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TITLE 58 OIL AND GAS

Part

- I. (Reserved)
- II. Oversight and Development
- III. Utilization

Enactment. Unless otherwise noted, the provisions of Title 58 were added February 14, 2012, P.L.87, No.13, effective in 60 days.

Special Provisions in Appendix. See sections 2, 6, 7 and 8 of Act 13 of 2012 in the appendix to this title for special provisions relating to fiscal year 2011-2012 appropriation, legislative intent, Department of Transportation statement of policy and pipeline placement for natural gas.

PART I (Reserved)

Enactment. Part I (Reserved) was added February 14, 2012, P.L.87, No.13, effective in 60 days.

PART II OVERSIGHT AND DEVELOPMENT

Enactment. Part II was added February 14, 2012, P.L.87, No.13, effective in 60 days.

Chapter

- 23. Unconventional Gas Well Fee
- 25. Oil and Gas Lease Fund
- 27. Natural Gas Energy Development Program

CHAPTER 23 UNCONVENTIONAL GAS WELL FEE

Sec.

- 2301. Definitions.
- 2302. Unconventional gas well fee.
- 2303. Administration.
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- 2316. Small business participation.
- 2317. Applicability.
- 2318. Expiration.

Enactment. Chapter 23 was added February 14, 2012, P.L.87, No.13, effective immediately.

Special Provisions in Appendix. See section 5 of Act 13 of 2012 in the appendix to this title for special provisions relating to application of law.

Cross References. Chapter 23 is referred to in sections 2703, 3308, 3502 of this title.

§ 2301. Definitions.

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

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

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

"Commission." The Pennsylvania Public Utility Commission.

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

"Eligible applicant." Any of the following:

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

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

(3) A company, other than a producer.

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

"Fund." The Unconventional Gas Well Fund.

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

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

"Natural gas." A fossil fuel consisting of a mixture of hydrocarbon gases, primarily methane, and possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term

includes natural gas from oil fields known as associated gas or casing head gas, natural gas fields known as nonassociated gas, coal beds, shale beds and other formations. The term does not include coal bed methane.

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

"Population." As follows:

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

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

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

"Producer." A person or its subsidiary, affiliate or holding company that holds a permit or other authorization to engage in the business of severing natural gas for sale, profit or commercial use from an unconventional gas well in this Commonwealth. The term shall not include a producer that severs natural gas from a site used to store natural gas that did not originate from the site.

"Spud." The actual start of drilling of an unconventional gas well.

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

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

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

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

§ 2302. Unconventional gas well fee.

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

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

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

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

(a.3) Prohibition.--

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

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

(a.4) Alternate imposition.--

(1) If the governing body of a county does not impose an unconventional gas well fee under subsection (a), the municipalities in the county may compel the imposition of an unconventional gas well fee on each unconventional gas well spud in the county by adopting resolutions under paragraphs (2), (3) and (4).

(2) Following 60 days but not more than 120 days after the effective date of this section, if the governing bodies of at least half of the municipalities located in a county or municipalities representing at least 50% of the population of the county adopt resolutions to impose unconventional gas well fees on all unconventional gas wells spud in the county, the fee shall take effect. If a resolution is adopted, a copy of the resolution shall be transmitted to the governing body of the county and the commission. The governing body of a municipality that is located in more than one county shall transmit a copy of a resolution adopted under this paragraph to the governing body of each county in which the municipality is located.

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

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

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

(5) A municipality which is located in a county that does not adopt an ordinance imposing an unconventional gas well fee and which does not adopt a resolution under paragraphs (2), (3) and (4) shall be prohibited from receiving funds under section 2314(d).

(b) Components.--The fee adopted under subsection (a), (a.1) or (a.4) is imposed on every producer and shall apply to unconventional gas wells spud in this Commonwealth regardless of when spudding occurred. Unconventional gas wells spud before

the fee is imposed shall be considered to be spud in the calendar year prior to the imposition of the fee for purposes of determining the fee under this subsection. Prior to adjustment under subsection (c), the fee for each unconventional gas well shall be determined as follows:

(1) Year one:

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

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

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

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

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

(2) Year two:

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

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

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

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

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

(3) Year three:

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

(ii) If the average annual price of natural gas is greater than \$2.25 and less than \$3.00, the fee shall be \$30,000 for the second calendar year following the year in which the unconventional gas well is spud.

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

(iv) If the average annual price of natural gas is greater than \$4.99 and less than \$6.00, the fee shall

be \$40,000 for the second calendar year following the year in which the unconventional gas well is spud.

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

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

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

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

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

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

(i) If the average annual price of natural gas is less than \$3.00, the fee shall be \$5,000 for the 10th through 14th calendar years following the year in which the unconventional well is spud.

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

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

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

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

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

(c) Annual adjustment.--Beginning January 1, 2013, the commission shall annually adjust the fee amounts under subsection (b) to reflect any upward changes in the Consumer Price Index for all Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the adjusted fee amount to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin. The fee shall be adjusted by multiplying the annual fee amount by any percentage increase to the Consumer Price Index for all Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, rounded to the nearest \$100. The resultant product shall be added to the fee amount, and the sum shall become the new annual fee amount under subsection (b). The annual adjustment under this subsection shall take effect if the total number of unconventional gas wells spud in the adjustment year exceeds the total number of unconventional gas wells spud in the prior year.

(d) Restimulated unconventional gas wells.--

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

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

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

(A) hydraulic fracture treatments;

(B) using additional multilateral well bores;

(C) drilling deeper into an unconventional formation; or

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

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

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

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

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

Cross References. Section 2302 is referred to in sections 2301, 2305, 2308, 2314 of this title.

§ 2303. Administration.

(a) Fee due date.--

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

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

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

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

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

(c) Costs of commission.--

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

(2) Within 30 days of the effective date of this subsection, the commission shall estimate its expenditures through June 30, 2012, that will be directly attributable

to the administration and enforcement of this chapter. The commission shall subtract the amount of the administrative charges imposed under paragraph (1) and assess any remaining balance on all producers subject to the administrative charge in proportion to the number of wells owned by each producer. Producers shall pay the assessments within 30 days of receipt of notice from the commission. The amount of the assessment may be challenged by a producer consistent with 66 Pa.C.S. § 510(c), (d) and (e) (relating to assessment for regulatory expenses upon public utilities). Any collections that exceed any of the following shall be used to offset the administrative charges or other funds received for fiscal year 2012-2013:

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

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

(3) By June 30, 2012, and each June 30 thereafter, the commission shall estimate its expenditures for the next fiscal year that will be directly attributable to the administration and enforcement of this chapter. After subtracting any annual administrative charges imposed under paragraph (1), amounts received by the commission under section 2314(c.1)(2) (relating to distribution of fee) and any amounts collected during the prior fiscal year that exceeded actual expenditures directly attributable to the administration and enforcement of this chapter, the commission shall assess the remaining balance on all producers subject to the unconventional gas well fee in proportion to the number of wells owned by each producer. Producers shall pay the assessments within 30 days of the receipt of notice from the commission. The amount of the assessment may be challenged by a producer consistent with 66 Pa.C.S. § 510(c), (d) and (e). Any collections that exceed any of the following shall be used to offset administrative charges or assessments for the next fiscal year:

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

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

Cross References. Section 2303 is referred to in sections 2307, 3211 of this title.

§ 2304. Well information.

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

(b) **Updates.**--A producer subject to the fee shall notify the commission of the following within 30 days after a calendar month in which the change occurs:

(1) The spudding of an unconventional gas well.

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

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

§ 2305. Duties of department.

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

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

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

§ 2306. (Reserved).

§ 2307. Commission.

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

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

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

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

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

Cross References. Section 2307 is referred to in section 2308 of this title.

§ 2308. Enforcement.

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

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

(c) Timely payment.--If the commission determines that a producer has not made a timely payment of the fee, the commission shall send written notice of the amount of the deficiency to the producer within 30 days from the date of determining the deficiency. The commission shall notify the department of a producer that has failed to pay the fee for any unconventional gas well under section 2302 (relating to unconventional gas well fee). If the producer does not have a pending appeal related to payment of the fee in process, the department shall suspend the permit for that well until the fee has been paid.

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

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

§ 2309. Enforcement orders.

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

(b) Compliance.--A producer has the duty to comply with an order issued under subsection (a). If a producer fails to proceed diligently to comply with an order within the time required, the producer shall be guilty of contempt and shall be punished by the court in an appropriate manner. The commission shall apply to Commonwealth Court, which shall have jurisdiction over matters relating to contempt.

§ 2310. Administrative penalties.

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

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

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

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

§ 2311. (Reserved).

§ 2312. Recordkeeping.

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

§ 2313. Examinations.

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

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

(2) Require the preservation of all relevant books, papers and records for an appropriate period not to exceed

three years from the end of the calendar year to which the records relate.

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

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

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

§ 2314. Distribution of fee.

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

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

(c) Conservation districts.--

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

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

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

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

(5) Funds under paragraphs (1), (2) and (3) shall be distributed in accordance with the following:

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

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

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

(1) One million dollars shall be distributed to the Pennsylvania Fish and Boat Commission for costs relating to the review of applications for permits to drill unconventional gas wells.

(2) One million dollars shall be distributed to the commission for costs to administer this chapter and Chapter 33 (relating to local ordinances relating to oil and gas operations).

(3) Six million dollars to the department for the administration of this act and the enforcement of acts relating to clean air and clean water.

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

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

(6) One million dollars to the Department of Transportation for rail freight assistance.

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

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

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

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

(c.3) Report.--All agencies or organizations receiving funds under subsections (c), (c.1) and (c.2) shall submit a report by December 31, 2012, and December 31 of each year thereafter to the Secretary of the Budget and the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives. The report shall include an itemization and explanation of the use of all funds received under subsections (c), (c.1) and (c.2).

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

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

(2) Except as provided in section 2302(a.4), 37% shall be distributed to municipalities in which spud unconventional gas wells are located. The amount for each municipality to which funds will be distributed shall be determined using a formula that divides the number of spud unconventional gas wells in the municipality by the number of spud unconventional gas wells in this Commonwealth and multiplies the resulting percentage by the amount available for distribution under this paragraph.

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

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

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

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

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

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

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

(e) Restriction.--The amount allocated to each municipality under subsection (d) shall not exceed the greater of \$500,000 or 50% of the total budget for the prior fiscal year beginning with the 2010 budget year and continuing every year thereafter, adjusted to reflect any upward changes in the Consumer Price Index for all Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months. Any remaining money shall be retained by the commission and deposited in the Housing Affordability and Rehabilitation Enhancement Fund for the uses specified under subsection (f).

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

(1) From fees collected for 2011, \$2,500,000 from the fund shall be distributed to the Housing Affordability and Rehabilitation Enhancement Fund under the act of November 23, 2010 (P.L.1035, No.105), entitled "An act amending the act of December 3, 1959 (P.L.1688, No.621), entitled, as amended, 'An act to promote the health, safety and welfare of the people of the Commonwealth by broadening the market for housing for persons and families of low and moderate income and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing Finance Agency as a public corporation and government instrumentality; providing for the organization, membership and administration of the agency, prescribing its general powers and duties and the manner in which its funds are kept and audited, empowering the agency to make housing loans to qualified mortgagors upon the security of insured and uninsured mortgages, defining qualified mortgagors and providing for priorities among tenants in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to acquire real or personal property, permitting the agency to make agreements with financial institutions and Federal agencies, providing for the purchase by persons of low and moderate income of housing units, and approving the sale of housing units, permitting the agency to sell housing loans, providing for the promulgation of regulations and forms by the agency, prescribing penalties for furnishing false information, empowering the agency to borrow money upon its own credit by the issuance and sale of bonds and notes and by giving security therefor, permitting the refunding, redemption and purchase of such obligations by the agency, prescribing remedies of holders of such bonds and notes, exempting bonds and notes of the agency, the income therefrom, and the income and revenues of the agency from taxation, except transfer, death and gift taxes; making such bonds and notes legal investments for certain purposes; and indicating how the act shall become effective,' providing for the Pennsylvania Housing Affordability and Rehabilitation Enhancement Program; and establishing the Housing Affordability and Rehabilitation Enhancement Fund." From fees collected for 2012, and each year thereafter, \$5,000,000 shall be annually distributed to the Housing Affordability and Rehabilitation Enhancement Fund.

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

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

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

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

(g) Use of funds.--A county or municipality receiving funds under subsection (d) shall use the funds received only for the

following purposes associated with natural gas production from unconventional gas wells within the county or municipality:

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

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

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

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

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

(6) Tax reductions, including homestead exclusions.

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

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

(9) The delivery of social services.

(10) Judicial services.

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

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

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

(h) Reporting.--

(1) The commission shall submit an annual report on all funds in the fund. The report shall include a detailed listing of all deposits and expenditures of the fund and be submitted to the chairman and the minority chairman of the Appropriations Committee of the Senate, the chairman and the minority chairman of the Environmental Resources and Energy Committee of the Senate, the chairman and the minority chairman of the Appropriations Committee of the House of Representatives and the chairman and the minority chairman of the Environmental Resources and Energy Committee of the House of Representatives. The report shall be submitted by December 30, 2012, and by September 30 of each year thereafter.

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

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

Cross References. Section 2314 is referred to in sections 2302, 2303, 2315, 2702 of this title.

§ 2315. Statewide initiatives.

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

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

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

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

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

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

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

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

(vi) Watershed programs and related projects.

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

(2) Ten percent to the Environmental Stewardship Fund.

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

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

(A) Divide:

(I) the total population of the county; by

(II) the total population of the Commonwealth;

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

(C) Multiply:

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

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

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

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

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

(4) Twenty-five percent for water and sewer projects. Fifty percent of the amount distributed under this paragraph shall be transmitted to the Pennsylvania Infrastructure

Investment Authority to be used in accordance with the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act. Fifty percent of the amount distributed under this paragraph shall be distributed to the H2O PA program to be used by the Commonwealth Financing Authority in accordance with section 301 of the act of July 9, 2008 (P.L.908, No.63), known as the H2O PA Act. The prohibition on grants for projects located in a city or county of the first or second class under section 301 of the H2O PA Act shall not apply to funds distributed to the H2O PA Program under this paragraph.

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

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

(A) Divide:

(I) the total population of the county; by

(II) the total population of the

Commonwealth.

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

(C) Multiply:

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

(II) the amount of funds available under

this paragraph.

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

(6) Five percent for distribution as follows:

(i) From fees collected in 2011, 2012 and 2013, to the Department of Community and Economic Development for projects to provide for the planning, development, remodeling, remediation and construction of projects relating to oil, natural gas or other chemical substances. Projects under this subparagraph may include blending facilities to liquefy or refine natural gas or to convert natural gas to ethane, propane or other substances; facilities to refine oil; or facilities to refine or process oil, heating oil, jet fuel or any other chemical substance. Following 2014, funds not utilized by the Department of Community and Economic Development under this subparagraph shall be deposited in the Hazardous Sites Cleanup Fund.

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

(b) Restriction on use of proceeds.--

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

(2) Funds distributed under subsection (a.1) may not be used by an authorized organization as defined in 27 Pa.C.S. § 6103 (relating to definitions) for land acquisition unless the authorized organization has obtained the written

consent of the county and municipality in which the land is situated.

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

2013 Partial Repeal. Section 20(3) of Act 71 of 2013 provided that section 2315 is repealed insofar as it is inconsistent with the addition of section 1174.1-A of the act of April 9, 1929, P.L.343, No.176, known as The Fiscal Code.

Cross References. Section 2315 is referred to in sections 2302, 2314 of this title.

§ 2316. Small business participation.

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

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

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

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

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

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

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

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

§ 2317. Applicability.

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

§ 2318. Expiration.

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

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

CHAPTER 25
OIL AND GAS LEASE FUND

Sec.

- 2501. Definitions.
- 2502. (Reserved).
- 2503. (Reserved).
- 2504. Appropriation of money.
- 2505. Funds.

Enactment. Chapter 25 was added February 14, 2012, P.L.87, No.13, effective in 60 days.

§ 2501. Definitions.

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

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

§ 2502. (Reserved).

§ 2503. (Reserved).

§ 2504. Appropriation of money.

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

§ 2505. Funds.

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

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

(1) The following amounts shall be transferred from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for distribution to the Environmental Stewardship Fund:

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

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

(2) The following amounts shall be transferred from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for distribution to the Hazardous Sites Cleanup Fund:

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

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

CHAPTER 27
NATURAL GAS ENERGY
DEVELOPMENT PROGRAM

Sec.

- 2701. Definitions.
- 2702. Assistance.
- 2703. Program.
- 2704. Expiration.

Enactment. Chapter 27 was added February 14, 2012, P.L.87, No.13, effective in 60 days.

Cross References. Chapter 27 is referred to in section 2314 of this title.

§ 2701. Definitions.

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

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

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

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

"Dedicated liquefied natural gas vehicle." A motor vehicle that is produced by an original equipment manufacturer and operates on 90% or more liquefied natural gas fuel and 10% or less on gasoline or diesel fuel.

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

"Eligible applicant." Any of the following:

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

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

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

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

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

"Local transportation organization." Any of the following:

- (1) A political subdivision.
- (2) A public transportation authority, port authority or redevelopment authority, which is:
 - (i) organized under:
 - (A) the laws of this Commonwealth; or
 - (B) an interstate compact; or
 - (ii) empowered to render, contract to render or assist in rendering transportation services in a limited area in this Commonwealth even though it may also render or assist in rendering transportation service in adjacent states.
- (3) A nonprofit entity which directly or indirectly provides public transportation service.
- (4) A nonprofit entity of public transportation providers operating within this Commonwealth.

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

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

§ 2702. Assistance.

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

(b) Grants.--

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

(2) For fiscal year 2013-2014:

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

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

(B) any unused portion available under paragraph (1).

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

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

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

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

(ii) any unused portion available under paragraph (2).

§ 2703. Program.

(a) Establishment and purpose.--The Natural Gas Energy Development Program is established. The purpose of the program is to fund projects under this chapter.

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

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

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

(3) The cost of the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Report.--The department shall provide a report to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives by October 1, 2013, and each October 1 thereafter. The report shall be maintained on the department's official Internet website and shall include:

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

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

§ 2704. Expiration.

This chapter shall expire December 31, 2016.

PART III UTILIZATION

Enactment. Part III was added February 14, 2012, P.L.87, No.13, effective in 60 days.

Chapter

31. (Reserved)

- 32. Development
- 33. Local Ordinances Relating to Oil and Gas Operations
- 35. Responsibility for Fee

CHAPTER 31
(Reserved)

Enactment. Chapter 31 (Reserved) was added February 14, 2012, P.L.87, No.13, effective in 60 days.

CHAPTER 32
DEVELOPMENT

Subchapter

- A. Preliminary Provisions
- B. General Requirements
- C. Underground Gas Storage
- D. Eminent Domain
- E. Enforcement and Remedies
- F. Miscellaneous Provisions

Enactment. Chapter 32 was added February 14, 2012, P.L.87, No.13, effective in 60 days.

Special Provisions in Appendix. See section 4 of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Chapter 32 is referred to in sections 3302, 3304, 3305, 3306, 3307, 3308 of this title.

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

- 3201. Scope of chapter.
- 3202. Declaration of purpose of chapter.
- 3203. Definitions.

§ 3201. Scope of chapter.

This chapter relates to oil and gas.

§ 3202. Declaration of purpose of chapter.

The purposes of this chapter are to:

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

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

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

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

§ 3203. Definitions.

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

"Abandoned well." Any of the following:

- (1) A well:

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

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

(iii) considered dry and not equipped for production within 60 days after drilling, re-drilling or deepening.

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

"Additive." A hydraulic fracturing chemical.

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

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

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

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

(2) Stimulation of a well.

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

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

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

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

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

(1) Hydraulic cement properly mixed with water only.

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

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

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

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

"Coal mine." Any of the following:

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

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

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

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

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

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

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

"Gas." Any of the following:

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

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

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

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

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

"Linear foot." A unit of measurement in a straight line on a horizontal plane.

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

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

"Operating coal mine." Any of the following:

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

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

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

"Operator." A well operator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Water management plan." A plan associated with drilling or completing a well in an unconventional formation that demonstrates that the withdrawal and use of water sources protects those sources as required by law and protects public health, safety and welfare.

"Water purveyor." Any of the following:

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

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

"Water source."

(1) Any of the following:

(i) Waters of this Commonwealth.

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

(iii) Mine pools and discharges.

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

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

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

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

"Well." A bore hole drilled or being drilled for the purpose of or to be used for producing, extracting or injecting gas,

petroleum or another liquid related to oil or gas production or storage, including brine disposal, but excluding a bore hole drilled to produce potable water. The term does not include a bore hole drilled or being drilled for the purpose of or to be used for:

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

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

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

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

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

"Well control specialist." Any person trained to respond to a well control emergency with a current certification from a well control course accredited by the International Association of Drilling Contractors or other organization approved by the Department of Environmental Protection.

"Well operator." Any of the following:

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

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

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

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

"Workable coal seams." A coal seam which:

(1) is actually being mined in the area in question under this chapter by underground methods; or

(2) in the judgment of the Department of Environmental Protection, can reasonably be expected to be mined by underground methods.

Special Provisions in Appendix. See section 4(3)(i) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

SUBCHAPTER B

GENERAL REQUIREMENTS

Sec.

- 3211. Well permits.
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§ 3211. Well permits.

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

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

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

(b) Plat.--

(1) The permit application shall be accompanied by a plat prepared by a competent engineer or a competent surveyor, on forms furnished by the department, showing the political subdivision and county in which the tract of land upon which the well to be drilled, operated or altered is located; a list of municipalities adjacent to the well site; the name of the surface landowner of record and lessor; the name of all surface landowners and water purveyors whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within 3,000 feet from the vertical well bore; the name of the owner of record or operator of all known underlying workable coal seams; the acreage in the tract to be drilled; the proposed location of the well determined by survey, courses and distances of the location from two or more permanent identifiable points or landmarks on the tract boundary corners; the proposed angle and direction of the well if the well is to be deviated substantially from a vertical course; the number or other identification to be given the well; the

workable coal seams underlying the tract of land upon which the well is to be drilled or altered and which shall be cased off under section 3217 (relating to protection of fresh groundwater and casing requirements); and any other information needed by the department to administer this chapter.

(2) The applicant shall forward by certified mail a copy of the plat to the surface landowner; the municipality in which the tract of land upon which the well to be drilled is located; each municipality within 3,000 feet of the proposed unconventional vertical well bore; the municipalities adjacent to the well; all surface landowners and water purveyors, whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within 3,000 feet of the proposed unconventional vertical well bore; storage operators within 3,000 feet of the proposed unconventional vertical well bore; the owner and lessee of any coal seams; and each coal operator required to be identified on the well permit application.

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

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

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

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

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

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

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

(2) The permit application is incomplete.

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

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

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

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

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

(6) The applicant failed to pay the fee or file a report under section 2303(c) (relating to administration), unless an appeal is pending. The commission shall notify the department of any applicant who has failed to pay the fee or file a report and who does not have an appeal pending.

(f) Drilling.--

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

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

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

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

(5) Whenever, before or during the drilling of a well not within the boundaries of an operating coal mine, the well operator encounters conditions of a nature which renders drilling of the bore hole or a portion thereof impossible, or more hazardous than usual, the well operator, upon verbal notice to the department, may immediately plug all or part of the bore hole, if drilling has occurred, and commence a new bore hole not more than 50 feet from the old bore hole if the location of the new bore hole does not violate section 3215 (relating to well location restrictions) and, in the case of a well subject to act of July 25, 1961 (P.L.825, No.359), known as the Oil and Gas Conservation Law, if the new location complies with existing laws, regulations and spacing orders and the new bore hole is at least 330 feet from the nearest lease boundary.

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

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

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

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

(i) Expiration.--Well permits issued for drilling wells under this chapter shall expire one year after issuance unless operations for drilling the well are commenced within the period and pursued with due diligence or unless the permit is renewed in accordance with regulations of the department. If drilling is commenced during the one-year period, the well permit shall remain in force until the well is plugged in accordance with section 3220 (relating to plugging requirements) or the permit is revoked. A drilling permit issued prior to April 18, 1985, for a well which is an operating well on April 18, 1985, shall remain in force as a well permit until the well is plugged in accordance with section 3220.

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

(k) No transfer permitted.--No permit issued under this section or registration issued under section 3213 (relating to well registration and identification) may be transferred without prior approval of the department. A request for approval of a transfer shall be on the forms, and in the manner, prescribed by the department. The department shall approve or deny a

transfer request within 45 days of receipt of a complete and accurate application. The department may deny a request only for reasons set forth in subsection (e.1)(4) and (5). Approval of a transfer request shall permanently transfer responsibility to plug the well under section 3220 to the recipient of the transferred permit or registration.

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

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

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

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

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

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

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

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

(3) As to criteria:

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

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

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

Special Provisions in Appendix. See section 4(3)(ii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3211 is referred to in sections 3212, 3212.1, 3215, 3218, 3222, 3234, 3258, 3271, 3273.1 of this title.

§ 3212. Permit objections.

(a) General rule.--If a well referred to in section 3211(b) (relating to well permits) will be located on a tract whose

surface is owned by a person other than the well operator, the surface landowner affected shall be notified of the intent to drill and may file objections, in accordance with section 3251 (relating to conferences), based on the assertion that the well location violates section 3215 (relating to well location restrictions) or that information in the application is untrue in any material respect, within 15 days of the receipt by the surface owner of the plat under section 3211(b). Receipt of notice by the surface owner shall be presumed to have occurred 15 days from the date of the certified mailing when the well operator submits a copy of the certified mail receipt sent to the surface owner and an affidavit certifying that the address of the surface owner to which notice was sent is the same as the address listed in the assessment books in the county where the property is located. If no objection is filed or none is raised by the department within 15 days after receipt of the plat by the surface landowner or if written approval by the surface landowner is filed with the department and no objection is raised by the department within 15 days of filing, the department shall proceed to issue or deny the permit.

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

(c) Procedure upon objection.--If an objection is filed by a coal operator or owner or made by the department, the department shall fix a time and place for a conference under section 3251 not more than ten days from the date of service of the objection to allow the parties to consider the objection and attempt to agree on a location. If they fail to agree, the department, by an appropriate order, shall determine a location on the tract of land as near to the original location as possible where, in the judgment of the department, the well can be safely drilled without unduly interfering with or endangering the mine as defined in subsection (b). The new location agreed upon by the parties or determined by the department shall be indicated on the plat on file with the department and become a permanent record upon which the department shall proceed to issue or deny the permit.

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

Cross References. Section 3212 is referred to in section 3218 of this title.

§ 3212.1. Comments by municipalities and storage operators.

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

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

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

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

Special Provisions in Appendix. See section 4(3)(iii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3212.1 is referred to in section 3215 of this title.

§ 3213. Well registration and identification.

(a) General rule.--On or before July 5, 1996, each person who owned or operated a well in existence prior to April 18, 1985, which has not been registered with the department and for which no drilling permit has been issued by the department, shall register the well with the department. A well owner or operator who registers under this subsection and a well owner or operator who has previously registered a well under this chapter shall, on or before July 5, 1996, identify any abandoned well on property which the well owner or operator owns or leases and request approval from the department for classification of the well as an orphan well. Information regarding wells to be registered or identified shall be provided on a form, or in a manner prescribed by the department, and shall include:

- (1) The name and address of the well operator and, if the well operator is a corporation, partnership or person nonresident of this Commonwealth, the name and address of an agent for the operator upon whom notices, orders, process

or other communications issued under this chapter may be served.

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

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

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

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

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

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

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

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

Cross References. Section 3213 is referred to in sections 3211, 3214, 3220, 3273.1 of this title.

§ 3214. Inactive status.

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

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

(2) the condition of the well is sufficient to stop the vertical flow of fluids or gas within the well bore and is adequate to protect freshwater aquifers, unless the

department determines the well poses a threat to the health and safety of persons or property or to the environment;

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

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

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

(c) (Reserved).

(d) Return to active status.--A well granted inactive status under subsection (a) shall be plugged in accordance with section 3220 (relating to plugging requirements) or returned to active status within five years of the date inactive status was granted, unless the owner or operator applies for an extension of inactive status which may be granted on a year-to-year basis if the department determines that the owner or operator has demonstrated ability to continue meeting the requirements of this section and the owner or operator certifies that the well will be of future use within a reasonable period of time. An owner or operator who has been granted inactive status for a well which is returned to active status prior to expiration of the five-year period set forth in subsection (a) shall notify the department that the well has been returned to active status and shall not be permitted to apply for another automatic five-year period of inactive status for the well. The owner or operator may make application to return the well to inactive status, and the application may be approved on a year-to-year basis if the department determines that the owner or operator has demonstrated an ability to continue meeting the requirements of this section and the owner or operator certifies that the well will be of future use within a reasonable period of time. The department shall approve or deny an application to extend a period of inactive status or to return a well to inactive status within 60 days of receipt of the application, and the application shall not be unreasonably denied. If the department has not completed its review of the application within 60 days, the inactive status shall continue until the department has made a determination on the request. If the department denies an application to extend the period of inactive status or to return a well to inactive status, a well owner or operator aggrieved by the denial shall have the right to appeal the denial to the Environmental Hearing Board within 30 days of receipt of the denial. Upon cause shown by a well owner or operator, the board may grant a supersedeas under section 4 of the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, so that the well in question may retain inactive status during the period of the appeal.

(e) Revocation of inactive status.--The department may revoke inactive status and order immediate plugging of a well if the well is in violation of this chapter or rules or regulations promulgated under this chapter or if the owner or operator demonstrates inability to perform obligations under

this chapter or becomes financially insolvent, or upon receipt by the department of notice of bankruptcy proceedings by the permittee.

§ 3215. Well location restrictions.

(a) General rule.--Wells may not be drilled within 200 feet, or, in the case of an unconventional gas well, 500 feet, measured horizontally from the vertical well bore to a building or water well, existing when the copy of the plat is mailed as required by section 3211(b) (relating to well permits) without written consent of the owner of the building or water well. Unconventional gas wells may not be drilled within 1,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without the written consent of the water purveyor. If consent is not obtained and the distance restriction would deprive the owner of the oil and gas rights of the right to produce or share in the oil or gas underlying the surface tract, the well operator shall be granted a variance from the distance restriction upon submission of a plan identifying the additional measures, facilities or practices as prescribed by the department to be employed during well site construction, drilling and operations. The variance shall include additional terms and conditions required by the department to ensure safety and protection of affected persons and property, including insurance, bonding, indemnification and technical requirements. Notwithstanding section 3211(e), if a variance request has been submitted, the department may extend its permit review period for up to 15 days upon notification to the applicant of the reasons for the extension.

(b) Limitation.--

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

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

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

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

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

- (1) Publicly owned parks, forests, game lands and wildlife areas.
- (2) National or State scenic rivers.
- (3) National natural landmarks.
- (4) Habitats of rare and endangered flora and fauna and other critical communities.
- (5) Historical and archaeological sites listed on the Federal or State list of historic places.
- (6) Sources used for public drinking supplies in accordance with subsection (b).

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

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

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

- (1) For the department to utilize for conditioning a well permit based on its impact to the public resources identified under subsection (c) and for ensuring optimal development of oil and gas resources and respecting property rights of oil and gas owners.
- (2) For appeal to the Environmental Hearing Board of a permit containing conditions imposed by the department. The regulations shall also provide that the department has the burden of proving that the conditions were necessary to protect against a probable harmful impact of the public resources.

(f) Floodplains.--

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

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

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

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

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

(4) Best practices as determined by the department to ensure the protection of the waters of this Commonwealth must be utilized for the storage and handling of all water,

chemicals, fuels, hazardous materials or solid waste on a well site located in a floodplain. The department may request that the well site operator submit a plan for the storage and handling of the materials for approval by the department and may impose conditions or amend permits to include permit conditions as are necessary to protect the environment, public health and safety.

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

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

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

(g) Applicability.--

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

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

Special Provisions in Appendix. See section 4(3)(iv) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3215 is referred to in sections 3211, 3212, 3212.1, 3304 of this title.

§ 3216. Well site restoration.

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

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

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

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

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

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

(g) Extension.--

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

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

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

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

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

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

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

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

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

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

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

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

Special Provisions in Appendix. See section 4(3)(v) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3217. Protection of fresh groundwater and casing requirements.

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

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

(c) Procedure when coal has been removed.--If a well is drilled at a location where coal has been removed from one or more coal seams, the well shall be drilled and cased to prevent migration of gas or fluids into the seam from which coal has

been removed in a manner prescribed by regulation of the department. The department and the coal operator, owner or lessee shall be given at least 72 hours' notice prior to commencement of work protecting the mine.

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

Cross References. Section 3217 is referred to in sections 3211, 3252 of this title.

§ 3218. Protection of water supplies.

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

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

(b.1) (Reserved).

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

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

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

(b.5) Facility operation qualifications.--The department shall ensure that a facility which seeks a National Pollutant Discharge Elimination System permit for the purposes of treating

and discharging wastewater originating from oil and gas activities into waters of this Commonwealth is operated by a competent and qualified individual.

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

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

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

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

(2) in the case of an unconventional well:

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

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

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

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

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

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

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

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

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

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

(2) in the case of an unconventional well:

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

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

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

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

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

(e) Independent certified laboratory.--An operator electing to preserve a defense under subsection (d)(1) or (2) shall retain an independent certified laboratory to conduct a predrilling or prealteration survey of the water supply. A copy of survey results shall be submitted to the department and the

landowner or water purveyor in the manner prescribed by the department.

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

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

Special Provisions in Appendix. See section 4(3)(vi) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3218 is referred to in sections 3211, 3252 of this title.

§ 3218.1. Notification to public drinking water systems.

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

Special Provisions in Appendix. See section 4(3)(vii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3218.2. Containment for unconventional wells.

(a) Sites.--Unconventional well sites shall be designed and constructed to prevent spills to the ground surface or spills off the well site. Containment practices shall meet all of the following:

- (1) Be instituted on the well site during both drilling and hydraulic fracturing operations.
- (2) Be sufficiently impervious and able to contain spilled material or waste until it can be removed or treated.
- (3) Be compatible with the waste material or waste stored or used within the containment.
- (4) Additional practices as promulgated in regulation by the Environmental Quality Board.

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

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

- (1) Drilling mud.
- (2) Hydraulic oil.
- (3) Diesel fuel.
- (4) Drilling mud additives.
- (5) Hydraulic fracturing additives.
- (6) Hydraulic fracturing flowback.

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

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

Special Provisions in Appendix. See section 4(3)(viii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3218.3. Transportation records regarding wastewater fluids.

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

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

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

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

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

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

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

(4) The method of disposal.

Special Provisions in Appendix. See section 4(3)(ix) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3218.4. Corrosion control requirements.

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

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

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

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

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

Special Provisions in Appendix. See section 4(3)(x) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3218.5. Gathering lines.

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

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

Special Provisions in Appendix. See section 4(3)(xi) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3219. Use of safety devices.

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

Cross References. Section 3219 is referred to in section 3252 of this title.

§ 3219.1. Well control emergency response.

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

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

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

- (1) Breach of the contract under subsection (a).
- (2) An intentional tort.
- (3) Gross negligence.

Special Provisions in Appendix. See section 4(3)(xii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3220. Plugging requirements.

(a) General rule.--Upon abandoning a well, the owner or operator shall plug it in the manner prescribed by regulation of the department to stop vertical flow of fluids or gas within the well bore, unless the department has granted inactive status for the well or it has been approved by the department as an orphan well. If the department determines that a prior owner or operator received economic benefit, other than economic benefit derived only as a landowner or from a royalty interest, after April 18, 1979, from an orphan well or an unregistered well, the owner or operator shall be responsible for plugging the well. In the case of a gas well penetrating a workable coal seam which was drilled prior to January 30, 1956, or which was permitted after that date but not plugged in accordance with this chapter, if the owner or operator or a coal operator or an agent proposes to plug the well to allow mining through it, the gas well shall be cleaned to a depth of at least 200 feet below the coal seam through which mining is proposed and, unless impracticable, to a point 200 feet below the deepest mineable coal seam. The gas well shall be plugged from that depth in accordance with section 13 of the act of December 18, 1984

(P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act, and the regulations of the department.

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

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

(d) Wells abandoned upon completion of drilling.--If a well is to be abandoned immediately after completion of drilling, the well operator shall give at least 24 hours' notice by telephone, confirmed by certified mail, to the department and to the coal operator, lessee or owner, if any, fixing the date and time when plugging will commence. Notice and the right to

be present may be waived by the department and the coal operator, lessee or owner, if any. Whether or not representatives of the department or coal operator, lessee or owner, if any, attend, if the well operator has fully complied with the requirements of this section, the well operator may proceed, at the time fixed, to plug the well in the manner provided by regulation of the department. The well operator shall prepare the certificate of plugging and mail copies of the same as provided in subsection (b).

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

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

Cross References. Section 3220 is referred to in sections 3203, 3211, 3214, 3233, 3234, 3252, 3259 of this title.

§ 3221. Alternative methods.

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

Cross References. Section 3221 is referred to in sections 3233, 3234 of this title.

§ 3222. Well reporting requirements.

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

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

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

(b) Collection of data.--

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

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

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

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

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

(b.1) Report contents.--

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

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

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

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

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

(v) The total volume of the base fluid.

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

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

(viii) The total volume of recycled water used.

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

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

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

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

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

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

Special Provisions in Appendix. See section 4(3)(xiii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3222.1. Hydraulic fracturing chemical disclosure requirements.

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

(b) Required disclosures.--

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

(2) Within 60 days following the conclusion of hydraulic fracturing, the operator of the well shall complete the chemical disclosure registry form and post the form on the chemical disclosure registry in accordance with regulations promulgated under this chapter in a format that does not

link chemicals to their respective hydraulic fracturing additive.

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

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

- (i) A hydraulic fracturing additive.
- (ii) A chemical.
- (iii) A concentration.
- (iv) Any combination of subparagraphs (i), (ii) and (iii).

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

(6) By January 1, 2013, the department shall determine whether the chemical disclosure registry allows the department and the public to search and sort Pennsylvania chemical disclosure information by geographic area, chemical ingredient, chemical abstract service number, time period and operator. If the department determines that there is no reasonable assurance that the registry will allow for searches by geographic area, chemical ingredient, chemical abstract service number, time period and operator, at a date acceptable to the department, the department shall investigate the feasibility of making the information under paragraph (2) available on the department's Internet website in a manner that will allow the department and the public to search and sort the information by geographic area, chemical ingredient, chemical abstract service number, time period and operator and shall report to the General Assembly whether additional resources may be needed to implement the searches and sorting.

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

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

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

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

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

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

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

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

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

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

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

(3) Disclose chemicals that occur incidentally or are otherwise unintentionally present in trace amounts, may be the incidental result of a chemical reaction or chemical process or may be constituents of naturally occurring materials that become part of a stimulation fluid.

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

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

(2) The following shall apply:

(i) If the specific identity of a chemical, the concentration of a chemical or both the specific identity and concentration of a chemical are claimed to be a trade secret or confidential proprietary information, the vendor, service provider or operator may withhold the specific identity, the concentration, or both the specific identity and concentration, of the chemical from the information provided to the chemical disclosure registry.

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

(A) The department.

(B) A public health official.

(C) An emergency manager.

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

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

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

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

Special Provisions in Appendix. See section 4(3)(xiv) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3223. Notification and effect of well transfer.

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

Cross References. Section 3223 is referred to in section 3225 of this title.

§ 3224. Coal operator responsibilities.

(a) General rule.--At any time prior to removing coal or other underground materials from, or extending the workings in, a coal mine within 500 feet of an oil or gas well of which the coal operator has knowledge, or within 500 feet of an approved well location of which the coal operator has knowledge, the coal operator, by certified mail, shall forward to or file with the well operator and the department a copy of the relevant part of all maps and plans which it is presently required by law to prepare and file with the department, showing the pillar which the coal operator proposes to leave in place around each oil or gas well in the projected workings. Thereafter, the coal operator may proceed with mining operations in the manner projected on the maps and plans, but the operator may not remove coal or cut a passageway within 150 feet of the well or approved well location without written approval under this section. If, in the opinion of the well operator or the department, the plan indicates that the proposed pillar is inadequate to protect either the integrity of the well or public health and safety, the affected well operator shall attempt to reach an agreement with the coal operator on a suitable pillar, subject to approval of the department. Upon failure to agree, the well operator may, within ten days after receipt of the proposed plan under this section, file objections under section 3251 (relating to conferences), indicating the size of the pillar to be left as to each well. If objections are not timely filed and the department has none, the department shall grant approval, reciting that maps and plans have been filed, no objections

have been made thereto and the pillar proposed to be left for each well is approved in the manner as projected.

(b) Objections.--If an objection is filed by the well operator or raised by the department, the department shall order that a conference be held under section 3251 within ten days of the filing of objections. At the conference, the coal operator and the person who has objected shall attempt to agree on a proposed plan, showing the pillar to be left around each well, which will satisfy the objections and receive department approval. If an agreement is reached, the department shall grant approval to the coal operator, reciting that a plan has been filed and the pillar to be left for each well is approved pursuant to the agreement. If an agreement is not reached on a plan showing the pillar to be left with respect to a well, the department, by appropriate order, shall determine the pillar to be left with respect to the well. In a proceeding under this section, the department shall follow as nearly as is possible the original plan filed by the coal operator. The department shall not require the coal operator to leave a pillar in excess of 100 feet in radius, except that the department may require a pillar of up to 150 feet in radius if the existence of unusual conditions is established. Pillars determined by the department shall be shown on maps or plans on file with the department as provided in subsection (a), and the department shall approve the pillar to be left for each well.

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

- (1) follow the appropriate procedure under subsection (a) or (b);
- (2) by appropriate order, determine a plan involving a pillar of a smaller size as to any well covered by the application; and
- (3) have the discretion to grant approval for the pillar to be left with respect to each well.

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

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

- (1) require a well operator to pay for the coal pillar;
- (2) affect a right which a coal operator may have had prior to April 18, 1985, to obtain payment for the coal pillar; or
- (3) affect a duty or right which a storage operator or landowner may have had prior to April 18, 1985, to pay or not pay for the coal pillar.

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

conditions under which the department may approve a coal operator's plan to mine through a plugged oil or gas well.

§ 3225. Bonding.

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

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

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

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

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

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

(D) For operating more than 250 wells, \$100,000 plus \$4,000 per well for each well in excess of 250 wells, but no bond may be required under this clause in excess of \$250,000.

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

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

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

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

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

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

(3) Liability under the bond shall continue until the well has been properly plugged in accordance with this

chapter and for a period of one year after filing of the certificate of plugging with the department. Each bond shall be executed by the operator and a corporate surety licensed to do business in this Commonwealth and approved by the secretary. In lieu of a corporate surety, the operator may deposit with the department:

(i) cash;

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

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

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

(4) The secretary shall, upon receipt of a deposit of cash, letters of credit or negotiable bonds, immediately place the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the Commonwealth, in trust, for the purpose for which the deposit is made.

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

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

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

(b) Release.--No bond shall be fully released until the requirements of subsection (a) and section 3223 (relating to

notification and effect of well transfer) have been fully met. Upon release of bonds and collateral under this section, the State Treasurer shall immediately return to the owner the specified amount of cash or securities.

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

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

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

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

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

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

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

(B) An operator of up to ten existing wells who does not intend to operate additional wells shall deposit \$250 per well and shall, thereafter, annually deposit \$50 per well until the obligations of this section are fully met. An operator of 11 to 25 wells or an operator of up to ten wells who applies for one or more permits for additional wells shall deposit \$2,000 and shall, thereafter, annually deposit \$1,150 plus \$150 for each additional well to be permitted that year until the obligations of this section are fully met. An operator of 26 to 50 wells shall deposit \$3,000 and shall, thereafter, annually deposit \$1,300 plus \$400 for each additional well to be permitted that year until the obligations of this section are fully met. An operator of 51 to 100 wells shall deposit \$4,000 and shall, thereafter, annually deposit \$1,500 plus \$400 for each additional well to be permitted that year until the obligations of this section are fully met. Operators of 101 to 200 wells shall deposit \$8,000 and shall, thereafter, annually deposit \$1,600 plus \$1,000 for each additional well to be permitted that year until the obligations of this section are fully met. Operators of more than 200 wells shall fully bond their wells immediately.

(C) The department shall reduce the amount of phased collateral payments or the period of time over which phased collateral payments shall be made on behalf of owners or operators who, prior to August 1, 1992, have paid a fee in lieu of bond under subparagraph (i), and who, by August 1, 1993, choose to enter the phased collateral program under this subparagraph rather than continue to make payments in lieu of bond. Payments made prior to August 1, 1992, in lieu of bond shall not be credited in any other manner, and the department shall not be required to refund the fees. The Environmental Quality Board, by regulation, may change the annual deposits established under clause (B) if necessary to accommodate a change in the amount of the bond required under this section.

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

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

(ii) cease all operations and plug all wells.

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

(1) An individual who is unable to obtain a bond to drill new wells due to inability to demonstrate financial resources may meet the collateral bond requirements of subsection (a) by making phased deposits of collateral to fully collateralize the bond. The individual shall be limited to drilling ten new wells per calendar year and, for each well to be drilled, deposit \$500 and make an annual deposit of 10% of the remaining bond amount for a period of ten

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

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

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

(ii) cease all operations and plug all wells.

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

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

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

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

Special Provisions in Appendix. See section 4(3)(xv) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3225 is referred to in sections 3211, 3213, 3214, 3223, 3273.1 of this title.

§ 3226. Oil and Gas Technical Advisory Board.

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

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

(i) a petroleum engineer;

(ii) a petroleum geologist; or

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

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

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

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

(c) Majority vote.--All actions of the board shall be by majority vote. The board shall meet as called by the secretary, but not less than semiannually, to carry out its duties under this chapter. The board shall select a chairman and other officers deemed appropriate.

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

§ 3227. Air contaminant emissions.

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

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

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

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

Special Provisions in Appendix. See section 4(3)(xvi) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

SUBCHAPTER C
UNDERGROUND GAS STORAGE

Sec.

- 3231. Reporting requirements for gas storage operations.
- 3232. Reporting requirements for coal mining operations.
- 3233. General gas storage reservoir operations.
- 3234. Gas storage reservoir operations in coal areas.

3235. Inspection of facilities and records.
3236. Reliance on maps and burden of proof.
3237. Exemptions and prohibitions.

§ 3231. Reporting requirements for gas storage operations.

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

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

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

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

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

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

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

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

(5) The following, if available, shall be furnished for all known oil or gas wells which have been drilled into or through the storage stratum within the storage reservoir or within 3,000 linear feet thereof: name of the operator, date drilled, total depth, depth of production if the well was productive of oil or gas, the initial rock pressure and volume, the depths at which all coal seams were encountered and a copy of the driller's log or other similar information. At the time of the filing of the maps and data, a statement shall be filed:

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

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

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

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

(v) providing a detailed explanation of the methods to be used or which previously have been used in

drilling, cleaning out, reconditioning and plugging wells in the storage reservoir or within the reservoir protective area.

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

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

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

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

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

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

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

(3) The following, if available, shall be furnished for all known oil or gas wells which have been drilled into or through the storage stratum within the storage reservoir or within 3,000 linear feet thereof: name of the operator, date drilled, total depth, depth of production if the well was productive of oil or gas, the initial rock pressure and volume and a copy of the driller's log or other similar information. At the time of the filing of the maps and data, a statement shall be filed:

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

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

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

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

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

(4) The map and data required to be filed under paragraph (3) shall be amended or supplemented semiannually if material changes occur. The department may require a storage operator to amend or supplement the map or data at

more frequent intervals if material changes have occurred justifying the earlier filing.

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

(d) Notice to affected persons.--At the time of the filing of maps and data and the filing of amended or supplemental maps or data required by this section, the person filing the information shall give written notice of the filing to all persons who may be affected under the provisions of this chapter by the storage reservoir described in the maps or data. Notices shall contain a description of the boundaries of the storage reservoir. When a person operating a coal mine or owning an interest in coal properties which are or may be affected by the storage reservoir requests, in writing, a copy of any map or data filed with the department, the copy shall be furnished by the storage operator.

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

(f) Inapplicability of section.--The requirements of this section shall not apply to the operator of an underground gas storage reservoir so long as the reservoir is located more than 10,000 linear feet from an operating coal mine, except that the storage operator shall give notice to the department of the name of each political subdivision and county in which the operator maintains and operates a gas storage reservoir. In political subdivisions and counties where both gas storage reservoirs and coal mines are being operated, the department may request the storage operator to furnish maps showing geographical locations and outside boundaries of the storage reservoirs. The department shall keep a record of the information and promptly notify the coal operator and the storage operator when notified by them that the coal mine and storage reservoir are within 10,000 linear feet of each other.

Cross References. Section 3231 is referred to in sections 3233, 3234 of this title.

§ 3232. Reporting requirements for coal mining operations.

(a) General rule.--A person owning or operating a coal mine shall file with the department a map prepared and sealed by a competent individual licensed as a professional engineer or professional land surveyor under the provisions of the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law, showing the outside coal boundaries of the operating coal mine, the existing workings and exhausted areas and the relationship of the boundaries to identifiable surface properties and landmarks. A person owning or operating an operating coal mine which has been penetrated by a well shall furnish a mine map to the department each year indicating the excavations for the preceding year and the projections for the ensuing year. The map required by this subsection shall be furnished to a person storing or contemplating the storage of gas in the vicinity of

operating coal mines, upon written request, by the coal operator, and the person and the department shall thereafter be informed of any boundary changes at the time the changes occur. The department shall keep a record of the information and promptly notify the coal operator and storage operator when notified by them that the coal mine and the storage reservoir are within 10,000 linear feet of each other.

(b) Mines near certain reservoirs.--A person owning or operating any coal mine which is or which comes within 10,000 linear feet of a storage reservoir and where the coal seam being operated extends over the storage reservoir or reservoir protective area shall, within 45 days after receiving notice from the storage operator of that fact, file with the department and furnish to the person operating the storage reservoir a map in the form required by subsection (a) showing, in addition to the requirements of subsection (a), existing and projected excavations and workings of the operating coal mine for the ensuing 18-month period and the location of oil or gas wells of which the coal operator has knowledge. The person owning or operating the coal mine shall, each six months thereafter, file with the department and furnish to the person operating the storage reservoir a revised map showing any additional excavations and workings, together with the projected excavations and workings for the then ensuing 18-month period, which may be within 10,000 linear feet of the storage reservoir. The department may require a coal operator to file revised maps at more frequent intervals if material changes have occurred justifying earlier filing. The person owning or operating the coal mine shall also file with the department and furnish the person operating the reservoir prompt notice of any wells which have been cut into, together with all available pertinent information.

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

(d) Mines projected to be near storage reservoirs.--When a person owning or operating a coal mine expects that, within the ensuing nine-month period, the coal mine will be extended to a point which will be within 2,000 linear feet of any storage reservoir, the person shall notify the department and storage operator in writing of that fact.

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

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

Cross References. Section 3232 is referred to in section 3234 of this title.

§ 3233. General gas storage reservoir operations.

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

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

(2) Plug or recondition, as provided in departmental regulations, all known wells drilled into or through the storage reservoir, except to the extent otherwise provided in subsections (b) and (c).

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

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

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

(1) To comply with subsection (a), wells which are to be reconditioned shall, unless the department by regulation specifies a different procedure, be cleaned out from the surface through the storage horizon, and the producing casing and casing strings determined not to be in good physical condition shall be replaced with new casing, using the same procedure as is applicable to drilling a new well under this chapter. In the case of wells to be used for gas storage, the annular space between each string of casing and the annular space behind the largest diameter casing to the extent possible shall be filled to the surface with cement or bentonitic mud or a nonporous material approved by the department under section 3221. At least 15 days prior to reconditioning, the storage operator shall give notice to the department, setting forth in the notice the manner in which it is planned to recondition the well and any pertinent data known to the storage operator which will indicate the condition of the well existing at that time. In addition, the storage operator shall give the department at least 72 hours' notice of the time when reconditioning is to begin. If no objections are raised by the department within ten days, the storage operator may proceed with reconditioning in accordance with the plan as submitted. If objections are made by the department, the department may fix a time and place for a conference under section 3251 (relating to conferences) at which the storage operator and department shall endeavor to agree on a plan to satisfy the objections and meet the requirements of this section. If no agreement is reached, the department may, by an appropriate order, determine whether the plan, as submitted, meets the requirements of this section or what changes, if any, are required. If, in reconditioning a well in accordance with the plan, physical conditions are encountered which justify or necessitate a change in the plan, the storage operator may request that the plan be changed. If the request is denied, the department shall fix a conference under section 3251 and proceed in the same manner as with original

objections. An application may be made in the manner prescribed by section 3221 for approval of an alternative method of reconditioning a well. If a well located within the storage reservoir was reconditioned, or drilled and equipped, prior to April 18, 1985, the obligations imposed by subsection (a), as to reconditioning the well, shall be considered fully satisfied if, on the basis of the data, information and other evidence submitted to the department, it is determined that:

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

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

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

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

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

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

(3) If the department has objections, the department shall fix a time and place for a conference under section 3251, not more than ten days from the date of notice to the storage operator, at which time the storage operator and department shall attempt to resolve the issues presented. If an agreement cannot be reached, the department may issue an appropriate order.

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

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

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

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

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

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

(ii) Operate and maintain the reservoir and its facilities as prescribed by departmental regulations and at a pressure which will prevent gas from escaping, but the pressure shall not exceed the highest rock pressure found to have existed during the production history of the reservoir or another high pressure limit approved by the department after holding a conference under section 3251 based on geological and production knowledge of the reservoir, its character, permeability distribution and operating experience.

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

§ 3234. Gas storage reservoir operations in coal areas.

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

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

(2) Plug or recondition, as provided by section 3220 (relating to plugging requirements) and subsection (e), all known wells, except to the extent provided in subsections (e), (f), (g) and (h), drilled into or through the storage stratum and located within the portion of the acreage of the operating coal mine overlying the storage reservoir or the reservoir protective area. If an objection is raised as to use of a well as a storage well and, after a conference under section 3251 (relating to conferences), it is determined by the department, taking into account all circumstances and conditions, that the well should not be used as a storage well, the well shall be plugged unless, in the opinion of the storage operator, the well may be used as a storage well in the future, in which case, upon approval of the department after taking into account all circumstances and conditions, the storage operator may recondition and inactivate the well rather than plug it.

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

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

(1) That the map and any supplemental maps required by section 3231(a) (relating to reporting requirements for gas

storage operations) have been prepared and filed in accordance with section 3231.

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

(3) Such additional efforts, if any, as the storage operator is making and intends to make to locate all wells.

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

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

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

(d) Notification.--If, in complying with subsection (a), a storage operator, after filing the statement provided for in subsection (b), plugs or reconditions a well, the storage operator shall notify the department and the coal operator affected, in writing, setting forth facts indicating the manner in which the plugging or reconditioning was done. Upon receipt of the notification, the coal operator or department may request a conference under section 3251.

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

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

(1) In order to comply with subsection (a), unless the department by regulation specifies a different procedure, wells which are to be reconditioned shall be cleaned out from the surface through the storage horizon, and the following casing strings shall be pulled and replaced with

new casing, using the procedure applicable to drilling a new well under this chapter:

(i) the producing casing;

(ii) the largest diameter casing passing through the lowest workable coal seam unless it extends at least 25 feet below the bottom of the coal seam and is determined to be in good physical condition, but the storage operator may, instead of replacing the largest diameter casing, replace the next largest casing string if the casing string extends at least 25 feet below the lowest workable coal seam; and

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

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

(3) At least 15 days before a well is to be reconditioned, the storage operator shall give notice to the department and the coal operator, lessee or owner, setting forth the manner in which reconditioning is planned and pertinent data known to the storage operator which will indicate the current condition of the well, along with at least 72 hours' notice of the date and time when reconditioning will begin. The coal operator, lessee or owner shall have the right to file, within ten days after receipt of the notice, objections to the plan of reconditioning as submitted by the storage operator. If no objections are filed and none are raised by the department within ten days, the storage operator may proceed with reconditioning in accordance with the plan as submitted. If an objection is filed or made by the department, the department shall fix a time and place for a conference under section 3251, at which conference the storage operator and the person having objections shall attempt to agree on a plan of reconditioning that meets the requirements of this section. If no agreement is reached, the department shall, by an appropriate order, determine whether the plan as submitted meets the requirements of this section or what changes should be made to meet the requirements. If, in reconditioning the well in accordance with the plan, physical conditions are encountered which justify or necessitate a change in the plan, the storage operator or coal operator may request that the plan be changed. If the parties cannot agree on a change, the department shall arrange for a conference to determine the matter in the same manner as set forth in connection with original objections to the plan.

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

(i) was done in the manner required in this subsection, or in regulations promulgated hereunder, or

in a manner approved as an alternative method in accordance with section 3221; or

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

(5) If a well requires emergency repairs, this subsection shall not be construed to require the storage operator to give the notices specified herein before making the repairs.

(g) Producing wells.--If a well located within the reservoir protective area is a producing well in a stratum below the storage stratum, the obligations imposed by subsection (a) shall not begin until the well ceases to be a producing well.

(h) Certain other wells.--If a well within a storage reservoir or reservoir protective area penetrates the storage stratum but does not penetrate the coal seam being mined by an operating coal mine, the department may, upon application of the operator of the storage reservoir, exempt the well from the requirements of this section. Either party affected may request a conference under section 3251 with respect to exemption of a well covered by this subsection.

(i) Plugging limitation.--In fulfilling the requirements of subsection (a) (2) with respect to a well within the reservoir protective area, the storage operator shall not be required to plug or recondition the well until the storage operator has received from the coal operator written notice that the mine workings will, within the period stated in the notice, be within 2,000 linear feet of the well. Upon the receipt of the notice, the storage operator shall use due diligence to complete the plugging or reconditioning of the well in accordance with the requirements of this section and section 3220. If the mine workings do not, within a period of three years after the well has been plugged, come within 2,000 linear feet of the well, the coal operator shall reimburse the storage operator for the cost of plugging, provided that the well is still within the reservoir protective area as of that time.

(j) Retreat mining.--If retreat mining approaches a point where, within 90 days, it is expected that the retreat work will be at the location of the pillar surrounding an active storage well, the coal operator shall give written notice to the storage operator, and by agreement, the parties shall determine whether it is necessary or advisable to effectively and temporarily inactivate the well. The well shall not be reactivated until a reasonable period, determined by the parties, has elapsed. If the parties cannot agree as required by this subsection, the matter shall be submitted to the department for resolution. The number of wells required to be temporarily inactivated during the retreat period shall not be of a number that materially affects efficient operation of the storage pool, except that this provision shall not preclude temporary inactivation of a particular well if the practical effect of inactivating it is to render the pool temporarily inoperative.

(k) Exceptions.--The requirements of subsections (a), (l) and (m) shall not apply to injection of gas into a stratum when the whole purpose of injection, referred to in this subsection as testing, is to determine whether the stratum is suitable for storage purposes. Testing shall be conducted only in compliance with the following requirements:

(1) The person testing or proposing to test shall comply with all provisions and requirements of section 3231 and verify the statement required to be filed by that section.

(2) If any part of the proposed storage reservoir is under or within 2,000 linear feet of an operating coal mine which is operating in a coal seam that extends over the proposed storage reservoir or the reservoir protective area, the storage operator shall give at least six months' written notice to the department and coal operator of the fact that injection of gas for testing purposes is proposed.

(3) The coal operator affected may at any time file objections with the department, whereupon the department shall fix a time and place for a conference under section 3251, not more than ten days from the date of the notice to the storage operator. At the conference, the storage operator and the objecting party shall attempt to agree, subject to approval of the department, on the questions involved. If an agreement cannot be reached, the department may issue an appropriate order.

(4) If at any time a proposed storage reservoir being tested comes under or within 2,000 linear feet of an operating coal mine because of extension of the storage reservoir being tested or because of extension or establishment or reestablishment of the operating coal mine, the requirements of this subsection shall immediately become applicable to the testing.

(l) Storage reservoirs near operating coal mines.--A person who proposes to establish a storage reservoir under or within 2,000 linear feet of a coal mine operating in a coal seam that extends over the storage reservoir or the reservoir protective area shall, prior to establishing the reservoir, and in addition to complying with section 3231 and subsection (a), file the verified statement required by subsection (b) and fully comply with any order of the department in the manner provided under subsection (b) or (c) before commencing operation of the storage reservoir. After the person proposing to operate the storage reservoir complies with the requirements of this subsection and commences operations, the person shall continue to be subject to all provisions of this chapter.

(m) Gas storage reservoirs.--If a gas storage reservoir is in operation on April 18, 1985, and at any time thereafter it is under or within 2,000 linear feet of an operating coal mine, or if a gas storage reservoir is put in operation after April 18, 1985, and at any time after storage operations begin it is under or within 2,000 linear feet of an operating coal mine, the storage operator shall comply with all of the provisions of this section, except that:

(1) the time for filing the verified statement under subsection (b) shall be 60 days after the date stated in the notice filed by the coal operator under section 3232(d) and (e) (relating to reporting requirements for coal mining operations);

(2) the coal operator shall give notice of the delay to the department;

(3) the department shall, upon the request of the storage operator, extend the time for filing the statement by the additional time which will be required to extend or establish or reestablish the operating coal mine to a point within 2,000 linear feet of the reservoir;

(4) the verified statement shall also indicate that the map referred to in section 3231(a) has been currently amended as of the time of the filing of the statement; and

(5) the person operating the storage reservoir shall continue to be subject to all of the provisions of this chapter.

(n) Failure to comply with order.--If, in any proceeding under this chapter, the department determines that an operator of a storage reservoir has failed to comply with a lawful order issued under this chapter, the department may require the storage operator to suspend operation of the reservoir and withdraw the gas from it until the violation is remedied, in which case the storage operator, limited by due diligence insofar as existing facilities utilized to remove gas from the reservoir will permit, shall:

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

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

(o) Prevention of escape of gas.--In addition to initial compliance with other provisions of this chapter and lawful orders issued under this chapter, it shall be the duty, at all times, of a person owning or operating a storage reservoir subject to this chapter to keep all wells drilled into or through the storage stratum in a condition, and operate the wells in a manner, which is designed to prevent the escape of gas out of the storage reservoir and its facilities, and to operate and maintain the storage reservoir and its facilities in the manner prescribed by regulation of the department and at a pressure that will prevent gas from escaping from the reservoir or its facilities. This duty shall not be construed to include inability to prevent the escape of gas when escape results from an act of God or a person not under the control of the storage operator, except that this exception does not apply to a well which the storage operator has failed to locate and make known to the department. If an escape of gas results from an act of God or a person not under the control of the storage operator, the storage operator shall be under the duty to take any action reasonably necessary to prevent the further escape of gas out of the storage reservoir and its facilities.

§ 3235. Inspection of facilities and records.

(a) General rule.--The person operating a storage reservoir affected by this chapter shall, at all reasonable times, be permitted to inspect applicable records and facilities of a coal mine overlying the storage reservoir or reservoir protective area. The person operating a coal mine affected by this chapter shall, at all reasonable times, be permitted to inspect applicable records and facilities of a storage reservoir underlying the coal mine.

(b) Order.--If a storage operator or coal operator subject to subsection (a) refuses to permit inspection of records or facilities, the department may, on its own motion or on application of the party seeking inspection, after reasonable written notice and a hearing if requested by an affected party, order inspection.

§ 3236. Reliance on maps and burden of proof.

(a) General rule.--In determining whether a coal mine or operating coal mine is or will be within a particular distance from a storage reservoir which is material under this chapter, the owner or operator of the coal mine and the storage operator may rely on the most recent map of the storage reservoir or coal mine filed by the other party with the department.

(b) Accuracy.--Where accuracy of a map or data filed under this chapter is in issue, the person that filed the map or data shall:

(1) at the request of an objecting party, disclose the information and method used to compile the map or data, along

with any information available to the person that might affect current validity of the map or data; and

(2) have the burden of proving accuracy of the map or data.

§ 3237. Exemptions and prohibitions.

(a) Inapplicability of chapter to certain coal mines.--This chapter shall not apply to the following types of coal mines:

(1) Strip mines and auger mines operating from the surface.

(2) Mines to which the former act of June 9, 1911 (P.L.756, No.319), entitled "An act to provide for the health and safety of persons employed in and about the bituminous coal-mines of Pennsylvania, and for the protection and preservation of property connected therewith," did not apply in accordance with section 3 of that act.

(3) Mines to which the former act of June 2, 1891 (P.L.176, No.177), entitled "An act to provide for the health and safety of persons employed in and about the anthracite coal mines of Pennsylvania and for the protection and preservation of property connected therewith," did not apply in accordance with section 32 of that act.

(b) Workable coal seams.--Injection of gas for storage purposes in a workable coal seam, whether or not it is being or has been mined, is prohibited.

(b.1) Original extraction.--Nothing in this chapter prohibits original extraction of natural gas, crude oil or coal.

(c) Certain rock formations.--Nothing in this chapter applies to storage of gas or liquids in storage reservoirs excavated in rock formations specifically for storage purposes.

**SUBCHAPTER D
EMINENT DOMAIN**

Sec.

3241. Appropriation of interest in real property.

§ 3241. Appropriation of interest in real property.

(a) General rule.--Except as provided in this subsection, a corporation empowered to transport, sell or store natural gas or manufactured gas in this Commonwealth may appropriate an interest in real property located in a storage reservoir or reservoir protective area for injection, storage and removal from storage of natural gas or manufactured gas in a stratum which is or previously has been commercially productive of natural gas. The right granted by this subsection shall not be exercised to acquire any of the following for the purpose of gas storage:

(1) An interest in a geological stratum within the area of a proposed storage reservoir or reservoir protective area:

(i) unless the original recoverable oil or gas reserves in the proposed storage reservoir have been depleted or exhausted by at least 80%; and

(ii) until the condemnor has acquired the right, by grant, lease or other agreement, to store gas in the geological stratum underlying at least 75% of the area of the proposed storage reservoir.

(2) An interest in a geological stratum within the area of a proposed storage reservoir or reservoir protective area owned directly or indirectly by a gas company or other person engaged in local distribution of natural gas, if the interest to be acquired is presently being used by the gas company

or other person for storage of gas in performance of service to customers in its service area.

(b) Construction.--The following shall apply:

(1) This chapter authorizes appropriation within a storage reservoir or reservoir protective area of the following:

- (i) a stratum to be used for storage;
- (ii) any gas reserve remaining a stratum to be used for storage;
- (iii) an active or abandoned well or wells drilled into a stratum to be used for storage; and
- (iv) the right to enter upon and use the surface of lands to:
 - (A) locate, recondition, maintain, plug or replug an active or abandoned well; or
 - (B) operate a well drilled into or through a stratum to be used for storage.

(2) This chapter does not preclude the owner of nonstorage strata from drilling wells to produce oil or gas from a stratum above or below the storage stratum appropriated by another person, but a person appropriating or holding storage rights may access, inspect and examine the drilling, the completed well, drilling logs and other records relating to drilling, equipping or operating the well in order to determine whether the storage stratum is being adequately protected to prevent escape of gas stored therein.

(3) This chapter does not authorize appropriation of a coal or coal measure, regardless of whether it is being mined, or an interest in the coal mine or coal measure.

(c) Activities through appropriated strata.--A person drilling, operating, using or plugging a well through a stratum appropriated under this chapter shall drill, case, equip, operate or plug it in a manner designed to prevent avoidable escape of gas that may be stored in the storage stratum. Upon violation of this subsection, the court of common pleas of the county where the land in question is situated may compel compliance by injunction or grant other appropriate relief in an action brought by the person storing gas in the storage stratum.

(d) Prerequisites to appropriation.--Before appropriating under this chapter, a person shall attempt to agree with owners of interests in the real property involved as to damages payable for rights and interests to be appropriated, if the owners can be found and are sui juris. If the parties fail to agree, the person shall tender a surety bond to the owners to secure them in the payment of damages. If the owners refuse to accept the bond, cannot be found or are not sui juris, and after reasonable notice to the owners by advertisement or otherwise, the bond shall be presented for approval to the court of common pleas of the county in which the tract of land is situated. Upon the approval of the bond by the court, the right of the person to appropriate in accordance with the provisions of this chapter shall be complete.

(e) Appointment of viewers.--Upon petition of a property owner or a person appropriating under this chapter, the court shall:

- (1) appoint three disinterested freeholders of the county to serve as viewers to assess damages to be paid to the property owner for the rights appropriated;
- (2) fix a time for the parties to meet;
- (3) provide notice to the parties; and

(4) after the viewers have filed their report, fix reasonable compensation for the service of the viewers.

(f) Appeal.--Within 20 days after the filing of a report by viewers appointed under subsection (e), a party may appeal and proceed to a jury trial as in ordinary cases.

(g) Requirements.--Nothing in this section shall relieve a person operating a storage reservoir from the requirements of this chapter.

SUBCHAPTER E

ENFORCEMENT AND REMEDIES

Sec.

- 3251. Conferences.
- 3252. Public nuisances.
- 3253. Enforcement orders.
- 3254. Restraining violations.
- 3254.1. Well control emergency response cost recovery.
- 3255. Penalties.
- 3256. Civil penalties.
- 3257. Existing rights and remedies preserved and cumulative remedies authorized.
- 3258. Inspection and production of materials, witnesses, depositions and rights of entry.
- 3259. Unlawful conduct.
- 3260. Collection of fines and penalties.
- 3261. Third party liability.
- 3262. Inspection reports.

§ 3251. Conferences.

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

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

Cross References. Section 3251 is referred to in sections 3203, 3212, 3224, 3231, 3233, 3234 of this title.

§ 3252. Public nuisances.

A violation of section 3217 (relating to protection of fresh groundwater and casing requirements), 3218 (relating to protection of water supplies), 3219 (relating to use of safety devices) or 3220 (relating to plugging requirements), or a regulation, order, term or condition of a permit relating to any of those sections constitutes a public nuisance.

Special Provisions in Appendix. See section 4(3)(xvii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3253. Enforcement orders.

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

(b) **Suspension and revocation.**--

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

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

(A) This chapter.

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

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

(D) Any other statute administered by the department;

and

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

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

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

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

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

Special Provisions in Appendix. See section 4(3)(xviii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3254. Restraining violations.

(a) **General rule.**--In addition to any other remedy provided in this chapter, the department may institute a suit in equity in the name of the Commonwealth for an injunction to restrain a violation of this chapter or rules, regulations, standards or orders adopted or issued under this chapter and to restrain the maintenance or threat of a public nuisance. Upon motion of the Commonwealth, the court shall issue a prohibitory or mandatory preliminary injunction if it finds that the defendant is engaging in unlawful conduct, as defined by this chapter,

or conduct causing immediate and irreparable harm to the public. The Commonwealth shall not be required to furnish bond or other security in connection with the proceeding. In addition to an injunction, the court in equity may level civil penalties as specified in section 3256 (relating to civil penalties).

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

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

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

§ 3254.1. Well control emergency response cost recovery.

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

Special Provisions in Appendix. See section 4(3)(xix) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3255. Penalties.

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

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

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

Special Provisions in Appendix. See section 4(3)(xx) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3255 is referred to in section 3232 of this title.

§ 3256. Civil penalties.

In addition to other remedies available at law or in equity for a violation of this chapter, a regulation of the department, a departmental order or a permit condition, the department, after a hearing, may assess a civil penalty regardless of

whether the violation was willful. The penalty shall not exceed \$25,000 plus \$1,000 for each day during which the violation continues or, in the case of a violation arising from the construction, alteration or operation of an unconventional well, \$75,000 plus \$5,000 for each day during which the violation continues. In determining the amount, the department shall consider willfulness of the violation, damage or injury to natural resources of this Commonwealth or their uses, endangerment of safety of others, the cost of remedying the harm, savings resulting to the violator as a result of the violation and any other relevant factor. When the department proposes to assess a civil penalty, it shall notify the person of the proposed amount of the penalty. The person charged with the penalty must, within 30 days of notification, pay the proposed penalty in full or file an appeal of the assessment with the Environmental Hearing Board. Failure to comply with the time period under this section shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. The civil penalty shall be payable to the Commonwealth and collectible in any manner provided at law for collection of debts. If a violator neglects or refuses to pay the penalty after demand, the amount, together with interest and costs that may accrue, shall become a lien in favor of the Commonwealth on the real and personal property of the violator, but only after the lien has been entered and docketed of record by the prothonotary of the county where the property is situated. The department may transmit to the prothonotaries of the various counties certified copies of all liens. It shall be the duty of each prothonotary to enter and docket the liens of record in the prothonotary's office and index them as judgments are indexed, without requiring payment of costs as a condition precedent to entry.

Special Provisions in Appendix. See section 4(3)(xxi) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3256 is referred to in section 3254 of this title.

§ 3257. Existing rights and remedies preserved and cumulative remedies authorized.

Nothing in this chapter stops the Commonwealth or a district attorney from proceeding in a court of law or in equity to abate pollution forbidden under this chapter or a nuisance under existing law. It is hereby declared to be the purpose of this chapter to provide additional and cumulative remedies to control activities related to drilling for or production of oil and gas in this Commonwealth, and nothing contained in this chapter abridges or alters rights of action or remedies existing, or which existed previously, in equity or under common or statutory law, criminal or civil. Neither this chapter, the grant of a permit under this chapter nor an act done by virtue of this chapter stops the Commonwealth, in exercising rights under common or decisional law or in equity, from suppressing a nuisance, abating pollution or enforcing common law or statutory rights. No court of this Commonwealth with jurisdiction to abate public or private nuisances shall be deprived of jurisdiction in an action to abate a private or public nuisance instituted by any person on grounds that the nuisance constitutes air or water pollution.

§ 3258. Inspection and production of materials, witnesses, depositions and rights of entry.

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

(a.1) Preoperation inspections.--The operator may not commence drilling activities until the department has conducted an inspection of the unconventional well site after the installation of erosion and sediment control measures. The department may conduct follow-up inspections of well sites and related activities to determine compliance with this chapter.

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

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

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

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

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

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

(f) Purchasers.--Upon request, a purchaser of oil or gas shall provide the department information necessary to determine ownership of facilities from which the purchaser obtained oil or gas. The information shall be kept confidential for a period of five years, and the department may utilize it in enforcement proceedings. The department may request information under this section only when a well does not comply with section 3211(h) (relating to well permits).

Special Provisions in Appendix. See section 4(3)(xxii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3259. Unlawful conduct.

It shall be unlawful for any person to:

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

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

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

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

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

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

(5) Cause abandonment of a well by removal of casing or equipment necessary for production without plugging the well in the manner prescribed under section 3220 (relating to plugging requirements), except that the owner or operator of a well may temporarily remove casing or equipment necessary for production, but only if it is part of the normal course of production activities.

§ 3260. Collection of fines and penalties.

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

§ 3261. Third party liability.

If a person other than a well operator renders a service or product to a well or well site, that person is liable with the well owner or operator for violations of this chapter arising out of and caused by the person's actions at the well or well site, in accordance with State law.

Special Provisions in Appendix. See section 4(3)(xxiii) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3262. Inspection reports.

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

(1) The nature and description of violations.

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

- (3) The status of the violation.
- (4) The remedial steps taken by the operator or the department to address the violation.

Special Provisions in Appendix. See section 4(3)(xxiv) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

SUBCHAPTER F
MISCELLANEOUS PROVISIONS

Sec.

- 3271. Well plugging funds.
- 3272. (Reserved).
- 3273. Effect on department authority.
- 3273.1. Relationship to solid waste and surface mining.
- 3274. Regulations.

§ 3271. Well plugging funds.

(a) Appropriation.--Fines, civil penalties and permit and registration fees collected under this chapter are appropriated to the department to carry out the purposes of this chapter.

(b) Surcharge.--To aid in indemnifying the Commonwealth for the cost of plugging abandoned wells, a \$50 surcharge is added to the permit fee established by the department under section 3211 (relating to well permits) for new wells. Money collected as a result of the surcharge shall be paid into a restricted revenue account in the State Treasury to be known as the Abandoned Well Plugging Fund and expended by the department to plug abandoned wells threatening the health and safety of persons or property or pollution of waters of this Commonwealth.

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

(1) A restricted revenue account to be known as the Orphan Well Plugging Fund is created. A \$100 surcharge for wells to be drilled for oil production and a \$200 surcharge for wells to be drilled for gas production are added to the permit fee established by the department under section 3211 for new wells. The surcharges shall be placed in the Orphan Well Plugging Fund and expended by the department to plug orphan wells. If an operator rehabilitates a well abandoned by another operator or an orphan well, the permit fee and the surcharge for the well shall be waived.

(2) The department shall study its experience in implementing this section and shall report its findings to the Governor and the General Assembly by August 1, 1992. The report shall contain information relating to the balance of the fund, number of wells plugged, number of identified wells eligible for plugging and recommendations as to alternative funding mechanisms.

(3) Expenditures by the department for plugging orphan wells are limited to fees collected under this chapter. No money from the General Fund shall be expended for this purpose.

§ 3272. (Reserved).

§ 3273. Effect on department authority.

This chapter does not affect, limit or impair any right or authority of the department under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law; the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act; the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act; or the

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

§ 3273.1. Relationship to solid waste and surface mining.

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

(1) the well is permitted under the requirements of section 3211 (relating to well permits) or registered under section 3213 (relating to well registration and identification);

(2) the owner or operator has satisfied the financial security requirements of section 3225 (relating to bonding) by obtaining a surety or collateral bond for the well and well site; and

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

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

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

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

§ 3274. Regulations.

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

CHAPTER 33

**LOCAL ORDINANCES RELATING TO
OIL AND GAS OPERATIONS**

Sec.

- 3301. Definitions.
- 3302. Oil and gas operations regulated pursuant to Chapter 32.
- 3303. Oil and gas operations regulated by environmental acts.
- 3304. Uniformity of local ordinances.
- 3305. Commission.

- 3306. Civil actions.
- 3307. Attorney fees and costs.
- 3308. Ineligibility.
- 3309. Applicability.

Enactment. Chapter 33 was added February 14, 2012, P.L.87, No.13, effective in 60 days.

Special Provisions in Appendix. See section 4(1) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Chapter 33 is referred to in sections 2303, 2314 of this title.

§ 3301. Definitions.

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

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

"Commission." The Pennsylvania Public Utility Commission.

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

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

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

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

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

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

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

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

(i) oil and gas pipelines;

(ii) natural gas compressor stations; and

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

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

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

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

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

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

Except with respect to local ordinances adopted pursuant to the MPC and the act of October 4, 1978 (P.L.851, No.166), known as the Flood Plain Management Act, all local ordinances purporting to regulate oil and gas operations regulated by Chapter 32 (relating to development) are hereby superseded. No local ordinance adopted pursuant to the MPC or the Flood Plain Management Act shall contain provisions which impose conditions, requirements or limitations on the same features of oil and gas operations regulated by Chapter 32 or that accomplish the same purposes as set forth in Chapter 32. The Commonwealth, by this section, preempts and supersedes the regulation of oil and gas operations as provided in this chapter.

Special Provisions in Appendix. See section 4 of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 3302 is referred to in section 3304 of this title.

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

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

Cross References. Section 3303 is referred to in section 3304 of this title.

§ 3304. Uniformity of local ordinances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The natural gas processing plant building is located at the greater of at least 750 feet from the nearest existing building or at least 200 feet from the nearest lot line unless waived by the owner of the building or adjoining lot.

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

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

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

(11) May not increase setback distances set forth in Chapter 32 (relating to development) or this chapter. A local ordinance may impose setback distances that are not regulated by or set forth in Chapter 32 or this chapter if the setbacks

are no more stringent than those for other industrial uses within the geographic boundaries of the local government.

Cross References. Section 3304 is referred to in section 3301 of this title.

§ 3305. Commission.

(a) Advisory opinions to municipalities.--

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

(2) Within 120 days of receiving a request under paragraph (1), the commission shall, in writing, advise the municipality whether or not the local ordinance violates the MPC, this chapter or Chapter 32.

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

(b) Orders.--

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

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

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

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

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

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

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

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

(d) Authority.--The commission has the following powers to carry out this chapter:

(1) Employ individuals.

(2) Issue orders.

(3) Promulgate regulations.

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

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

(ii) are exempt from:

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

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

Cross References. Section 3305 is referred to in section 3306 of this title.

§ 3306. Civil actions.

The following shall apply:

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

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

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

Cross References. Section 3306 is referred to in section 3307 of this title.

§ 3307. Attorney fees and costs.

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

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

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

§ 3308. Ineligibility.

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

§ 3309. Applicability.

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

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

CHAPTER 35
RESPONSIBILITY FOR FEE

Sec.

- § 3501. Declaration of policy.
- § 3502. Prohibition.
- § 3503. Existing agreements.
- § 3504. Future agreements.

Enactment. Chapter 35 was added February 14, 2012, P.L.87, No.13, effective in 60 days.

Special Provisions in Appendix. See section 4(1) of Act 13 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3501. Declaration of policy.

The General Assembly finds and declares as follows:

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

(2) This chapter is intended to advance the significant and legitimate public purpose of ensuring that entities responsible for the impacts of unconventional oil and gas well development are solely responsible for payment of impact fees.

§ 3502. Prohibition.

A producer may not make the fee authorized under Chapter 23 (relating to unconditional gas well fee) an obligation, indebtedness or liability of a landowner, leaseholder or other person in possession of real property, upon which the removal or extraction occurs.

Cross References. Section 3502 is referred to in sections 3503, 3504 of this title.

§ 3503. Existing agreements.

A provision of an agreement in existence prior to the effective date of this section which violates section 3502 (relating to prohibition) is declared to be illegal and contrary to public policy and shall be null and void.

§ 3504. Future agreements.

On or after the effective date of this section, a provision of an agreement in violation of section 3502 (relating to prohibition) is declared to be illegal and contrary to public policy and shall be null and void.

APPENDIX TO TITLE 58
OIL AND GAS

Supplementary Provisions of Amendatory Statutes

2012, FEBRUARY 14, P.L.87, NO.13

§ 2. Fiscal year 2011-2012 appropriation.

For fiscal year 2011-2012, \$250,000 is appropriated from the General Fund to the Pennsylvania Public Utility Commission for costs associated with implementation of this act.

Explanatory Note. Act 13 added Parts I, II and III of Title 58.

§ 4. Continuation of prior law.

The addition of 58 Pa.C.S. Ch. 32 and 58 Pa.C.S. § 3302 is a continuation of the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act. The following apply:

(1) Except as otherwise provided in 58 Pa.C.S. Ch. 32 or 33, all activities initiated under the Oil and Gas Act shall continue and remain in full force and effect and may be completed under 58 Pa.C.S. Chs. 32 and 33. Orders, regulations, rules and decisions which were made under the Oil and Gas Act and which are in effect on the effective date of section 3(2) of this act shall remain in full force and effect until revoked, vacated or modified under 58 Pa.C.S. Ch. 32 or 33. Except as provided in 58 Pa.C.S. Ch. 35, contracts, obligations and collective bargaining agreements entered into under the Oil and Gas Act are not affected nor impaired by the repeal of the Oil and Gas Act.

(2) Except as set forth in paragraph (3), any difference in language between 58 Pa.C.S. Ch. 32 and the Oil and Gas Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Oil and Gas Act.

(3) Paragraph (2) does not apply to the addition of the following provisions of 58 Pa.C.S.:

- (i) Section 3203.
- (ii) Section 3211.
- (iii) Section 3212.1.
- (iv) Section 3215.
- (v) Section 3216.
- (vi) Section 3218.
- (vii) Section 3218.1.
- (viii) Section 3218.2.
- (ix) Section 3218.3.
- (x) Section 3218.4.
- (xi) Section 3218.5.
- (xii) Section 3219.1.
- (xiii) Section 3222.
- (xiv) Section 3222.1.
- (xv) Section 3225.
- (xvi) Section 3227.
- (xvii) Section 3252.
- (xviii) Section 3253.
- (xix) Section 3254.1.
- (xx) Section 3255.
- (xxi) Section 3256.
- (xxii) Section 3258.
- (xxiii) Section 3261.
- (xxiv) Section 3262.

(4) Any difference in language between 58 Pa.C.S. § 3302 and section 602 of the Oil and Gas Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of section 602 of the Oil and Gas Act.

§ 5. Application of law.

The addition of 58 Pa.C.S. Ch. 23 shall apply to all oil and gas deposits and oil and gas development activities and operations subject to the jurisdiction of the Commonwealth. With respect to oil and gas deposits on national forest lands identified under section 17(o) of the Mineral Leasing Act (106 Stat. 3108, 30 U.S.C. § 226(o)), the application of regulations and statutes adopted by the Commonwealth shall be the exclusive method and means by which any requirements may be imposed on any feature, aspect or process of oil and gas operations pertaining to the development of the deposits.

§ 6. Legislative intent.

It is not the intent of the General Assembly to change, repeal or otherwise affect any of the provisions of the act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act, or to change, repeal or otherwise affect any of the provisions of the act of May 13, 2011 (P.L.7, No.2), entitled "An act amending the act of December 18, 1984 (P.L.1069, No.214), entitled 'An act requiring coordination of coal mine and gas well operators; authorizing Department of Environmental Resources enforcement powers; and providing penalties,' further providing for definitions, for permits, for permit application, for minimum distance between gas wells, for well class designation and for coordination of gas well drilling through active coal mines; providing for a pillar support study; and further providing for plugging gas wells penetrating workable coal seams, for penalties and for validity of other laws," which amended the Coal and Gas Resource Coordination Act.

§ 7. Department of Transportation statement of policy.

Within 90 days of the effective date of this section, the Department of Transportation shall issue a statement of policy, effective upon publication in the Pennsylvania Bulletin, adopting an appropriate methodology to provide letters of local determination that identify particular vehicles, routes or uses as local in nature. The Department of Transportation may determine that hauling related to unconventional oil and gas development is excluded from local traffic status based on its disproportionate and qualitatively different impact upon highways and bridges. The methodology shall allow for exemptions from 67 Pa. Code Ch. 189 (relating to hauling in excess of posted weight limit) related to at-risk industry sectors in this Commonwealth that have experienced a 20% or more decline in Statewide employment since 2002 or that demonstrate other evidence of economic decline as determined by the department in consultation with the Department of Labor and Industry. The exemptions and related requirements shall remain in existence until December 31, 2015.

§ 8. Pipeline placement for natural gas.

The Energy Executive of the Governor shall consult with the Department of Environmental Protection, the Pennsylvania Public Utility Commission, State legislators, local government organizations, natural gas industry representatives, conservationists and other affected entities on the issue of pipeline placement for natural gas gathering lines in this Commonwealth. The Energy Executive of the Governor shall submit a report summarizing pipeline placement for natural gas gathering lines and make his recommendations to the General Assembly within one year of the effective date of this section.