall
23 automatically terminate if the violation upon which it is
24 based is corrected by the operator to the satisfaction of the
25 department in order to bring the well into compliance with
26 this chapter.

27 (c) Written notice.--Prior to suspension or revocation of a
28 well permit or registration, the department shall serve written
29 notice on the well operator or its agent, stating specifically
30 the statutory provision, regulation or other reason relied upon,
31 along with factual circumstances surrounding the alleged
32 violation. If the department suspends or revokes the permit or
33 registration, the department may order the operator to cap the
34 well if the likely result of the violation is an unsafe
35 operation or environmental damage.

36 (d) Immediate orders.--An order of the department requiring
37 immediate cessation of drilling operations shall be effective
38 only if authorized by the secretary or a designee.

39 (e) Grievances.--A person aggrieved by a department order
40 issued under this section shall have the right, within 30 days
41 of receipt of the notice, to appeal to the Environmental Hearing
42 Board.

43 § 3654. Restraining violations.

44 (a) General rule.--In addition to any other remedy provided
45 in this chapter, the department may institute a suit in equity
46 in the name of the Commonwealth for an injunction to restrain a
47 violation of this chapter or rules, regulations, standards or
48 orders adopted or issued under this chapter and to restrain the
49 maintenance or threat of a public nuisance. Upon motion of the
50 Commonwealth, the court shall issue a prohibitory or mandatory
51 preliminary injunction if it finds that the defendant is

1 engaging in unlawful conduct, as defined by this chapter, or
2 conduct causing immediate and irreparable harm to the public.
3 The Commonwealth shall not be required to furnish bond or other
4 security in connection with the proceeding. In addition to an
5 injunction, the court in equity may level civil penalties as
6 specified in section 3656 (relating to civil penalties).

7 (b) District attorney.--In addition to other remedies in
8 this chapter, upon relation of the district attorney of a county
9 affected or upon relation of the solicitor of a municipality
10 affected, an action in equity may be brought in a court of
11 competent jurisdiction for an injunction to restrain a violation
12 of this chapter or rules and regulations promulgated under this
13 chapter or to restrain a public nuisance or detriment to health.

14 (c) Concurrent penalties.--Penalties and remedies under this
15 chapter shall be deemed concurrent. Existence or exercise of one
16 remedy shall not prevent the department from exercising another
17 remedy at law or in equity.

18 (d) Jurisdiction.--Actions under this section may be filed
19 in the appropriate court of common pleas or in Commonwealth
20 Court, and those courts are hereby granted jurisdiction to hear
21 actions under this section.

22 § 3654.1. Well control emergency response cost recovery.

23 A person liable for a well control emergency is responsible
24 for all response costs incurred by the department for well
25 control specialists to respond to the well control emergency. In
26 an action before a court of competent jurisdiction, the
27 department may recover all its response costs, including the
28 cost of regaining control of the well, controlling the perimeter
29 of the well site, preparing water sprays, establishing trenches
30 or dikes to capture runoff fluids and providing the resources
31 and equipment needs for the incident.

32 § 3655. Penalties.

33 (a) General violation.--A person violating a provision of
34 this chapter commits a summary offense and, upon conviction,
35 shall be sentenced to pay a fine of not more than \$500 or to
36 imprisonment of not more than 90 days, or both. Each day during
37 which the violation continues is a separate and distinct
38 offense.

39 (b) Willful violation.--A person willfully violating a
40 provision of this chapter or an order of the department issued
41 under this chapter commits a misdemeanor and, upon conviction,
42 shall be sentenced to pay a fine of not more than \$5,000 or to
43 imprisonment of not more than one year, or both. Each day during
44 which the violation continues is a separate and distinct
45 offense.

46 (c) Authority.--The department may institute a prosecution
47 against any person or municipality for a violation of this
48 chapter.

49 § 3656. Civil penalties.

50 In addition to other remedies available at law or in equity
51 for a violation of this chapter, a regulation of the department,

1 a departmental order or a permit condition, the department, may
2 assess a civil penalty regardless of whether the violation was
3 willful. The penalty shall not exceed \$25,000 plus \$1,000 for
4 each day during which the violation continues. In determining
5 whether to assess a penalty or the amount of the penalty, the
6 department shall consider willfulness of the violation, damage
7 or injury to natural resources of this Commonwealth or their
8 uses, endangerment of safety of others, the cost of remedying
9 the harm, savings resulting to the violator as a result of the
10 violation, whether the operator voluntarily plugged an orphaned
11 or abandoned well and any other relevant factor. When the
12 department proposes to assess a civil penalty, it shall notify
13 the person of the proposed amount of the penalty. The person
14 charged with the penalty must, within 30 days of notification,
15 pay the proposed penalty in full or file an appeal of the
16 assessment with the Environmental Hearing Board. Failure to
17 comply with the time period under this section shall result in a
18 waiver of all legal rights to contest the violation or the
19 amount of the penalty. The civil penalty shall be payable to the
20 Commonwealth and collectible in any manner provided at law for
21 collection of debts. If a violator neglects or refuses to pay
22 the penalty after demand, the amount, together with interest and
23 costs that may accrue, shall become a lien in favor of the
24 Commonwealth on the real and personal property of the violator,
25 but only after the lien has been entered and docketed of record
26 by the prothonotary of the county where the property is
27 situated. The department may transmit to the prothonotaries of
28 the various counties certified copies of all liens. It shall be
29 the duty of each prothonotary to enter and docket the liens of
30 record in the prothonotary's office and index them as judgments
31 are indexed, without requiring payment of costs as a condition
32 precedent to entry.

33 § 3657. Existing rights and remedies preserved and cumulative
34 remedies authorized.

35 Nothing in this chapter stops the Commonwealth or a district
36 attorney from proceeding in a court of law or in equity to abate
37 pollution forbidden under this chapter or a nuisance under
38 existing law. It is hereby declared to be the purpose of this
39 chapter to provide additional and cumulative remedies to control
40 activities related to drilling for or production of oil and gas
41 in this Commonwealth, and nothing contained in this chapter
42 abridges or alters rights of action or remedies existing, or
43 which existed previously, in equity or under common or statutory
44 law, criminal or civil. Neither this chapter, the grant of a
45 permit under this chapter nor an act done by virtue of this
46 chapter stops the Commonwealth, in exercising rights under
47 common or decisional law or in equity, from suppressing a
48 nuisance, abating pollution or enforcing common law or statutory
49 rights. No court of this Commonwealth with jurisdiction to abate
50 public or private nuisances shall be deprived of jurisdiction in
51 an action to abate a private or public nuisance instituted by

1 any person on grounds that the nuisance constitutes air or water
2 pollution.

3 § 3658. Inspection and production of materials, witnesses,
4 depositions and rights of entry.

5 (a) General rule.--The department may make inspections,
6 conduct tests or sampling or examine books, papers and records
7 pertinent to a matter under investigation under this chapter to
8 determine compliance with this chapter. For this purpose, the
9 duly authorized agents and employees of the department may at
10 all reasonable times enter and examine any involved property,
11 facility, operation or activity.

12 (b) Access.--The owner, operator or other person in charge
13 of a property, facility, operation or activity under this
14 chapter, upon presentation of proper identification and purpose
15 either for inspection or to remediate or otherwise respond to a
16 well control emergency, by agents or employees of the
17 department, shall provide free and unrestricted entry and
18 access. Upon refusal, the agent or employee may obtain a search
19 warrant or other suitable order authorizing entry and
20 inspection, remediation or response. It shall be sufficient to
21 justify issuance of a search warrant authorizing examination and
22 inspection if:

23 (1) there is probable cause to believe that the object
24 of the investigation is subject to regulation under this
25 chapter; and

26 (2) access, examination or inspection is necessary to
27 enforce the provisions of this chapter.

28 (c) Witnesses.--In any part of this Commonwealth, the
29 department may subpoena witnesses, administer oaths, examine
30 witnesses, take testimony and compel production of books,
31 records, maps, plats, papers, documents and other writings
32 pertinent to proceedings or investigations conducted by the
33 department under this chapter. Upon refusal to obey a subpoena
34 by any person and on application of the department, a court may
35 enforce a subpoena in contempt proceedings. Fees for serving a
36 subpoena shall be the same as those paid to sheriffs for similar
37 services.

38 (d) Deposition.--The department or a party to a proceeding
39 before the department may cause the deposition of a witness who
40 resides in or outside of this Commonwealth to be taken in the
41 manner prescribed by law for taking depositions in civil
42 actions.

43 (e) Witness fee.--Witnesses summoned before the department
44 shall be paid the same fees as are paid to witnesses in courts
45 of record of general jurisdiction. Witnesses whose depositions
46 are taken under this chapter, and the officers taking those
47 depositions, shall be entitled to the same fees as those paid
48 for like services in court.

49 (f) Purchasers.--Upon request, a purchaser of oil or gas
50 shall provide the department information necessary to determine
51 ownership of facilities from which the purchaser obtained oil or

1 gas. The information shall be kept confidential for a period of
2 five years, and the department may utilize it in enforcement
3 proceedings. The department may request information under this
4 section only when a well does not comply with section 3611(h)
5 (relating to well permits).

6 § 3659. Unlawful conduct.

7 It shall be unlawful for any person to:

8 (1) Drill, alter, operate or utilize an oil or gas well
9 without a permit or registration from the department as
10 required by this chapter or in violation of rules or
11 regulations adopted under this chapter, orders of the
12 department or a term or condition of a permit issued by the
13 department.

14 (2) Conduct an activity related to drilling for or
15 production of oil and gas:

16 (i) contrary to this chapter, rules or regulations
17 adopted under this chapter, an order of the department or
18 a term or condition of a permit issued by the department;
19 or

20 (ii) in any manner as to create a public nuisance or
21 adversely affect public health, safety, welfare or the
22 environment.

23 (3) Refuse, obstruct, delay or threaten an agent or
24 employee of the department acting in the course of lawful
25 performance of a duty under this chapter, including, but not
26 limited to, entry and inspection.

27 (4) Attempt to obtain a permit or identify a well as an
28 orphan well by misrepresentation or failure to disclose all
29 relevant facts.

30 (5) Cause abandonment of a well by removal of casing or
31 equipment necessary for production without plugging the well
32 in the manner prescribed under section 3620 (relating to
33 plugging requirements), except that the owner or operator of
34 a well may temporarily remove casing or equipment necessary
35 for production, but only if it is part of the normal course
36 of production activities.

37 § 3660. Collection of fines and penalties.

38 Fines and penalties shall be collectible in a manner provided
39 by law for collection of debts. If a person liable to pay a
40 penalty neglects or refuses to pay after demand, the amount,
41 together with interest and costs that may accrue, shall be a
42 judgment in favor of the Commonwealth on the person's property,
43 but only after the judgment has been entered and docketed of
44 record by the prothonotary of the county where the property is
45 situated. The department may transmit to prothonotaries of the
46 various counties certified copies of all judgments, and it shall
47 be the duty of each prothonotary to enter and docket them of
48 record in the prothonotary's office and index them as judgments
49 are indexed, without requiring payment of costs as a condition
50 precedent to entry.

51 § 3661. Third-party liability.

1 If a person other than a well operator renders a service or
2 product to a well or well site, that person is jointly and
3 severally liable with the well owner or operator for violations
4 of this chapter arising out of and caused by the person's
5 actions at the well or well site, in accordance with State law.
6 § 3662. Inspection reports.

7 The department shall post inspection reports on its publicly
8 accessible Internet website. The inspection reports shall
9 include:

10 (1) The nature and description of violations.

11 (2) The operator's written response to the violation, if
12 available.

13 (3) The status of the violation.

14 (4) The remedial steps taken by the operator or the
15 department to address the violation.

16 SUBCHAPTER D

17 MISCELLANEOUS PROVISIONS

18 3671. Well plugging funds.

19 3672. (Reserved).

20 3673. Effect on department authority.

21 3673.1. Relationship to solid waste and surface mining.

22 3673.2. Relationship to the coal and gas resource coordination.

23 3673.3. Local ordinances.

24 3674. Regulations.

25 § 3671. Well plugging funds.

26 (a) Appropriation.--Fines and civil penalties collected
27 under this chapter shall be deposited into the Abandoned Well
28 Plugging Fund. Permit fees collected under this chapter shall be
29 appropriated to the department to carry out the purposes of this
30 chapter.

31 (b) Surcharge.--To aid in indemnifying the Commonwealth for
32 the cost of plugging abandoned wells, a \$50 surcharge shall be
33 added to the permit fee established by the department under
34 section 3611 (relating to well permits) for new wells. Money
35 collected as a result of the surcharge shall be paid into the
36 Abandoned Well Plugging Fund and expended by the department to
37 plug abandoned wells threatening the health and safety of
38 persons or property or pollution of waters of this Commonwealth.

39 (c) Orphan Well Plugging Fund.--The following shall apply:

40 (1) A \$100 surcharge for wells to be drilled for oil
41 production and a \$200 surcharge for wells to be drilled for
42 gas production are added to the permit fee established by the
43 department under section 3611 for new wells. The surcharges
44 shall be placed in the Orphan Well Plugging Fund and expended
45 by the department to plug orphan wells. If an operator
46 rehabilitates a well abandoned by another operator or an
47 orphan well, the permit fee and the surcharge for the well
48 shall be waived.

49 (2) The department shall study its experience in
50 implementing this section and shall report its findings to
51 the Governor and the General Assembly by one year after

1 promulgation. The report shall contain information relating
2 to the balance of the fund, number of wells plugged, number
3 of identified wells eligible for plugging and recommendations
4 as to alternative funding mechanisms.

5 (d) Supplements to funds.--The Abandoned and Orphan Well
6 Plugging Funds may be supplemented by appropriations from the
7 Federal Government, the General Assembly or State or local
8 government or from any private source.

9 § 3672. (Reserved).

10 § 3673. Effect on department authority.

11 This chapter does not affect, limit or impair any right or
12 authority of the department under the act of June 22, 1937
13 (P.L.1987, No.394), known as The Clean Streams Law; the act of
14 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
15 Pollution Control Act; the act of November 26, 1978 (P.L.1375,
16 No.325), known as the Dam Safety and Encroachments Act; or the
17 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
18 Management Act.

19 § 3673.1. Relationship to solid waste and surface mining.

20 (a) General rule.--The obligation to obtain a permit and
21 post a bond under Articles III and V of the act of July 7, 1980
22 (P.L.380, No.97), known as the Solid Waste Management Act, and
23 to provide public notice under section 1905-A(b)(1)(v) of the
24 act of April 9, 1929 (P.L.177, No.175), known as The
25 Administrative Code of 1929, for any pit, impoundment, method or
26 facility employed for the disposal, processing or storage of
27 residual wastes generated by the drilling of an oil or gas well
28 or from the production of wells which is located on the well
29 site, shall be considered to have been satisfied if the owner or
30 operator of the well meets the following conditions:

31 (1) the well is permitted under the requirements of
32 section 3611 (relating to well permits) or registered under
33 section 3613 (relating to well registration and
34 identification);

35 (2) the owner or operator has satisfied the financial
36 security requirements of section 3625 (relating to bonding)
37 by obtaining a surety or collateral bond for the well and
38 well site; and

39 (3) the owner or operator maintains compliance with this
40 chapter and applicable regulations of the Environmental
41 Quality Board.

42 (b) Noncoal surface mining.--Obligations under the act of
43 December 19, 1984 (P.L.1093, No.219), known as the Noncoal
44 Surface Mining Conservation and Reclamation Act, or a regulation
45 promulgated under the Noncoal Surface Mining Conservation and
46 Reclamation Act, for any borrow area where minerals are
47 extracted solely for the purpose of oil and gas well
48 development, including access road construction, shall be
49 considered to have been satisfied if the owner or operator of
50 the well meets the conditions imposed under subsection (a)(1)
51 and (2) and maintains compliance with this chapter and

1 applicable regulations of the Environmental Quality Board.

2 (c) Solid Waste Management Act.--This section does not
3 diminish or otherwise affect duties or obligations of an owner
4 or operator under the Solid Waste Management Act. This section
5 does not apply to waste classified as hazardous waste under the
6 Solid Waste Management Act or the Resource Conservation and
7 Recovery Act of 1976 (Public Law 94-580, 90 Stat. 2795, 42
8 U.S.C. § 6901 et seq.).

9 (d) Definition.--As used in this section, the term "well
10 site" means areas occupied by all equipment or facilities
11 necessary for or incidental to drilling, production or plugging
12 a well.

13 § 3673.2. Relationship to the Coal and Gas Resource
14 Coordination Act.

15 (a) Applicability.--The requirements under section 5 of the
16 act of December 18, 1984 (P.L.1069, No.214), known as the Coal
17 and Gas Resource Coordination Act, for the issuance of a permit
18 under the former act of December 19, 1984 (P.L.1140, No.223),
19 known as the Oil and Gas Act, shall apply to this act.

20 (b) Construction.--Nothing in this act shall be construed to
21 change, repeal or otherwise affect the provisions of the Coal
22 and Gas Resource Coordination Act.

23 § 3673.3. Local ordinances.

24 Except with respect to local ordinances adopted pursuant to
25 the act of July 31, 1968 (P.L.805, No.247), known as the
26 Pennsylvania Municipalities Planning Code, and the act of
27 October 4, 1978 (P.L.851, No.166), known as the Flood Plain
28 Management Act, all local ordinances purporting to regulate
29 conventional oil and gas operations regulated by this act are
30 hereby superseded. No local ordinance adopted pursuant to the
31 Pennsylvania Municipalities Planning Code or Flood Plain
32 Management Act shall contain provisions which impose conditions,
33 requirements or limitations on the same features of oil and gas
34 operations regulated by this act or that accomplish the same
35 purposes as set forth in this act. The Commonwealth, by this
36 section, preempts and supersedes the regulation of conventional
37 oil and gas operations as herein defined.

38 § 3674. Regulations.

39 The Environmental Quality Board shall promulgate regulations
40 to implement this chapter.

41 CHAPTER 37

42 ANNUAL FEE

43 Sec.

44 3701. Annual fee.

45 § 3701. Annual fee.

46 The Environmental Quality Board shall establish annual fees
47 for all wells that have not been granted inactive status or are
48 plugged and abandoned. These fees shall bear a reasonable
49 relationship to the costs of the Department of Environmental
50 Protection associated with administering Chapters 32 (relating
51 to development) and 36 (relating to conventional development).

1 Section 3. This act shall take effect in 60 days.