

## No. 2011-2

## AN ACT

## SB 265

Amending the act of December 18, 1984 (P.L.1069, No.214), entitled "An act requiring coordination of coal mine and gas well operators; authorizing Department of Environmental Resources enforcement powers; and providing penalties," further providing for definitions, for permits, for permit application, for minimum distance between gas wells, for well class designation and for coordination of gas well drilling through active coal mines; providing for a pillar support study; and further providing for plugging gas wells penetrating workable coal seams, for penalties and for validity of other laws.

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

Section 1. The definitions of "active coal mine," "department," "Gas Operations Well-Drilling Petroleum and Coal Mining Act," "operating coal mine," "permittee" and "workable coal seam" in section 2 of the act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act, are amended and the section is amended by adding a definition to read:

Section 2. 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:

"Active coal mine." [**Any operating coal mine or coal mine already projected and permitted, but not yet being operated, or within 1,000 linear feet beyond such boundaries.**]*That portion of a workable coal seam which is shown on the five-year timing map prepared by the mine operator and provided to the Department of Environmental Protection upon issuance of a new permit, an amendment to an existing permit adding additional area to be mined, or renewal of an existing permit, and which is contiguous to the permit area of any operating coal mine. For purposes of this act:*

*(1) A five-year timing map shall include the area of the workable coal seam which may reasonably be expected to be mined and permitted for mining by the operator during the five-year period beyond the projected completion of the mining of the currently permitted area.*

*(2) All five-year timing maps shall be considered confidential by the department, provided, however, that the department shall provide a copy of the timing map upon request to any person who currently either operates one or more oil or gas wells, or holds a valid permit to drill an oil or gas well in this Commonwealth, and who can document a valid existing right to develop the oil or gas under any portion of the timing map. The party obtaining access to the map shall treat the timing map and the information contained therein as confidential.*

*(3) In the case of currently permitted mines, the mine operator shall provide the current five-year timing map to the department within 30 days of the effective date of this paragraph.*

"Department." The Department of Environmental [Resources] Protection.

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["Gas Operations Well-Drilling Petroleum and Coal Mining Act." The act of November 30, 1955 (P.L.756, No.225), known as the Gas Operations Well-Drilling Petroleum and Coal Mining Act.]

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*"Oil and Gas Act." The act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act.*

\* \* \*

"Operating coal mine." [A 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 and any coal mine to be established or reestablished as an operating coal mine within one year.] *That portion of a workable coal seam which is covered by an underground mining permit issued by the Department of Environmental Protection.*

\* \* \*

"Permittee." The well operator who has received a drilling permit in accordance with the [Gas Operations Well-Drilling Petroleum and Coal Mining] *act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act.*

\* \* \*

"Workable coal seam." [A coal seam identified by the Topographical and Geological Survey of the Department of Environmental Resources as capable of being mined by underground methods.] *Includes:*

*(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 of Environmental Protection, can reasonably be expected to be mined by underground methods.*

Section 2. Sections 5 and 6 of the act are amended to read:

Section 5. Permits.

No person shall be issued a permit pursuant to the [Gas Operations Well-Drilling Petroleum and Coal Mining] *Oil and Gas Act* to drill a new gas well unless the provisions of this act are met.

Section 6. Permit application *and well completion.*

(a) All permit applications made pursuant to the [Gas Operations Well-Drilling Petroleum and Coal Mining] *Oil and Gas Act* for a gas well covered by this act shall include a certification that the gas well will be located so that it will comply with the minimum distance requirements set forth in section 7, including any exception granted by the department pursuant to section 7(b), (c) and (d).

(b) All permit applications made pursuant to the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act** for a gas well covered by this act shall be processed by the department in the order in which they are received. No such permit application shall be deemed complete unless all information necessary to process the permit in compliance with this act has been received by the department, including all information necessary to act on any exception requested pursuant to section 7(b), (c) and (d).

(c) In any case where two or more permits have been applied for or issued by the department, pursuant to the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act**, for gas wells covered by this act, and gas wells covered by the permits or applications cannot be drilled without violating the provisions of section 7, the department shall notify each affected permit applicant or permittee.

(d) (1) In any case where two or more permits have been applied for or issued by the department, pursuant to the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act** for gas wells covered by this act, and all gas wells covered by the permits or permit applications cannot be drilled without violating the provisions of section 7, the first permitted gas well for which drilling is commenced shall determine compliance of the remaining proposed gas wells with section 7.

(2) Drilling shall be deemed to have commenced for the purposes of this subsection when the permittee has begun actually drilling with the intent of continuing the drilling in a workmanlike manner to a formation capable of producing enough gas to make it economically feasible to complete the well.

*(e) Within 60 days of completion of drilling operations of a well, the operator shall supply to the coal owner a copy of the portion of any well bore deviation survey obtained in the subject well between the surface and to a point below the deepest known coal seam encountered during the drilling operation.*

*(f) All permit applications made pursuant to the Oil and Gas Act which will penetrate an operating coal mine shall be accompanied by the written consent of the operator of such coal mine to the proposed location of the well.*

*(g) Any person applying for a permit under the Oil and Gas Act shall forward, by certified mail, a copy of the plat required under section 201(b) of the Oil and Gas Act to the coal owner if coal rights have been severed from the surface where the well is to be drilled or altered, regardless of whether the coal seam is workable.*

Section 3. Section 7(a) and (b) of the act, amended November 29, 2004 (P.L.1341, No.171), are amended and the section is amended by adding subsections to read:

Section 7. Minimum distance between gas wells.

(a) No permit for a gas well covered by this act may be issued to drill a new gas well, or reopen a gas well which has been plugged in accordance with the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act**, unless the proposed gas well is located not less than 1,000 feet

from any other well. For the purpose of this section, "other well" shall not include any:

(1) Oil or gas well or injection well which does not penetrate a workable coal seam.

(2) Oil or gas well or injection well which has been plugged in accordance with this act or any other act of this Commonwealth which would meet State and Federal requirements for the safe mining through of a gas well.

(3) Nonproducing oil or gas well which was drilled and abandoned prior to November 30, 1955.

(4) Storage well.

(b) The department shall, upon request of the permit applicant or the owner of the workable coal seam which underlies the proposed gas well, grant an exception from the minimum 1,000 feet distance requirement of subsection (a), where the permit applicant and the owner of the workable coal seam consent in writing. **[In no case shall the minimum distance between the proposed gas well and any other well be less than 900 feet pursuant to this subsection.]**

\* \* \*

*(d) Notwithstanding any other provisions of this section, no permit for a gas well covered by this act which is intended to be part of a well cluster shall be issued unless the well cluster is located not less than 2,000 feet from the nearest well cluster as measured from the center of the well bore of the nearest well, unless the permit applicant and the owner of the workable coal seam consent in writing to spacing the well clusters closer than 2,000 feet. The well location limitations imposed in subsection (a) shall not be applicable between and among wells located within the same well cluster.*

*(e) The Environmental Quality Board may promulgate regulations modifying the maximum area of a well cluster based upon the study required under section 12.1. In the event the permit applicant and the owner of the workable coal seam cannot agree on the spacing of well clusters, either party may invoke the procedures of section 12(c), (d), (e) and (f) in order to reach an agreement. When a well cluster will penetrate a workable coal seam which is not part of an active mine, the applicant for the gas well shall provide the owner of the coal seam with a copy of the plat, and the owner of the coal seam shall have 15 days from receipt of the plat to provide recommendations to the applicant for the gas well on the location of the well cluster.*

*(f) For purposes of this section, a "well cluster" shall mean an area within a well pad intended to host multiple horizontal wells and which comprises an area no greater than 5,000 square feet.*

Section 4. Sections 10(a) and 12(a), (e) and (g) of the act are amended to read:

Section 10. Well class designation.

(a) Within one year of the effective date of this act, the department shall serve written notice on the permittee of record of all gas wells permitted under the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act** and which penetrate a workable coal seam that the

permittee must designate his gas well as nonproducing, inoperative or producing as those terms are defined in this act.

\* \* \*

Section 12. Coordination of gas well drilling through active coal mines.

(a) When a proposed gas well *or well cluster* is located above an active coal mine, then the owner of the coal mine may, within ten days from the receipt by the department of the plat and notice required by the [Gas Operations Well-Drilling Petroleum and Coal Mining] *Oil and Gas Act*, file objections, in writing, to such proposed drilling with the department, setting out in detail the ground or grounds upon which the objections are based.

\* \* \*

(e) The panel shall make its recommendation within ten days of the close of the meeting and shall immediately submit it to the department, to the collective bargaining representative of the employees of the coal operator and to the parties to this proceeding. Within 20 days from receipt of a panel's recommendation, the department shall proceed to issue a permit with the location of the gas well as recommended by the panel unless the department, pursuant to its authority under the [Gas Operations Well-Drilling Petroleum and Coal Mining] *Oil and Gas Act*, has determined that the well cannot be safely drilled at such location. When such a determination is made by the department, it shall so notify the panel, stating its reasons for the rejection, and direct the panel to submit another recommendation within ten days for an alternate location of the gas well on such tract of land. Upon issuance of the permit, the location as determined by the department shall be indicated on the plat on file with the department, and the distance and direction of the new location, if any, from the original location shall be shown and the plat shall be filed and become a permanent record.

\* \* \*

[(g) This section shall not apply to any operating coal mine when a gas well is proposed to be drilled through the mine.]

Section 5. The act is amended by adding a section to read:

*Section 12.1. Pillar support study.*

(a) *The purpose of this section is to conduct a comprehensive evaluation and update of the Joint Coal and Gas Committee Gas Well Pillar Study commissioned in 1956 by the Department of Mines and Mineral Industries.*

(b) *Within 60 days of the effective date of this section, the department shall commission an independent study to conduct an assessment of the following:*

(1) *The appropriate pillar size around an active well, an inactive well, a well cluster, an inactive well cluster, a plugged well cluster or a plugged well necessary to ensure the integrity of the well, to furnish adequate protection to the workable coal seam and to ensure the safety and protection of coal miners.*

(2) *Any additional criteria or standards that should be considered by the department when considering the approval of pillars around an oil or gas well which penetrates a workable coal seam.*

*(c) The independent expert shall solicit input, recommendations, data and other relevant information from representatives of the department, the coal industry and the gas industry as part of its assessment.*

*(d) The assessment required under subsection (b) shall be submitted to the department within 240 days of the effective date of this section and published in the Pennsylvania Bulletin.*

Section 6. Sections 13(a) introductory paragraph, 15(c) and 17 of the act are amended to read:

Section 13. Plugging gas wells penetrating workable coal seams.

(a) The owner or permittee of any gas well which is required to be plugged pursuant to the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act**, which penetrates a workable coal seam and which has not already been plugged as required by Pennsylvania law, shall securely plug the well using any one of the following techniques, except as provided in subsection (b) and depending on whether the coal-protection string of casing has been circulated and cemented into the surface:

\* \* \*

Section 15. Penalties.

\* \* \*

(c) Except as provided in subsections (a) and (b), any person violating any provision of this act shall be subject to the penalty provisions provided by **[section 504 of the Gas Operations Well-Drilling Petroleum and Coal Mining] Chapter 5 of the Oil and Gas Act**.

Section 17. Validity of other laws.

This act shall not be construed to repeal or otherwise invalidate any provision of the **[Gas Operations Well-Drilling Petroleum and Coal Mining] Oil and Gas Act**, except those provisions enumerated in section 13.

Section 7. This act shall take effect immediately.

APPROVED—The 13th day of May, A.D. 2011

TOM CORBETT