

No. 1984-223

AN ACT

SB 402

Relating to the development of oil and gas and coal; imposing duties and powers on the Department of Environmental Resources; imposing notification requirements to protect landowners; and providing for definitions, for various requirements to regulate the drilling and operation of oil and gas wells, for gas storage reservoirs, for various reporting requirements, including certain requirements concerning the operation of coal mines, for well permits, for well registration, for distance requirements, for well casing requirements, for safety device requirements, for storage reservoir obligations, for well bonding requirements, for a Well Plugging Restricted Revenue Account to enforce oil and gas well plugging requirements, for the creation of an Oil and Gas Technical Advisory Board, for oil and gas well inspections, for enforcement and for penalties.

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

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Oil and Gas Act.

Section 102. Declaration of purpose.

The purposes of this act are to:

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

(2) Protect the safety of personnel and facilities employed in the exploration, development, storage and production of natural gas or¹ oil or the mining of coal.

¹ “,” in enrolled bill.

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

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

Section 103. Definitions.

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

“Abandoned well.” Any well that has not been used to produce, extract or inject any gas, petroleum or other liquid within the preceding 12 months, or any well for which the equipment necessary for production, extraction or injection has been removed, or any well, considered dry, not equipped for production within 60 days after drilling, re-drilling or deepening, except that it shall not include any well granted inactive status.

“Alteration.” Any operation which changes the physical characteristics of the well bore, including stimulation or removing, repairing or changing the casing: Provided, however, That, for the purpose of this act only, the term shall not include:

(1) repairing or replacing of casing with casing of the same diameter and length in noncoal areas;

(2) repairing or replacing of production casing with casing of the same or smaller diameter and length in noncoal areas;

(3) nor shall it include stimulation as a normal initial completion procedure nor stimulation used to enhance additional oil or gas zones within the same well bore.

“Board.” The Oil and Gas Technical Advisory Board.

“Bridge.” An obstruction placed in a well at any specified 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.” Hydraulic cement properly mixed with water only or any mixture of materials adequate for bonding or sealing of well bores as approved by regulations promulgated hereunder.

“Coal mine.” Those operations in a coal seam which include the excavated and abandoned portions as well as the places actually being worked, also all underground workings and shafts, slopes, tunnels and other ways and openings and all such shafts, slopes, tunnels and other openings in the course of being sunk or driven, together with all roads and facilities connected with them below the surface.

“Coal operator.” Any person as herein defined who proposes to or does operate a coal mine either as 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 the well is abandoned.

“Department.” The Department of Environmental Resources of the Commonwealth.

“Drilling.” The drilling or redrilling of any well or the deepening of any 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 fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, any manufactured gas, any byproduct gas or any mixture of gases.

“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 such equally nonporous material into the well.

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

“Oil” or “petroleum.” Hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA.

“Operating coal mine.”

(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 under this act and any worked-out or abandoned coal mine connected underground with or contiguous to such operating coal mine as herein defined.

(2) Any underground coal mine to be established or reestablished as an operating coal mine in the future pursuant to this act.

“Operating well.” Any well not plugged and abandoned.

“Outside coal boundaries.” When used in conjunction with the term “operating coal mine,” means the boundaries of the coal acreage assigned to such coal mine under an underground mine permit issued by the department.

“Owner.” Any person who owns, manages, leases, controls or possesses any well or coal property; except that for purposes of section 210, the term “owner” shall not include those owners or possessors of surface real property on which the abandoned well is located who did not participate or incur costs in the drilling or extraction operation of the abandoned well and had no right of control over the drilling or extraction operation of the abandoned well.

“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 as herein defined.

“Person.” Any individual, association, partnership, corporation, political subdivision or agency of the State or Federal Government or other legal entity.

“Reservoir protective area.” All of that area outside of and surrounding the storage reservoir boundary but within 2,000 linear feet thereof, unless an alternate area shall have been designated by the department, deemed reasonably necessary to afford protection to the reservoir, pursuant to a conference held in accordance with section 501.

“Retreat mining.” The removal of such coal pillars, ribs and stumps as remain after the development mining has been completed in that section of a coal mine.

“Storage operator.” Any person who proposes to or does operate a storage reservoir either as owner or lessee.

“Storage reservoir.” That portion of any subsurface geological stratum or strata into which gas is or may be injected for the purposes of storage or of testing the suitability of such strata or stratum for storage.

“Well.” A bore hole drilled or being drilled for the purpose of or to be used for producing, extracting or injecting any gas, petroleum or other liquid related to oil or gas production or storage, including brine disposal, but excluding bore holes drilled to produce potable water to be used as such.

“Well operator” or “operator.” Any person who locates, drills, operates, plugs or reconditions any well with the purpose of production therefrom. In cases where a well is used in connection with the underground storage of gas, the term also means a “storage operator.”

“Wetland.” Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

“Workable coal seams.”

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

(2) A coal seam, which in the judgment of the department, can reasonably be expected to be mined by underground methods.

CHAPTER 2 GENERAL REQUIREMENTS

Section 201. Well permits.

(a) No person shall drill a well or alter any existing well, except for alterations which satisfy the requirements of subsection (j)¹, without having first obtained a well permit pursuant to subsections (b), (c), (d) and (e).

(b) The permit application shall be accompanied by a plat prepared by a competent engineer or a competent surveyor, on forms to be furnished by the department, showing the political subdivision and county in which the tract of land upon which the well to be drilled is located, the name of the surface landowner of record and lessor, the name of all surface landowners or water purveyors whose water supplies are within 1,000 feet of the proposed well location, the name of the owner of record or operator of all known underlying workable coal seams, if any, the acreage in the tract to be drilled, the proposed location of the well determined by survey, the courses and distances of such location from two or more permanent identifiable points or landmarks on said tract boundary corners, the proposed angle and direction of such 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, if any, underlying the tract of land upon which the well is to be drilled or

¹ “(k)” in enrolled bill.

altered, which are to be cased off in accordance with section 207, and such information needed by the department to administer this act. The applicant shall forward, by certified mail, a copy of said plat to the surface landowner, all surface landowners or water purveyors whose water supplies are within 1,000 feet of the proposed well location, the owner and lessee, if any, of such coal seams, and every coal operator required to be identified on the well permit application and shall submit proof of such notification with the well permit application. With respect to surface owners, notification shall be accomplished under this section by sending notice to the persons to whom the tax notices for said surface property are sent, as indicated in the assessment books in the county in which the property is located. With respect to surface landowners or water purveyors whose water supplies are within 1,000 feet of the proposed well location, notification shall be made on forms and in a manner prescribed by the department sufficient to identify, for such persons, the rights afforded them under section 208 and the advisability of taking their own predrilling or prealteration survey. 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, if any, of the coal underlying the proposed well location and no objections are raised by the department within 15 days of filing or if no such approval has been submitted and no objections are made to such proposed well location within 15 days from receipt of such notice by the surface landowner and the coal operator, lessee or owner, if any, or by the department, the same shall be filed and become a permanent record of such location, subject to inspection at any time by any interested person.

(c) If the applicant for a well permit is a corporation, partnership or a person nonresident of the Commonwealth, then there shall be designated the name and address of an agent for such operator who shall be the attorney in fact for the operator and who shall be a resident of the Commonwealth upon whom notices, orders or other communications issued pursuant to this act or the regulations adopted hereunder may be served and upon whom process may be served. Every well operator required to designate an agent under this section shall, within five days after the termination of such designation, notify the department of such termination and designate a new agent.

(d) Every application for a well permit shall be accompanied by a permit fee, established by regulation of the department, which bears a reasonable relationship to the cost of administering this act: Provided, however, That the permit fee shall be \$100 for two years immediately following the effective date of this act.

(e) The department shall issue a permit within 45 days of the submission of a permit application unless the department denies the permit application for one or more of the five reasons set forth below: Provided, however, That the department shall have the right to extend such period for 15 days for cause shown upon notification to the applicant of the reasons for that extension. The department may impose such permit terms and conditions as are necessary to assure compliance with this act and other laws administered by the department. The department shall have the authority to deny a permit to any person for the following reasons:

(1) the well site for which a permit is requested is in violation of any of the provisions of this act, or if issuance of such permit would result in a violation of this act or any other applicable environmental statute, rule or regulation;

(2) the permit application is incomplete;

(3) unresolved objections to the well location by coal mine owner or operator remain;

(4) the requirements of section 215 have not been met; or

(5) the applicant, with respect to any other well or wells which the applicant operates, is in continuing violation of this act or any other applicable statute administered by the department. The right of the department to deny a permit under this paragraph shall not be effective until a final administrative determination has been made of any of these violations and no appeal is pending in which a stay has been granted.

(f) Upon issuance of a permit, the well operator may proceed with the drilling of the well 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. 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. The remaining wells of the project shall be shown on the plat in a manner prescribed by regulation. Prior to drilling each of the additional project wells, the well operator shall notify the department of his intention and provide reasonable notice of the date drilling will commence. Whenever, before or during the drilling of any well which is not within the outside boundaries of an operating coal mine, the well operator shall encounter conditions of such a nature as to render drilling of the bore hole or portions thereof more hazardous than usual, or otherwise impossible, then the well operator shall have the right, upon verbal notice to the department, to immediately plug all or portions of the bore hole, if drilling has occurred, and to commence a new bore hole not more than 50 feet distant if the location of the new bore hole does not violate section 205 and if, for wells subject to the act of July 25, 1961 (P.L.825, No.359), known as the Oil and Gas Conservation Law, the new location complies with any existing law, regulation or spacing order and if the new bore hole is a minimum of 330 feet distant from the nearest lease boundary. 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. 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) The well permit number and operator's name, address and telephone number shall be posted at the drilling site, in a conspicuous manner, prior to commencement of drilling.

(h) 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) Well permits issued for drilling of wells covered by this act shall expire one year after issuance unless operations for drilling the well are commenced within such 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 210 or the permit is revoked. Any drilling permit issued prior to the effective date of this act for a well which is an operating well on said date shall remain in force as a well permit until the well is plugged in accordance with section 210. Nothing in this subsection shall be construed to rescind the provisions pertaining to drilling permits contained in the Oil and Gas Conservation Law.

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

(k) No permit issued pursuant to this section or registration issued pursuant to section 203 may be transferred without prior approval of the department. Requests for approval of such transfer shall be made on forms or in a manner prescribed by the department. The department shall only have the authority to deny such request for the reasons set forth in subsection (e)(4) or (5).

(l) The department may establish a procedure for accelerated approval of well permit applications in hardship cases, as defined by regulation of the Environmental Quality Board, consistent with the requirements of this act.

Section 202. Permit objections.

(a) In case any well location referred to in section 201(b) is made so that the well, when drilled, will be located on a tract whose surface is owned by a person other than the well operator, then the surface landowner affected shall be notified of the intent to drill and have right to file objections, in accordance with section 501, based on the assertion that the well location violates section 205 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 provided for in section 201(b). If no such objections are filed or none are 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 objections are raised by the department within 15 days of filing, the department shall proceed to issue or deny the permit.

(b) In case any well location referred to in section 201(b) is made so that the well when drilled will penetrate anywhere within the outside coal boundaries of any operating coal mine or coal mine already projected and plated but not yet being operated or within 1,000 linear feet beyond such boundaries and the well when drilled or the pillar of coal about the well will, in the opinion of the coal owner or operator, unduly interfere with or endanger such mine, then the coal owner or operator affected shall have the right to

file objections in accordance with section 501 to such proposed location within 15 days of the receipt by the coal operator of the plat provided for in section 201(b). An alternative location at which the proposed well could be drilled to overcome such objections shall, if possible, be indicated. If no such objections to the proposed location are filed or if none are 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 objections are raised by the department within 15 days of filing, the department shall proceed to issue or deny the permit.

(c) If any objections are filed by any coal operator or owner or are made by the department, the department shall fix a time and place for a conference in accordance with section 501 not more than ten days from the date of the service of such objections on the well operator, at which conference the well operator and such coal operators or owners as are present or represented shall consider the objections and attempt to agree upon a location. If they fail to agree upon a location, the department shall, by an appropriate order, determine a location on such 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 such mine as defined in subsection (b). Such new location as agreed upon by said parties or as determined by the department shall be indicated on the plat on file with the department and shall become a permanent record, whereupon the department shall proceed to issue or deny the permit.

(d) Within 120 days after the 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 and file the results of the survey with the department and forward, by certified mail, a copy to the well operator.

Section 203. Well registration.

(a) Within one year from the effective date of this act, every person owning or operating a well for which no drilling permit was issued by the department shall register such well on forms or in a manner prescribed by the department, which shall contain the following information:

(1) The name and address of the well operator and, if the well operator is a corporation, partnership or a person nonresident of the Commonwealth, there shall be designated on the well registration application the *name and address of an agent for such operator upon whom notices, orders, process or other communications issued pursuant to this act may be served.*

(2) The well name of such well 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 the drilling, completion of said well and the approximate depth of said well, the producing horizons, well construction information and driller's logs, if available.

(4) An indemnity bond or an alternative fee in lieu of bonding satisfying the requirements of section 215.

(5) A registration fee of \$15 per well, except that the department may establish a blanket registration fee not to exceed \$250 where multiple well registration applications are submitted simultaneously for wells that are part of the same development project. The blanket registration fee shall bear a reasonable relationship to the administrative costs associated with processing such multiple well registration applications.

(b) The department may extend the one-year time period provided in subsection (a) for good cause shown. However, such extension shall not exceed a period ending two years from the effective date of this act. The department may adopt and promulgate guidelines designed to insure a fair implementation of this section which recognizes the practical difficulties of locating unpermitted wells and complying with the reporting requirements of this act.

(c) 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.

Section 204. Inactive status.

(a) Upon application, the department may grant inactive status for any permitted or registered well which satisfies the following requirements:

(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 which is adequate to protect freshwater aquifers, if the department determines the well poses a threat to the health and safety of persons or property or to the environment;

(3) the applicant certifies that the well is of future utility and presents a viable plan for utilizing the well within a reasonable time; and

(4) the applicant satisfies the bonding requirements of section 215, except that the department may require additional financial security for any well on which an alternative fee is being paid in lieu of bonding under section 215(d).

(b) The owner or operator of any well granted inactive status shall be responsible for monitoring the mechanical integrity of such well and shall report the same on an annual basis to the department in a manner and form as the department shall prescribe by regulation.

(c) Approval of inactive status under this section shall be valid for a period of five years unless renewed pursuant to the requirements of this section. The department shall have the right to revoke such status and order the immediate plugging of said well if it is in violation of this act or any other statute, rule or regulation administered by the department or upon receipt by the department of notice of bankruptcy proceedings by the permittee.

Section 205. Well location restrictions.

(a) Wells may not be drilled within 200 feet measured horizontally from any existing building or existing water well without the written consent of the

owner thereof. Where 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 said surface tract, the well operator may be granted a variance from said distance restriction upon submission of a plan which shall identify the additional measures, facilities or practices to be employed during well site construction, drilling and operations. The variance, if granted, shall include such additional terms and conditions as the department shall require to insure the safety and protection of affected persons and property. The provisions may include insurance, bonding and indemnification, as well as technical requirements.

(b) No well site may be prepared or well drilled within 100 feet measured horizontally from any 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 or within 100 feet of any wetlands greater than one acre in size. The department may waive such distance restrictions upon submission of a plan which shall identify the additional measures, facilities or practices to be employed during well site construction, drilling and operations. Such waiver, if granted, shall impose such permit conditions as are necessary to protect the waters of the Commonwealth.

(c) The department shall, on making a determination on a well permit, consider the impact of the proposed well on public resources to include, but not be limited to, the following:

- (1) Publicly owned parks, forests, gamelands 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.

Section 206. Well site restoration.

(a) 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) During and after all earthmoving or soil disturbing activities, including, but not limited to, the 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) Within nine months after completion of drilling of any 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 the express written consent of the surface landowner is obtained.

(d) 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) Restoration activities required by this act or in regulations promulgated hereunder shall also comply with all applicable provisions of The Clean Streams Law.

(f) Failure to restore the well site as required in this act or in regulations promulgated hereunder is a violation of this act.

(g) The restoration period may be extended by the department for an additional six months upon application of the well owner or operator providing evidence of inability to comply due to adverse weather conditions or lack of essential fuel, equipment or labor.

Section 207. Protection of fresh groundwater; casing requirements.

(a) To aid in the protection of fresh groundwater, the well operator 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 rule or regulation promulgated thereunder.

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

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

(d) When a well is drilled at a location where the coal seam has not been removed, the well shall be drilled to such a depth and of size as will permit the placing of casing, packers in, and vents on, the hole at such points and in such a manner prescribed by the department by regulation as will exclude all gas or fluids from the coal seam, except such as may be found naturally in the coal seam itself and will enable the monitoring of the integrity of the production casing.

Section 208. Protection of water supplies.

(a) Any 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.

(b) Any 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 such notification, the department shall investigate any such claim and shall, within 45 days following notification, make a determination. If the department finds that the pollution or diminution was caused by the drilling, alteration or operation activities or if it presumes the well operator responsible for pollution pursuant to subsection (c), then it shall issue such orders to the well operator as are necessary to assure compli-

ance with subsection (a). Such orders may include orders requiring the temporary replacement of a water supply where it is determined that the pollution or diminution may be of limited duration.

(c) Unless rebutted by one of the five defenses established in subsection (d), it shall be presumed that a well operator is responsible for the pollution of a water supply that is within 1,000 feet of the oil or gas well, where the pollution occurred within six months after the completion of drilling or alteration of such well.

(d) In order to rebut the presumption of liability established in subsection (c), the well operator must affirmatively prove one of the following five defenses:

(1) The pollution existed prior to the drilling or alteration activity as determined by a predrilling or prealteration survey.

(2) The landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.

(3) The water supply is not within 1,000 feet of the well.

(4) The pollution occurred more than six months after completion of drilling or alteration activities.

(5) The pollution occurred as the result of some cause other than the drilling or alteration activity.

(e) Any operator electing to preserve its defenses under subsection (d)(1) or (2) shall retain the services of an independent certified laboratory to conduct the predrilling or prealteration survey of water supplies. A copy of the results of any such survey shall be submitted to the department and the landowner or water purveyor in a manner prescribed by the department.

(f) Nothing herein shall prevent any landowner or water purveyor who claims pollution or diminution of a water supply from seeking any other remedy that may be provided at law or in equity.

Section 209. Use of safety devices.

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

Section 210. Plugging requirements.

(a) Upon abandoning any well, the owner or operator thereof shall plug the well in a manner prescribed by regulation of the department in order to stop any vertical flow of fluids or gas within the well bore unless the department has granted inactive status for such well pursuant to section 204.

(b) Prior to the abandonment of any well in an area underlain by a workable coal seam, the well operator or owner shall notify the coal operator, lessee or owner and the department of his intention to plug and abandon any such 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 the work of plugging will be commenced, which time shall be not less than 72 hours after the time when such notice is received, nor more than 30 days thereafter in order that their representatives may be present at the plugging

of the well. Such notice may be waived by the department and said coal operator, lessee or owner, and any of them may likewise waive their right to be present, but such waiver by coal operator, lessee or owner shall be in writing and a copy thereof attached to the notice of abandonment, filed with the department under this section. Whether or not such representatives appear, the well operator may, if he has fully complied with the requirements of this section, proceed at the time fixed, to plug the well in the manner as prescribed by regulation of the department. When such 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 has been plugged. One copy of this certificate shall be mailed to each coal operator, lessee or owner to whom notice was given by certified mail and another copy shall be mailed to the department.

(c) Prior to the abandonment of any 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 his intention to plug and abandon any such 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 the work of plugging will be commenced, which time shall not be less than 72 hours nor more than 30 days after the time of mailing such notice, in order that the department representative may be present at the plugging of the well. Such 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 these wells are now to be plugged, it is required that the department be given 72 hours' notice prior to plugging the first well of such project subject to waiver of notice described herein. In the plugging of subsequent wells, no additional notice shall be required if the plugging on the project is continuous. If the plugging of subsequent wells is delayed for any reason, notice shall be given to the department of the continuation of such project. Whether or not such department representative appears, the well operator may, if he has fully complied with the requirements of this section, proceed at the time fixed to plug the well in the manner as prescribed by regulation of the department. When such 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 this certificate shall be mailed to the department.

(d) Whenever any 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 at which the work of plugging will be commenced. Such notice may be waived by the department and said coal operator, lessee or owner, and any of them may likewise waive their right to be present. Whether or not any representative of the department or of the coal operator, lessee or owner, if any, appear, the well operator may,

if he has fully complied with the requirements of this section, proceed at the time fixed, to plug the well in the manner provided by regulation prescribed by the department. The well operator shall prepare the certificate of plugging and mail copies of the same as provided in subsections (b) and (c).

(e) If a well is abandoned without plugging, the department shall have the right to enter upon the well site and plug the abandoned well and to sell such equipment, casing and pipe as may have been used in the production of the well in order to recover the costs of plugging. Said costs of plugging shall have priority over all liens on said equipment, casing and pipe, and said sale shall be free and clear of any such liens to the extent the costs of plugging exceed the sale price. If the equipment price obtained for casing and pipe salvaged at the abandoned well site is inadequate to pay for the cost of plugging the well, the owner or operator of the well shall be legally liable for the additional costs of plugging the well.

Section 211. Alternative methods.

Whenever provision is made in this act for adoption of regulatory requirements for casing, plugging or equipping a well, a well operator may request the authority to use an alternative method of material by filing an application with the department, describing such proposed alternative method or material, in reasonable detail, indicating the manner in which it will accomplish the goals of this act and regulations adopted pursuant hereto. Notice of filing of any such application shall be given by the well operator by certified mail to any coal operator or operators affected. Any such coal operator may, within 15 days following such notice, file objections to such proposed alternative method or material. If no objections are filed within said 15-day period and if none is raised by the department, the department shall forthwith make a determination whether to allow the use of the proposed alternative method or material.

Section 212. Well reporting requirements.

(a) Every well operator shall file with the department, on a form provided by the department, an annual report specifying the amount of production from each well on an individual well basis. Where said data is not available on a well basis, it may be reported on the most well-specific basis available. Annual reports shall also specify the status of each well; however, in subsequent years, only changes in the status need be reported. All such reports shall be kept confidential for one year after the date the information is required to be filed hereunder. Upon request of the well operator, the department shall extend the period of confidentiality for four years. The total period of confidentiality shall not exceed five years: Provided, however, That the department shall have the right to utilize such 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.

(b) It shall be the duty of the well operator to keep records of any well drilled or altered. A record of the well containing such information as required by regulation shall be filed with the department within 30 days of cessation of drilling. A completion report containing such additional infor-

mation as required by regulation shall be filed with the department within 30 days after the completion of the well and it shall be kept on file by the department. Within 90 days after the completion of drilling or recompletion of a well, if requested by the department, the well operator shall submit a copy of the electrical, radioactive or other standard industry logs if they have been run. In addition, if requested 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 such information shall be required unless the well operator has had such information compiled in the ordinary course of business. No interpretation of the data is to be filed.

(c) Upon notification by the department prior to commencement of drilling, the well operator shall collect for the department additional data as the department shall specify, such as representative drill cuttings and samples from cores taken and any other such geological information that the operator reasonably can compile. No interpretation of the data is to be filed.

(d) All electrical, radioactive or other standard industry logs, drill stem test charts, formation water analyses, porosity, permeability or fluid saturation measurements, core analysis and lithologic logs or sample description or other similar data as compiled, required under subsection (b) or drill cuttings required under subsection (c) shall be retained by the well operator and shall be filed with the department three years after completion of the well. Upon request of the well operator, the department shall extend the date for the filing of the data, but the extension shall not exceed five years from the date of completion of the well: Provided, however, That the department shall have the right to utilize such 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.

Section 213. Notification of transfer.

The owner or operator of any well shall notify the department, in writing, in such form as the department may direct by regulation, of the sale, assignment, transfer, conveyance or exchange by the owner or to the owner of such well within 30 days after such sale, assignment, conveyance or exchange. No such transfer shall relieve the well owner or operator of any liability accrued under this act, nor shall it relieve him of the obligation to plug said well until the requirements of section 215 have been met.

Section 214. Coal operator responsibilities.

(a) Hereafter, at any time prior to removing any coal or other underground material or extending the workings in any coal mine within 500 feet of any oil or gas well of which the coal operator has knowledge, or any approved well location of which the coal operator has knowledge, the coal operator shall forward, by certified mail, to or file with the well operator and the department a copy of such relevant part of its 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. Following the filing of maps and plans, the coal operator may proceed with mining operations in the manner projected on said maps and plans, but he shall not remove any coal or cut any passageway within 150 feet of any such well or approved well location until written approval has been granted as hereinafter provided. If, in the opinion of the well operator or the department, such plan indicates that the pillar proposed to be left around any such well or approved well location is inadequate to protect either the integrity of the well or the public health and safety, then the well operator affected shall attempt to agree with the coal operator upon a suitable pillar, subject to the approval of the department, but, failing to agree, such well operator may, within ten days from receipt by them of such plan, file objections in accordance with section 501 to such proposed plan, indicating the size of the pillar to be left with respect to each such well. If no objections are filed within said ten-day period or if none are raised by the department, the department shall forthwith grant approval to the coal operator reciting the filing of said maps or plans, that no objections have been made thereto and that the pillar proposed to be left for each such well is approved in the manner as projected.

(b) If any objections are filed by such well operator or are raised by the department, the department shall direct that a conference be held in accordance with section 501 within ten days of the filing of such objections. At such conference the coal operator and the person who has filed such objections shall attempt to agree upon a proposed plan, showing the pillar to be left around each well, which will satisfy such objections and be approved by the department and, if such plan is agreed upon, the department shall forthwith grant approval to the coal operator reciting the filing of said plan and that the pillar to be left for each such well is approved as agreed upon. If no such plan showing the pillar to be left with respect to each well can be agreed upon at such conference, the department shall, by an appropriate order, determine the pillar to be left with respect to such 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, if it is established that unusual conditions exist requiring the leaving of a larger pillar, the department may require a pillar up to but not exceeding 150 feet in radius. The pillar to be left with respect to each well as determined by the department shall be shown on the maps or plans on file with the department as provided in subsection (a) and the department shall thereupon approve the pillar to be left for each such well.

(c) Application may be made at any time to the department by the coal operator to leave a pillar of less size than that shown on the plan filed by him or approved or determined by the department pursuant to the provisions of this section. If any such application is filed, the department may, following the procedure hereinbefore in this section prescribed, by an appropriate order, determine a different plan showing a pillar of less size with respect to any or all wells covered by such application and shall thereupon grant approval for the pillar to be left with respect to each such well.

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

(e) Nothing in this act shall be construed to require a well operator to pay for any coal pillar required by the act to be left around any well drilled prior to the effective date of this act. Nothing contained in this act, which may require a coal operator to leave a pillar of coal of a certain size around a well drilled after the effective date of this act, shall in any way affect any right which the coal operator would have had prior to the effective date of this act to obtain payment for such coal, nor any duty or right which the well operator, storage operator or land owner may have had prior to the effective date of this act to pay for or not to pay for such coal.

(f) A coal operator who intends to mine through a plugged oil or gas well must file a plan to completely remove a pillar from around the well, in accordance with subsection (a). This plan shall be subject to all the requirements 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.

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

Section 215. Bonding.

(a) Except as provided in subsection (d) hereof, upon filing an application for a well permit and before continuing to operate any oil or gas well, the owner or operator thereof shall file with the department a bond for the well and the well site on a form to be prescribed and furnished by the department, payable to the Commonwealth and conditioned that the operator shall faithfully perform all of the requirements of this act. The amount of the bond required shall be in the amount of \$2,500 per well for at least two years following the effective date of this act, after which time the bond amount may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of performing well plugging.

In lieu of individual bonds for each well, an owner or operator may file a blanket bond, on a form prepared by the department, covering all of its wells in Pennsylvania as enumerated on the bond form. A blanket bond shall be in the amount of \$25,000 for at least two years following the effective date of this act, after which time the bond amount may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of performing well plugging.

Liability under such bond shall continue until the well has been properly plugged in accordance with this act 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 the Commonwealth and approved by the secretary. The operator may elect to

deposit cash, bank certificates of deposit, automatically renewable irrevocable bank letters of credit which may be terminated by the bank at the end of a term only upon the bank giving 90 days prior written notice to the permittee and the department or 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, with the department in lieu of a corporate surety. The cash deposit, bank certificate of deposit, amount of such irrevocable letter of credit or market value of such securities shall be equal at least to the sum of the bond. The secretary shall, upon receipt of any such 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 such deposit is made. The State Treasurer shall at all times be responsible for the custody and safekeeping of such deposits. The operator making 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 any collateral so deposited, upon depositing with him, in lieu thereof, other collateral of the classes herein specified 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 said negotiable bonds as the same becomes due and payable. Where negotiable bonds, deposited as aforesaid, mature or are called, the State Treasurer, at the request of the owner thereof, shall convert such negotiable bonds into such other negotiable bonds of the classes herein specified as may be designated by the owner. Where 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 herein and, if the owner or operator fails to replace the letter of credit within the 30-day notification period, the department shall draw upon and convert such letter of credit into cash and hold it as a collateral bond guarantee.

(b) No bond shall be fully released until all requirements of this act are fully met. Upon release of all of the bonds and collateral as herein provided, the State Treasurer shall immediately return to the owner the amount of cash or securities specified therein.

(c) If the well owner or operator fails or refuses to comply with the requirements of this act, the regulations promulgated hereunder or the conditions of the permit, 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, where the owner or operator has deposited cash or securities as collateral in lieu of a corporate surety, the department shall declare said collateral forfeited and shall direct the State Treasurer to pay the full amount of said funds into the Well Plugging Restricted Revenue Account or to proceed to sell said security to the extent forfeited and pay the proceeds thereof into the Well Plugging Restricted Revenue Account. Should any corporate surety or bank fail to promptly pay, in full, a forfeited bond, it shall be disqualified from writing any further

bonds under the act or any other environmental act administered by the department. Any person aggrieved by reason of forfeiting the bond or converting collateral, as herein provided, 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 submit a replacement bond to cover all other wells of which he is owner or operator within ten days of said forfeiture. Failure to submit said replacement bond constitutes a violation of this section as to each of the wells owned or operated by said person.

(d) Any well operator who cannot obtain a bond for a well drilled prior to the effective date of this act, as required under subsection (a), due to an inability to demonstrate sufficient financial resources shall submit to the department letters of rejection from three separate bonding companies licensed to do business in the Commonwealth. Such letters shall state that the operator has been denied a bond and state the grounds for denial of the bond. In lieu of the bond, the operator shall submit to the department a fee in the amount of \$50 per well, or 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. The operator must demonstrate every three years a continued inability to obtain a bond as prescribed above. All fees collected in lieu of a bond under this subsection shall be paid into the Well Plugging Restricted Revenue Account and shall be used for the purposes authorized by this act. The Environmental Quality Board shall have the power, by regulation, to increase the amount of the fees established under this subsection if it is found that the total moneys collected hereunder are insufficient to reimburse the Commonwealth for costs incurred in correcting violations on wells covered under this subsection.

(e) All remedies for violation of this act, the regulations adopted hereunder or the conditions of permits are expressly preserved. Nothing in subsections (a), (b) and (c) shall be construed as an exclusive penalty or remedy for such violations of law. No action taken pursuant to subsection (c) shall waive or impair any other remedy or penalty provided in law.

Section 216. Oil and Gas Technical Advisory Board.

(a) There shall be created an Oil and Gas Technical Advisory Board. The board shall consist of five members, all of whom shall be chosen by the Governor and shall be residents of this Commonwealth. Three members shall be either petroleum engineers, petroleum geologists or experienced driller representatives of the oil and gas industry with three years of experience in Pennsylvania. One member shall be a mining engineer from the coal industry with three years of experience in Pennsylvania. One member shall be a geologist or petroleum engineer with three years of experience in Pennsylvania, 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) Board members shall not receive a salary but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

(c) All actions of the board shall be by majority vote. The board shall meet upon the call of the secretary, but not less than semiannually, to carry out its duties under this act. The board shall select a chairman and such other officers as it deems appropriate.

(d) The department shall consult with the board in the formulation, drafting and presentation stages of all regulations of a technical nature promulgated under this act. 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.

CHAPTER 3 UNDERGROUND GAS STORAGE

Section 301. Reporting requirements for gas storage operations.

(a) Any person who is injecting into or storing gas in a storage reservoir which underlies or is within 3,000 linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area shall, within 60 days thereafter, 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.

Any person who is injecting gas into or storing gas in a storage reservoir which is not under or within 3,000 linear feet but is less than 10,000 linear feet from an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area shall file such map and data within such time in excess of 60 days as the department may fix or as otherwise prescribed by regulation.

Any person who proposes to inject or store gas in a storage reservoir located as above shall file the required map and data with the department not less than six months prior to the starting of actual injection or storage.

The map provided for herein shall be prepared by a competent engineer or competent geologist. It shall show the stratum or strata in which the existing or proposed storage reservoir is or is to be located, the geographic location of the outside boundaries of the said storage reservoir and reservoir protective area, 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 of these wells have been or are to be cleaned out and plugged or reconditioned for storage and also indicating the proposed location of all additional wells which are to be drilled within the storage reservoir or within 3,000 linear feet thereof.

The following information, 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 aforesaid maps and data, such person shall file a detailed statement of what efforts he has made to determine that the wells shown on said map are accurately located thereon and that, to the best of his knowledge, they are all the 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. This statement shall also include information as to whether or not the initial injection is for testing purposes, the maximum pressure at which injection and storage of gas is contemplated and a detailed explanation of the methods to be used or which, theretofore, have been used in drilling, cleaning out, reconditioning and plugging wells in the storage reservoir or within the reservoir protective area. The map and data required to be filed hereunder shall be amended or supplemented semiannually in case any material changes have occurred. The department may require¹ a storage operator to amend or supplement such map or data at more frequent intervals if material changes have occurred justifying such earlier filing.

(b) Any person who is injecting gas into or storing gas in a storage reservoir not then subject to subsection (a), by a process other than that of secondary recovery or gas recycling, shall, with such time in excess of 60 days as the department may fix, file within² the department a copy of a map and certain data in the form and manner provided in this subsection or as prescribed by regulation of the department.

Any person who, after the effective date of this chapter, 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.

The map provided for herein shall be prepared by a competent engineer or competent geologist. It shall show the stratum or strata in which the existing or proposed storage reservoir is or is to be located, the geographic location of the outside boundaries of the said storage reservoir, 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 of these wells have been or are to be cleaned out and plugged or reconditioned for storage and also indicating the proposed location of all additional wells which are to be drilled within the storage reservoir or within 3,000 linear feet thereof.

The following information, 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 pro-

¹ "required" in enrolled bill.

² "with" in enrolled bill.

ductive 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 aforesaid maps and data, such person shall file a detailed statement of what efforts he has made to determine that the wells shown on said map are accurately located thereon and that, to the best of that person's knowledge, they are all the oil or gas wells which have ever been drilled into or below the storage stratum within the proposed storage reservoir. This statement shall also include information as to whether or not the initial injection is for testing purposes, the maximum pressure at which injection and storage of gas is contemplated and a detailed explanation of the methods to be used or which, theretofore, have been used in drilling, cleaning out, reconditioning and plugging wells in the storage reservoir. The map and data required to be filed hereunder shall be amended or supplemented semiannually in case any material changes have occurred. The department may require a storage operator to amend or supplement such map or data at more frequent intervals if material changes have occurred justifying such earlier filing.

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

(d) 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 data shall give written notice of said filing to all persons who may be affected under the provisions of this act by the storage reservoir described in such maps or data. Such notices shall contain a description of the boundaries of such 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, such copy shall be furnished by the storage operator.

(e) For all purposes of this act, 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 said storage stratum. The boundaries as thus defined shall be originally fixed or subsequently changed where, based upon the number and nature of such wells, and, upon the geological and production knowledge of the storage stratum, its character, permeability, distribution and operating experience, it is determined in a conference under section 501 that modification should be made.

(f) The requirements of this section shall not apply to the operator of an underground gas storage reservoir so long as said reservoir is located more than 10,000 linear feet from an operating coal mine. Such storage operator shall give notice to the department of the name of each political subdivision and county in which said operator maintains and operates a gas storage reservoir. In those 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 the geographical location and outside boundaries of such storage reservoirs. The department shall keep a record of such information and shall 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.

Section 302. Reporting requirements for coal mining operations.

(a) Any 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 pursuant to the provisions of the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, showing the outside coal boundaries of the said operating coal mine, the existing workings and exhausted areas and the relationship of said boundaries to identifiable surface properties and landmarks. Any 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. Any person who is storing or contemplating the storage of gas in the vicinity of such operating coal mines shall, upon written request, be furnished a copy of the aforesaid map by the coal operator, and such person and the department shall, thereafter, be informed of any boundary changes at the time such changes occur. The department shall keep a record of such information and shall promptly notify the coal operator and the storage operator when notified by them that the coal mine and the storage reservoir are within 10,000 linear feet of each other.

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

(c) Any 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 such fact.

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

(e) Any person hereafter intending to establish or reestablish an operating coal mine which, when established or reestablished, will be over a storage reservoir or within 2,000 linear feet of a storage reservoir or which, upon being established or reestablished, may, within nine months thereafter, be expected to be within 2,000 linear feet of a storage reservoir, shall notify the department and the storage operator, in writing, before doing so, and such notice shall include the date on which it is intended the operating coal mine will be established or reestablished. Any person who serves such notice of an intention to establish or reestablish an operating coal mine under this subsection, without intending in good faith to establish or reestablish such mine, shall be liable for continuing damages to any storage operator injured by the serving of such improper notice and shall be guilty of a misdemeanor under this chapter and subject to the same penalties as set forth in section 505.

Section 303. General gas storage reservoir operations.

(a) Any person who operates or proposes to operate a storage reservoir, except one that is 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, in the manner provided in regulations of the department pursuant to this act, all known wells, except to the extent otherwise provided in subsections (b) and (c), drilled into or through the storage reservoir.

(b) In order to meet the requirements of subsection (a), wells which are to be plugged shall be plugged in the manner specified in section 210. When a well located within the storage reservoir area has been plugged prior to the enactment of this act and on the basis of the data, information and other evidence submitted to the department, it is determined that such plugging was done in the manner required in section 210 or in a manner approved as an alternative method in accordance with section 211 and the plugging is still sufficiently effective to meet the requirements of this act, the obligations imposed by subsection (a) as to plugging the well shall be considered fully satisfied.

(c) In order to meet the requirements of 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 such other casing strings which are 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 as provided for in this act. 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 such nonporous material as is approved by the department pursuant to section 211. At least 15 days prior to the time when a well is to be reconditioned, the storage operator shall give notice thereof to the department, setting forth in such notice the manner in which it is planned to

recondition such well and any pertinent data known to the storage operator which will indicate the then existing condition of such well. In addition, the storage operator shall give the department at least 72 hours' notice of the time when such reconditioning is to begin. If no objections are raised by the department within ten days, the storage operator may proceed with the reconditioning in accordance with the plan as submitted. If any objections are made by the department, it may fix a time and place for a conference in accordance with section 501 at which conference the storage operator and the department shall endeavor to agree upon a plan of reconditioning which meets the requirements herein and which will satisfy such objections. If no plan is approved at such conference, the department may, by an appropriate order, determine whether the plan as submitted meets the requirements set forth herein or what changes, if any, should be made to meet such requirements. If, in reconditioning a well in accordance with said plan, physical conditions are encountered which justify or necessitate a change in said plan, the storage operator may request that the plan be changed. If the request is denied, the department shall arrange for a conference in accordance with section 501 to determine the matter in the same manner as set forth herein in connection with original objections to said plan. Applications may be made to the department in the manner prescribed in section 211 for approval of an alternative method of reconditioning a well. When a well located within the storage reservoir has been reconditioned prior to the enactment of this chapter or was so drilled and equipped previously and, on the basis of the data, information and other evidence submitted to the department, it is determined that:

(1) Such conditioning or previous drilling and equipping 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 211.

(2) Such reconditioning or previous drilling and equipping is still sufficiently effective to meet the requirements of this act, the obligations imposed by subsection (a), as to reconditioning said well, shall be considered fully satisfied. Where a well requires emergency repairs, this subsection shall not be construed to require the storage operator to give the notices specified herein before making such repairs.

(d) The requirements of subsection (a) shall not apply to the injection of gas into any stratum when the sole purpose of such injection, such purpose being herein referred to as testing, is to determine whether the said 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 of the provisions and requirements of section 301 and shall verify the statement required to be filed thereby.

(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 shall have any objections, it shall fix a time and place for a conference in accordance with section 501, not more than ten days from the date of notice to the storage operator, at which conference the storage operator and the department shall attempt to agree on the questions involved. If such agreement cannot be reached at such conference, the department may issue an appropriate order.

(e) If, in any proceeding under this act, the department shall determine that any operator of a storage reservoir has failed to carry out any lawful order issued under this act, it shall have authority to require such storage operator to suspend the operation of such reservoir and to withdraw the gas therefrom until such violation is remedied. In such an event the gas shall be withdrawn under the following conditions: the storage operator shall remove the maximum amount of gas, which is required by the department to be removed from the storage reservoir, that can be withdrawn in accordance with recognized engineering and operating procedures and shall proceed with due diligence insofar as existing facilities used to remove gas from the reservoir will permit.

(f) In addition to initial compliance with the other provisions of this act and any lawful orders issued thereunder, it shall be the duty, at all times, of the person owning or operating any storage reservoir which is subject to the provisions of this chapter to keep all wells drilled into or through the storage reservoir in such condition and to operate the same in such manner as to prevent the escape of gas therefrom and to operate and maintain such storage reservoir and its facilities in such manner as prescribed by regulation of the department and at such pressures as will prevent gas from escaping from such reservoir or its facilities, but in no case shall such pressure exceed the highest rock pressure found to have existed during the production history of the reservoir or such other high pressure as the department may approve after conference under section 501 based upon geological and production knowledge of the reservoir, its character, permeability distribution and operating experience. This duty shall not be construed to include the inability to prevent the escape of gas where such escape results from an act of God or an act of any person not under the control of the storage operator other than in connection with any well which the storage operator has failed to locate and to make known to the department. If any escape of gas does result from an act of God or an act of any person not under the control of the storage operator, the storage operator shall be under the duty of taking such action thereafter as is reasonably necessary to prevent further escape of gas.

Section 304. Gas storage reservoir operations in coal areas.

(a) Any person who operates a storage reservoir which underlies or is within 2,000 linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area 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 stratum in that acreage which is within the outside coal boundaries of such operating coal mine and which overlies the storage reservoir or the reservoir protective area.

(2) Plug or recondition, in the manner provided by section 210 and subsection (e), all known wells, except to the extent otherwise provided in subsections (e), (f), (g) and (h), drilled into or through the storage stratum and which are located within that portion of the acreage of the operating coal mine overlying the storage reservoir or the reservoir protective area; however, where objection is raised as to the use of any well as a storage well and, after a conference in accordance with section 501, it is determined by the department, taking into account all the circumstances and conditions that such well should not be used as a storage well, such well shall be plugged; unless, in the opinion of the storage operator, the well to which such objection has been raised may at some future time be used as a storage well, the storage operator may recondition and inactivate such well instead of plugging it if such alternative is approved by the department after taking into account all of the circumstances and conditions.

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 subsection (e) or (f) and in section 210 so that, by the time the coal mine has reached a point within 2,000 linear feet of any such wells, they will have been reconditioned or plugged so as to meet the requirements of subsection (e) or (f) and of section 210.

(b) Any 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 301(a) have been prepared and filed in accordance with section 301.

(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 thereof.

(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).

If such statement is not filed by the storage reservoir operator within the time specified herein, the department may order such operator to file such statement.

(c) Within 120 days after the receipt of any such statement, the department may direct that a conference be held in accordance with section 501 to determine whether the information as filed indicates that the requirements of section 301 and of subsection (a) have been fully complied with. At such conference, if any person shall be of the opinion that such requirements have not been fully complied with, the parties shall attempt to agree on what additional things are to be done and the time within which they are to be completed, subject to the approval of the department, to meet the said requirements.

If such agreement cannot be reached, the department shall determine whether the requirements of section 301 and of subsection (a) have been met. If the department shall determine that any of the said requirements have not been met, the department shall issue an order which shall specify in detail both the extent to which such requirements have not been met and the things which the storage operator must do to meet such requirements. The order shall grant to the storage operator such time as is reasonably necessary to complete each of the things which he is directed to do. If, in carrying out said order, the storage operator encounters conditions which were not known to exist at the time of the issuance of the order and which materially affect the validity of said order or the ability of the storage operator to comply with the order, the storage operator may apply for a rehearing or modification of said order.

(d) Whenever, in compliance with subsection (a), a storage operator, after the filing of the statement provided for in subsection (b), plugs or reconditions a well, he shall so notify the department and the coal operator affected, in writing, setting forth such facts as will indicate the manner in which the plugging or reconditioning was done. Upon receipt thereof, the coal operator affected or the department may request a conference in accordance with section 501.

(e) 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 pursuant to section 201. When a well, located within the storage reservoir or the reservoir protective area, has been plugged prior to the enactment of this act and, on the basis of the data information and other evidence submitted to the department, it is determined that such plugging was done in the manner required in section 210, or in a manner approved as an alternative method in accordance with section 211, and said plugging is still sufficiently effective to meet the requirements of this act, the obligations imposed by subsection (a) as to plugging said well shall be considered fully satisfied.

(f) In order to meet the requirements of 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 following casing strings shall be pulled and replaced with new casing, using the same procedure as is applicable to drilling a new well as provided for in this act: the producing casing; the largest diameter casing passing through the lowest workable coal seam unless such casing extends at least 25 feet below the bottom of such 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 such casing string extends at least 25 feet below the lowest workable coal seam; and such casing strings which are determined not to be in good physical condition. 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 such equally nonporous material as is approved by the department pursuant to section 211. At least 15 days prior to the time when a well is to be

reconditioned, the storage operator shall give notice thereof to the coal operator, lessee or owner and to the department, setting forth in such notice the manner in which it is planned to recondition such well and any pertinent data known to the storage operator which will indicate the then existing condition of such well. In addition, the storage operator shall give the coal operator, lessee or owner and the department at least 72 hours' notice of the date and time when reconditioning is to begin. The coal operator, lessee or owner shall have the right to file, within ten days after the receipt of the first notice required herein, objections to the plan of reconditioning as submitted by the storage operator. If no such objections are filed or if none is raised by the department within such ten-day period, the storage operator may proceed with the reconditioning in accordance with the plan as submitted. If any such objections are filed or are made by the department, it shall fix a time and place for a conference in accordance with section 501, at which conference the storage operator and the person who has filed such objections shall endeavor to agree upon a plan of reconditioning which meets the requirements herein and which will satisfy such objections. If no plan is approved at such conference, the department shall, by an appropriate order, determine whether the plan as submitted meets the requirements set forth herein or what changes, if any, should be made to meet such requirements. If, in reconditioning a well in accordance with said plan, physical conditions are encountered which justify or necessitate a change in said plan, the storage operator or the coal operator may request that the plan be changed. If said parties cannot agree upon such change, the department shall arrange for a conference to determine the matter in the same manner as set forth herein in connection with original objections to said plan. Application may be made to the department in the manner prescribed in section 211 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 prior to the enactment of this act, or was so drilled and equipped previously and, on the basis of the data, information and other evidence submitted to the department, it is determined either that:

(1) such reconditioning or previous drilling and equipping 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 211; or

(2) such reconditioning or previous drilling and equipping is still sufficiently effective to meet the requirements of this act;

the obligations imposed by subsection (a) as to reconditioning said well shall be considered fully satisfied. Where a well requires emergency repairs, this subsection shall not be construed to require the storage operator to give the notices specified herein before making such repairs.

(g) When 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 such well ceases to be a producing well.

(h) When a well within a storage reservoir or the 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 such storage reservoir, exempt such well from the requirements of this section. Either party affected may request a conference with respect to the exemption of any such well in accordance with section 501.

(i) 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 such well until he has received from the coal operator written notice that the mine workings will, within the period stated in such notice, be within 2,000 linear feet of such well. Upon the receipt of such notice, the storage operator shall use due diligence to complete the plugging or reconditioning of such well in accordance with the requirements of this section and of section 210. If the said mine workings do not, within a period of three years after said well has been plugged, come within 2,000 linear feet of said well, the coal operator shall reimburse the storage operator for the cost of said plugging, provided such well is still within the reservoir protective area as of that time.

(j) When retreat mining approaches a point where, within 90 days, it is expected that such retreat work will be at the location of the pillar surrounding an active storage well, the coal operator shall give written notice of such approach to the storage operator, and by agreement said parties shall determine whether it is necessary or advisable to inactivate effectively said well temporarily. The well shall not be reactivated until a reasonable period has elapsed, such reasonable period to be determined by said parties. In the event that said parties cannot agree upon either of the foregoing matters, such question shall be submitted to the department for a decision. The number of wells required to be temporarily inactivated during the retreat period shall not be such as to materially affect the efficient operation of such storage pool. This provision shall not preclude the temporary inactivation of a particular well where the practical effect of inactivating such well is to render the pool temporarily inoperative.

(k) The requirements of subsections (a), (l) and (m) shall not apply to the injection of gas into any stratum when the whole purpose of such injection, such purpose being herein referred to as testing, is to determine whether the said 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 of the provisions and requirements of section 301 and shall verify the statement required to be filed thereby.

(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 to the 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, and the department shall fix a time and place for a conference in accordance with section 501, not more than ten days from the date

of the notice to the storage operator, at which conference the storage operator and the person who has filed such objections shall attempt to agree, subject to the approval of the department, on the questions involved. If such agreement cannot be reached at such conference, the department may issue an appropriate order.

(4) Where, at any time, a proposed storage reservoir being tested comes under or within 2,000 linear feet of an operating coal mine, either because of the extension of the storage reservoir being tested or because of the extension or establishment or reestablishment of the operating coal mine, then, and at the time of any such event, the requirements of this subsection shall become applicable to such testing.

(l) Any person who proposes to establish a storage reservoir under or within 2,000 linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area shall, prior to establishing such reservoir in addition to complying with the requirements of section 301 and subsection (a), file the verified statement required by subsection (b) and fully comply with such order or orders, if any, as the department may issue in the manner provided for under subsection (b) or (c) before beginning the operation of such storage reservoir. After the person proposing to operate such storage reservoir shall have complied with such requirements and shall have thereafter begun to operate such reservoir, he shall continue to be subject to all of the provisions of this chapter.

(m) When a gas storage reservoir is in operation on the effective date of this act and, at any time thereafter, it is under or within 2,000 linear feet of an operating coal mine or, when a gas storage reservoir is put in operation after the effective date of this act and, at any time after such storage operations begin, it is under or within 2,000 linear feet of an operating coal mine, then and in either such event, the storage operator shall comply with all of the provisions of this section, except that 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 302(d) and (e), the coal operator shall give notice of such delay to the department and the department shall, upon the request of the storage operator, extend the time for filing such statement by the additional time which will be required to extend or establish or reestablish such operating coal mine to a point within 2,000 linear feet of such reservoir. Such verified statement shall also indicate that the map referred to in section 301(a) has been currently amended as of the time of the filing of such statement. The person operating any such storage reservoir shall continue to be subject to all of the provisions of this chapter.

(n) If, in any proceeding under this act, the department shall determine that any operator of a storage reservoir has failed to carry out any lawful order issued under this act, the department shall have authority to require such storage operator to suspend the operation of such reservoir and to withdraw the gas therefrom until such violation is remedied. In such an event, the gas shall be withdrawn under the following conditions: the storage operator shall remove the maximum amount of gas, which is required by the department to be removed from the storage reservoir, that can be withdrawn in

accordance with recognized engineering and operating procedures and shall proceed with due diligence insofar as existing facilities used to remove gas from the reservoir will permit.

(o) In addition to initial compliance with the other provisions of this act and any lawful orders issued thereunder, it shall be the duty, at all times, of the person owning or operating any storage reservoir which is subject to the provisions of this chapter to keep all wells drilled into or through the storage stratum in such condition and to operate the wells in such manner as to prevent the escape of gas out of the storage reservoir and its facilities and to operate and maintain such storage reservoir and its facilities in such manner as prescribed by regulation of the department and at such pressures as will prevent gas from escaping from such reservoir or its facilities. This duty shall not be construed to include the inability to prevent the escape of gas where such escape results from an act of God or an act of any person not under the control of the storage operator other than in connection with any well which the storage operator has failed to locate and to make known to the department. If any escape of gas does result from an act of God or an act of any person not under the control of the storage operator, the storage operator shall be under the duty of taking such action thereafter as is reasonably necessary to prevent further escape of gas out of the storage reservoir and its facilities.

Section 305. Inspection of facilities and records.

(a) The person operating any storage reservoir affected by the terms of this act shall, at all reasonable times, be permitted to inspect the applicable records and facilities of any coal mine overlying such storage reservoir or the reservoir protective area and the person operating any such coal mine affected by the terms of this act shall, similarly at all reasonable times, be permitted to inspect the applicable records and facilities of any such storage reservoir underlying any such coal mine.

(b) In the event that either such storage operator or coal operator shall refuse to permit any such inspection of records or facilities, the department may, on its own motion or on application of the party seeking the inspection after reasonable written notice and a hearing thereon, if requested by either of the parties affected, make an order for such inspection.

Section 306. Reliance on maps; burden of proof.

(a) In determining whether a particular coal mine or operating coal mine is or will be within any distance material under this act from any storage reservoir, the owner or operator of such coal mine and the storage operator may rely on the most recent map of the storage reservoir or coal mine filed by the other with the department.

(b) Where the accuracy of any map or data filed by any person pursuant to the requirements of this act is in issue, the person filing the same shall, at the request of the objecting party, be required to disclose the information and method used in compiling such map and data and such information as is available to such person that might affect the current validity of such map or data. If any material question is raised as to the accuracy of such map or data with respect to any particular matter or matters contained therein, the person

filing such map or data shall then have the burden of proving the accuracy of the map or data with respect to such matter or matters.

Section 307. Exemptions.

(a) The provisions of 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 provisions of the 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 as provided in section 3 of Article XXVIII thereof, and mines to which the provisions of the 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 as provided in section 1 of Article I thereof.

(b) Injection of gas for storage purposes in any workable coal seam, whether or not such seam is being or has been mined, shall be prohibited. Nothing in this chapter shall be construed to prohibit the original extraction of natural gas, crude oil or coal.

(c) Nothing contained in this chapter shall apply to the storage of gas or liquids in storage reservoirs excavated in rock formations specifically for storage purposes.

CHAPTER 4 EMINENT DOMAIN

Section 401. Appropriation of interest in real property.

(a) Any and all corporations empowered to transport, sell or store, natural or manufactured gas, within this Commonwealth, shall have the right, subject to the following limitations, to appropriate interests in real property located within the storage reservoir and the reservoir protective area for the injection, storage and removal from storage of natural or manufactured gas in any stratum which is or previously has been commercially productive of natural gas. The right of eminent domain shall not be exercised to acquire for the purpose of gas storage:

(1) any interest in any geological stratum within the area of the proposed storage reservoir and the reservoir protective area, unless the original recoverable oil or gas reserves within such proposed storage reservoir have been depleted or exhausted by at least 80% and unless and until the condemnor shall have acquired the right by grant, lease or other agreement to store gas in the said geological stratum underlying at least 75% of the area of the proposed storage reservoir; or

(2) any interest in any geological stratum within the area of the proposed storage reservoir and the reservoir protective area owned directly or indirectly by a gas company or by a person engaged in the local distribution of natural gas which interest is being used by such gas company or by such person for present storage of gas in the performance of service to customers within its service area.

(b) This act shall be construed to authorize appropriation within the storage reservoir and the reservoir protective area of the stratum to be used for storage, any gas reserve remaining therein and any active or abandoned well or wells drilled into said stratum and further to authorize the appropriation within the storage reservoir and the reservoir protective area of the right to enter upon and use the surface of lands for the purpose of locating, reconditioning, maintaining, plugging or replugging any active or abandoned wells or operating any wells drilled into or through said storage stratum. This act shall not be construed, however, to preclude the owner of nonstorage strata from the drilling of wells for the purpose of producing oil or gas from any stratum above or below the storage stratum appropriated by such corporation, but the corporation appropriating or holding storage rights shall have access to and the right to inspect and examine any such drilling or completed well and the drilling logs and all other records relating to the drilling, equipping or operating of such well for the purpose of determining whether the storage stratum is being adequately protected to prevent the escape of gas stored therein. This act shall not authorize the appropriation of any coal or coal measure whether or not being mined or any interest therein.

(c) Any person drilling, operating, using or plugging any well through any stratum which has been appropriated under this act shall so drill, case, equip, operate or plug the same as to prevent any avoidable escape of gas that may be stored in the storage stratum. Upon failure, neglect or refusal of such person or persons to comply with this section, the court of common pleas of the county in which the tract of land is situated shall have the power to compel compliance by injunction or to grant other appropriate relief upon action brought by the corporations storing gas in the storage stratum.

(d) Prior to any appropriation, the corporation shall attempt to agree with the owner or owners of the interests in real property involved as to the damage properly payable for the property rights or interests to be appropriated in or on his, her or their property, if such owner or owners can be found and are sui juris. Failing to agree, the corporation shall tender to the property owner or owners a surety bond to secure him, her or them in the payment of damages. If the owner or owners refuse to accept said bond or cannot be found or are not sui juris, said bond, after reasonable notice to the property owner or owners by advertisement or otherwise, shall then 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 and its being filed in said court, the right of the corporation to enter upon the enjoyment of the powers given it by this act to store gas and to enter on the property for the purpose of locating, reconditioning, maintaining, plugging or replugging any active or abandoned wells or operating any wells drilled into or through said storage stratum within the storage reservoir boundary or within the reservoir protective area shall be complete.

(e) Upon petition of either the property owner or owners or the corporation exercising the right of eminent domain hereunder, said court shall appoint three disinterested freeholders of the county to serve as viewers to assess the damages proper to be paid to the property owner or owners for the

rights appropriated by said corporation and shall fix a time for their meeting of which notice shall be given to both parties. After the viewers have filed their report with the court, said court shall fix reasonable compensation for the service of said viewers.

(f) Either party may appeal from the report of the viewers within 20 days after the filing thereof with the court of common pleas and have a jury trial and the right of appeal as in ordinary cases.

(g) Nothing contained in this section shall relieve the person operating a storage reservoir from the requirements of this act.

CHAPTER 5 ENFORCEMENT AND REMEDIES

Section 501. Conferences.

(a) The department or any person having a direct interest in the subject matter of this act may, at any time, request that a conference be held for the purpose of discussing and endeavoring to resolve by mutual agreement any matter arising under the provisions of this act. Unless otherwise provided, conferences shall be held within 90 days after a request for a conference is received by the department, and notice of any such conference shall be given by the department to all such interested parties. At such conference a representative of the department shall be in attendance and the department may make such recommendations as it deems appropriate. Any agreement reached at such conference shall be consistent with the requirements of this act and, if approved by such representative of the department, it shall be reduced to writing and shall be effective, unless reviewed and rejected by the department within ten days after the close of the conference. The record of any such agreement approved by the department shall be kept on file by the department with copies furnished to the parties. Scheduling of a conference shall not affect the authority of the department to issue an appropriate order to compel compliance with this act.

(b) Whenever a coal operator is to be given notice by the department of any proceeding to be held under this section, the department shall also send simultaneously a copy of such notice to the collective bargaining representative of the employees of the coal operator.

Section 502. Public nuisances.

A violation of section 206, 207, 208, 209 or 210, or of a rule, regulation, order or term or condition of any permit relating thereto, shall constitute a public nuisance.

Section 503. Enforcement orders.

(a) Except as modified by subsections (b), (c) and (d), the department shall have the authority to issue such orders as are necessary to aid in the enforcement of the provisions of this act. An order issued under this act shall take effect upon notice, unless the order specifies otherwise. The power of the department to issue an order under this act is in addition to any other remedy which may be afforded to the department pursuant to this act or any other act.

(b) The department shall have the authority to suspend or revoke a well permit or well registration pursuant to this section for any well in continuing violation of this act, the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, or other statutes administered by the department, or any rule or regulation promulgated thereunder. The right of the department to revoke a permit or registration under this subsection shall not be effective until a final administrative determination has been made of any such violation and no appeal is pending in which a stay has been granted. Any suspension order of the department shall automatically terminate if the violation upon which it is based is corrected by the operator so as to bring the well into compliance with this act.

(c) Prior to the suspension or revocation of a well permit or registration, the department shall serve written notice upon the well operator or its agent of the intention of the department to suspend or revoke and shall state with specificity the statutory provisions, appropriate rule or regulation or other reason and the factual circumstances which surround the violation upon which the suspension or revocation is to be based. The well operator shall have 15 days to request a conference with the department to give such cause why such action should not be taken. Upon receipt of such written notice, the department shall hold a conference and shall, within 15 days thereafter, make a decision on whether to suspend or revoke the well permit or registration. The department shall provide written notice of its decision to the well operator or its agent, which shall become effective upon receipt thereof.

(d) Any order of the department requiring the immediate cessation of drilling operations shall only be effective if authorized by the Secretary of the department or by the Deputy Secretary for Environmental Protection.

(e) Any person who shall be aggrieved by an order of the department issued under this section shall have the right, within 30 days of receipt of the notice thereof, to appeal the action to the Environmental Hearing Board in accordance with section 1921(a) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Section 504. Restraining violations.

(a) In addition to any other remedies provided in this act, the department may institute a suit in equity in the name of the Commonwealth where a violation of law or nuisance exists for an injunction to restrain a violation of this act or the rules, regulations, standards or orders adopted or issued thereunder and to restrain the maintenance or threat of a public nuisance. In any such proceeding, the court shall, upon motion of the Commonwealth, issue a prohibitory or mandatory preliminary injunction if it finds that the defendant is engaging in unlawful conduct as defined by this act or is engaged in conduct which is causing immediate and irreparable harm to the public. The Commonwealth shall not be required to furnish bond or other security in connection with such proceedings. In addition to an injunction, the court, in such equity proceedings, may level civil penalties as specified in section 506.

(b) In addition to any other remedies provided for in this act, upon relation of any district attorney of any county affected or upon relation of the

solicitor of any municipality affected, an action in equity may be brought in a court of competent jurisdiction for an injunction to restrain any and all violations of this act or the rules and regulations promulgated hereunder or to restrain any public nuisance or detriment to health.

(c) The penalties and remedies prescribed by this act shall be deemed concurrent and the existence of or exercise of any remedy shall not prevent the department from exercising any other remedy hereunder, at law or in equity.

(d) Actions instituted under this section may be filed in the appropriate court of common pleas or in the Commonwealth Court, which courts are hereby granted jurisdiction to hear such actions.

Section 505. Penalties.

(a) Any person who violates any provisions of the act is guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300 or undergo imprisonment of not more than 90 days, or both. Each day's continuance of such violation shall be a separate and distinct offense.

(b) Any person who willfully violates any provisions of this act or any order of the department issued pursuant to the provisions of this act is guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$5,000 or undergo imprisonment of not more than one year, or both. Each day's continuance of such violation shall be a separate distinct offense.

(c) The department shall have the authority to institute prosecutions against any person or municipality under this act.

Section 506. Civil penalties.

In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act or a rule or regulation of the department or any order of the department, the Environmental Hearing Board, after hearing, may assess a civil penalty upon a person for such violation. Such a penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed \$25,000, plus \$1,000 for each day of continued violation. In determining the amount of the civil penalty, the board shall consider the willfulness of the violation, damage or injury to the natural resources of the Commonwealth or their uses, endangerment of the safety of others, costs of remedying the harm, savings resulting to the person in consequence of such violation and other relevant factors. It shall be payable to the Commonwealth and shall be collectible in any manner provided at law for the collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall be a lien in favor of the Commonwealth upon the property, both real and personal, of such person but only after same has been entered and docketed of record by the prothonotary of the county where such is situated. The board may, at any time, transmit to the prothonotaries of the respective counties certified copies of all such liens, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as

judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

Section 507. Existing rights and remedies preserved; cumulative remedies authorized.

Nothing in this act shall be construed as estopping the Commonwealth or any district attorney from proceeding in courts of law or equity to abate pollution forbidden under this act or abate nuisances under existing law. It is hereby declared to be the purposes of this act to provide additional and cumulative remedies to control activities related to drilling for or production of oil and gas within the Commonwealth, and nothing contained in this act shall in any way abridge or alter rights of action or remedies now or hereafter existing in equity or under the common law or statutory law, criminal or civil, nor shall any provision in this act, or the granting of any permit under this act, or any act done by virtue of this act, be construed as estopping the Commonwealth, in the exercise of its rights under the common law or decisional law or in equity, from proceeding in courts of law or equity to suppress nuisances or to abate any pollution now or hereafter existing or to enforce common law or statutory rights. No courts of this Commonwealth having jurisdiction to abate public or private nuisances shall be deprived of such jurisdiction in any action to abate any private or public nuisance instituted by any person for the reasons that such nuisance constitutes air or water pollution.

Section 508. Production of materials; witnesses; depositions; rights of entry.

(a) The department is authorized to make such inspections, conduct such tests or sampling or examine books, papers and records pertinent to any matter under investigation pursuant to this act as it deems necessary to determine compliance with this act and, for this purpose, the duly authorized agents and employees of the department are authorized at all reasonable times to enter and examine any property, facility, operation or activity.

(b) The owner, operator or other person in charge of such property, facility, operation or activity, upon presentation of proper identification and purpose for inspection by the agents or employees of the department, shall give such agents and employees free and unrestricted entry and access and, upon refusal to grant such entry or access, the agent or employee may obtain a search warrant or other suitable order authorizing such entry and inspection. It shall be sufficient probable cause to issue a search warrant authorizing such examination and inspection if there is probable cause to believe that the object of the investigation is subject to regulation under this act, and access, examination or inspection is necessary to enforce the provisions of this act.

(c) The department shall have the power in any part of the Commonwealth to subpoena witnesses, to administer oaths, examine witnesses or to take such testimony or compel the production of such books, records, maps, plats, papers, documents and other writings as it may deem necessary or proper in and pertinent to any proceedings or investigation held or had by it. In case of refusal to obey any subpoena served upon any person, any court

shall, on application of the department, have power to enforce such subpoenas in contempt proceedings. The fees for serving a subpoena shall be the same as those paid sheriffs for similar services.

(d) The department or any party to proceedings before the department may cause the deposition of witnesses, residing within or without the Commonwealth, to be taken in the manner prescribed by law for taking depositions in civil actions.

(e) Witnesses who are summoned before the department shall be paid the same fees as are paid to witnesses in the courts of record of general jurisdiction. Witnesses whose depositions are taken pursuant to the provisions of this act and the officers taking the same shall be entitled to the same fees as are paid for like services in such courts.

Section 509. 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 act or in violation of the rules or regulations adopted under this act, or orders of the department, or in violation of any term or condition of any permit issued by the department.

(2) Conduct any activities related to drilling for, or production of, oil and gas, contrary to the rules or regulations adopted under this act, or orders of the department, or any term or any condition of any permit, or in any manner as to create a public nuisance or to adversely affect the public health, safety, welfare or the environment.

(3) Refuse, obstruct, delay or threaten any agent or employee of the department in the course of performance of any duty under this act, including, but not limited to, entry and inspection under any circumstances.

(4) Attempt to obtain a permit by misrepresentation or failure to disclose all relevant facts.

Section 510. Collection of fines and penalties.

All fines and penalties shall be collectible in any manner provided by law for the collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall be a judgment in favor of the Commonwealth upon the property of such person, but only after same has been entered and docketed of record by the prothonotary of the county where such property is situated. The department may, at any time, transmit to the prothonotaries of the respective counties certified copies of all judgments, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

Section 511. Third party liability.

Where a person other than the well operator as herein defined renders a service or product to a well or well site, that person shall be jointly and severally liable with the well owner or operator for violations of this act arising out of and caused by his actions at the well or well site.

CHAPTER 6
MISCELLANEOUS PROVISIONS

Section 601. Well Plugging Restricted Revenue Account.

All fines, civil penalties, permit and registration fees collected under this act shall be paid into the State Treasury into a restricted revenue account to be known as the Well Plugging Restricted Revenue Account, hereby established, which shall be administered by the department for the plugging and sealing of abandoned wells and to cover the purposes of administering this act. All the moneys from time to time paid into the Well Plugging Restricted Revenue Account are specifically appropriated, upon annual approval by the Governor, to the Department of Environmental Resources to carry out the purposes of this act. To aid in the indemnification of the Commonwealth for the cost of plugging abandoned wells, there shall be added to the permit fee established by the department under section 201 for new wells a \$50 surcharge. All moneys deposited in this restricted revenue account from the surcharge shall be expended by the department to plug abandoned wells which threaten the health and safety of persons or property or pollution of the waters of the Commonwealth.

Section 602. Local ordinances.

Except with respect to ordinances adopted pursuant to the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code and the act of October 4, 1978 (P.L.851, No.166), known as the Flood Plain Management Act, all local ordinances and enactments purporting to regulate oil and gas well operations regulated by this act are hereby superseded. The Commonwealth, by this enactment, hereby preempts the regulation of oil and gas wells as herein defined.

Section 603. Effect on department authority.

The provisions of this act shall not be construed to 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 and the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Section 604. Regulatory authority.

The Environmental Quality Board shall adopt regulations to implement the provisions of this act.

Section 605. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 606. Repeals.

(a) The act of November 30, 1955 (P.L.756, No.225), known as the Gas Operations Well-Drilling Petroleum and Coal Mining Act, is repealed, except as to sections 204 and 206 which shall remain in effect until final regu-

lations specifying methods of casing and plugging wells are adopted by the Environmental Quality Board pursuant to this act.

(b) All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 607. Effective date.

This act shall take effect in 120 days.

APPROVED—The 19th day of December, A. D. 1984.

DICK THORNBURGH