

# **The Pennsylvania Oil and Gas Act: A Summary of the Statutory Provisions 58 P.S. §§ 601.101-601.607**

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The Oil and Gas Act (Act) is one of the primary laws that regulate the extraction of natural gas in Pennsylvania. The Act has been summarized in a section-by-section manner in this research publication, which provides an overview of the issues regulated by the Act. To obtain detailed information on the individual statutory sections, the full text of the Act should be reviewed.

## **Chapter 1: Preliminary Provisions**

### Section 101: Short Title (58 P.S. § 601.101)

This statute shall be referred to as “the Oil and Gas Act.”

### Section 102: Declaration of Purpose (58 P.S. § 601.102)

The Act has four purposes. First, the Act promotes the development Pennsylvania’s oil and natural gas resources without sacrificing the “health, safety, environment and property of the citizens of Pennsylvania.” Second, the Act protects the safety of both the people and facilities that the oil and gas industry employs in development efforts. Third, the Act protects the “safety and property rights” of people who live in areas affected by the development of oil and natural gas resources. Fourth, the Act protects “natural resources, environmental rights and values” in accordance with the Pennsylvania Constitution.

### Section 103: Definitions (58 P.S. § 601.103)

This section provides statutory definitions for various oil and gas terms used in the Act.

## **Chapter 2: General Requirements**

### Section 201: Well Permits (58 P.S. § 601.201)

An oil and gas company must obtain a permit from the Pennsylvania Department of Environmental Protection (DEP) before drilling a well. The company also must keep the permit

on-site during drilling activities. This section details the specific requirements for the plat that must accompany the permit application as well as indicates how oil and gas exploration companies must provide notice of drilling. The company must send notice of drilling to the owner of the surface estate upon which drilling is to occur and to surface landowners or water purveyors who have water supplies within 1,000 feet of the proposed well location. In addition, the company must provide notice of drilling to the owner or operator of “underlying workable coal seams.”

DEP is authorized to charge a fee for the submission of a permit application. DEP shall issue a permit within 45 days from the date of submission unless cause exists to extend this time period for an additional 15 days. DEP can impose necessary conditions in the granting of a permit and can deny the requested permit for one of the following five reasons:

1. The well site is in violation of the Act or the issuance of a permit would violate the Act or another environmental law;
2. The application is incomplete;
3. The owner or operator of a coal mine has objected to the well location, and those objections remain unresolved;
4. The well has not been bonded satisfactorily; or
5. The applicant has wells that are currently in continuing violation of the Act or another applicable law for which the DEP is responsible.

After DEP issues a permit, the oil or natural gas company can commence drilling after providing 24 hour notice to DEP, the surface landowner, and the local political subdivision in which the well is located. The location of the well must be the same as indicated on the plat that was submitted with the permit application. The well can be relocated, however, if a condition is encountered that makes drilling either hazardous or impossible. In that event, the well operator must provide verbal and subsequent written notice to DEP.

Drilling permits generally expire after one year unless the permit is renewed. If drilling is commenced within the initial year, the permit will remain in force until the well is plugged or the permit is revoked. The Environmental Quality Board may establish regulations that provide for exceptions to these permitting requirements, and DEP is authorized to provide for “accelerated approval” of drilling permits in certain situations. A company cannot transfer a drilling permit without prior approval from DEP.

#### Section 202: Permit Objections (58 P.S. § 601.202)

Where a well is planned to be drilled on a surface estate belonging to someone other than the well operator, the surface estate owner has the right to object to DEP’s grant of the permit. Any objections must be filed within 15 days after receipt of the plat and can be based upon the location of the well or upon inaccurate information contained in the permit application. If a well is to be drilled into the boundaries of a coal mine, the owner or operator of the coal mine has the opportunity to file an objection within 15 days after receipt of the plat. After an objection by a coal mine owner or operator has been filed, DEP will arrange a conference between the parties in order to settle on an acceptable location for the well. If the parties are unable to resolve their disagreement, DEP will select a location as close as possible to the original site that does not “unduly interfere with or endanger such mine.”

### Section 203: Well Registration (58 P.S. § 601.203)

Any well that has not been permitted must be registered by the well owner or operator. The well operator shall display the registration number granted by DEP in a conspicuous manner on the well. The information that is required to be provided to DEP includes:

1. Name and address of well operator;
2. Well name and a description of the location to permit DEP to locate the well on the ground;
3. Approximate date of drilling, completion date, depth, producing horizons, well construction information, and driller's logs if available;
4. Indemnity bond or alternative fee; and
5. Registration fee.

Additionally, any person who discovers an abandoned well upon property that is under lease by him or her shall notify DEP of the existence of the abandoned well so that DEP can consider such well as an orphan well.

### Section 204: Inactive Status (58 P.S. § 601.204)

A permitted or registered well can be transferred to inactive status for a five-year period upon the satisfaction of certain requirements. The classification of a well as inactive does not release the well operator from the obligation to maintain the condition of the well. At the end of the five-year period, the well has to be plugged or returned to active status unless the operator applies for an extension of inactive status. DEP can revoke the inactive status and require a well to be plugged if the operator demonstrates an inability to maintain the well as required.

### Section 205: Well Location Restrictions (58 P.S. § 601.205)

Wells cannot be drilled within 200 horizontal feet of any existing building or water well without written consent of the owner of the building or water well. Wells also cannot be located within 100 horizontal feet of any body of water and wetland larger than one acre. A well operator can obtain a variance or waiver from these distance requirements upon the satisfaction of certain criteria and with the imposition of appropriate conditions to protect people, property, and waters. When deciding whether to grant a well permit, DEP is required to consider the impact of the well on a variety of public resources, including natural and historical sites.

### Section 206: Well Site Restoration (58 P.S. § 601.206)

The owner or operator of a well has an obligation to restore the surface estate for disturbances caused by drilling activities. During all drilling activities, the operator must follow an erosion and sediment control plan. Owners and operators typically have nine months following the completion of drilling as well as after the plugging of a well to remove equipment and restore the well site. All restoration practices must be in compliance with Pennsylvania's Clean Streams Law.

### Section 207: Protection of Fresh Groundwater; Casing Requirements (58 P.S. § 601.207)

Brines from oil and gas production are to be disposed of in accordance with the Clean Streams Law. Casing is required "in each well drilled through the fresh water strata" to prevent gas and other fluids from contaminating ground water. Casing also may be required when drilling into coal seams.

Section 208: Protection of Water Supplies (58 P.S. § 601.208)

If, during the drilling and extraction process, a well operator pollutes or diminishes a public or private water supply, the operator is obligated to restore or replace that water supply. Landowners suffering water pollution or diminution from drilling can request that DEP conduct an investigation of the well. DEP must investigate the claim within 10 days and render a determination within 45 days. There is a rebuttable presumption that a polluted water supply located within 1,000 feet of a well is caused by the well. The well operator can rebut this “presumption of liability” by establishing one of the available defenses including the hiring of “an independent certified laboratory” to perform a predrill test of the water supply. If a landowner refuses to permit the predrill water test, the “presumption of liability” does not apply.

Section 209: Use of Safety Devices (58 P.S. § 601.209)

Well drillers have an obligation to follow safety regulations and to conduct operations so as “to prevent blowouts, explosions and fires.”

Section 210: Plugging Requirements (58 P.S. § 601.210)

When a well operator abandons a well, the operator must plug the well to prevent any upward flow of materials. The operator must provide DEP with notice of plugging to afford DEP the opportunity to be present when the well is plugged. If an operator abandons a well without plugging it, DEP is authorized to enter the site, plug the well, and sell any remaining equipment to recover the cost of plugging. The operator is liable for any unrecovered costs.

Section 211: Alternative Methods (58 P.S. § 601.211)

Well operators can request the use of alternative methods to meet DEP regulatory requirements. Affected coal operators can file objections with DEP.

Section 212: Well Reporting Requirements (58 P.S. § 601.212)

Well operators must file with DEP an annual report listing specified production information. These reports are confidential for five years. Well operators have a duty to keep records of all drilled or altered wells and to file a completion report within 30 days after the drilling of a well is completed. Standard industry logs and other specified information must be kept by the operator and filed with DEP within three years of the completion of the well. DEP may request that the operator produce these records sooner than the expiration of three years.

Section 213: Notification and Effect of Well Transfer (58 P.S. § 601.213)

If a well is sold or transferred, the owner or operator must provide DEP with written notice of the sale or transfer.

Section 214: Coal Operator Responsibilities (58 P.S. § 601.214)

Coal operators who are removing coal within 500 feet of a well must file maps and plans with both DEP and the well operator. After filing these documents, the operator can continue removing coal up to 150 feet away from the well in most cases. The operator must comply with DEP requirements as to the size of pillars that must be left around each well. A coal operator must obtain written permission from DEP before mining through a plugged well.

### Section 215: Bonding (58 P.S. § 601.215)

After submitting a permit application but before drilling, the well operator must file a bond with DEP for the well and well site. The bond must be payable to the Commonwealth and be conditioned upon the operator “faithfully perform[ing] all of the drilling, water supply replacement, restoration, and plugging requirements” of the Act. The bond amount per well is determined by the Environmental Quality Board in an amount to reflect the anticipated cost of plugging a well. Rather than obtaining a bond for each well, an operator may provide a blanket bond covering all wells. Bond liability continues until a well is plugged properly. An operator who does not comply with the various provisions of the Act is subject to forfeiture of the bond funds into the Well Plugging Restricted Revenue Account. An operator who is unable to obtain a bond may provide security to the Commonwealth through alternative measures as provided in this section.

### Section 216: Oil and Gas Technical Advisory Board (58 P.S. § 601.216)

The Act creates the Oil and Gas Technical Advisory Board. This five-member Board is appointed by the Governor. The Board advises DEP on the formulation and review of technical regulations required to implement the Act.

## **Chapter 3: Underground Gas Storage**

### Section 301: Reporting Requirements for Gas Storage Operations (58 P.S. § 601.301)

Anyone storing gas in a gas storage reservoir that underlies or is within 10,000 linear feet from an operating coal mine must file maps and additional information with DEP. Anyone utilizing “a process other than that of secondary recovery or gas recycling” in a gas storage reservoir also must supply similar information to DEP. All storage operators must provide DEP with the county and municipality in which their gas storage reservoir is located. In municipalities where gas storage reservoirs and coal mines are both present, DEP may request that storage operators provide maps detailing the boundaries of their gas storage reservoirs.

### Section 302: Reporting Requirements for Coal Mining Operations (58 P.S. § 601.302)

Coal mine owners or operators must file with DEP a map of their mines. If the operating coal mine has been pierced by a well, that mine operator has an ongoing obligation to file a map with DEP each year. A gas storage operator or potential operator within the area of a penetrated coal mine may request copies of these maps. Coal mine operators have additional notice and reporting obligations to DEP if their mines come within 10,000 or 2,000 feet of a gas storage reservoir.

### Section 303: General Gas Storage Reservoir Operations (58 P.S. § 601.303)

Gas storage operators must make an effort to locate all wells drilled into or through the reservoir. Storage operators must then plug or recondition “all known wells.” This section details how the plugging and reconditioning of those wells should occur. If DEP determines that a storage reservoir operator has not complied with the requirements of the Act, it can require the operator to suspend the operation and withdraw gas from the reservoir. Storage owners and operators who have wells drilled into or through the storage area must keep the wells in good condition in order to prevent the leaking of any gas out of the storage area.

Section 304: Gas Storage Reservoir Operations in Coal Areas (58 P.S. § 601.304)

Storage operators whose storage areas underlie or are within 2,000 linear feet of a coal mine must comply with specified plugging and reconditioning requirements. These storage operators also must provide maps and other information to DEP and nearby coal mines.

Section 305: Inspection of Facilities and Records (58 P.S. § 601.305)

When coal mines and gas storage facilities are in close proximity, owners and operators of both have the ability to inspect the “records and facilities” of the other. If the mine or storage operator refuses the inspection, DEP can order that an inspection take place.

Section 306: Reliance on Maps; Burden of Proof (58 P.S. § 601.306)

The maps on file with DEP can be used to determine proximity of a coal mine to a gas storage reservoir and vice versa. If either party questions the accuracy of a map, the other party may be required to provide additional information.

Section 307: Exemptions (58 P.S. § 601.307)

Strip mines and surface auger mines are exempt from this chapter of the Act. A workable coal seam, whether mined or not, cannot be used as part of a gas storage reservoir.

## **Chapter 4: Eminent Domain**

Section 401. Appropriation of Interest in Real Property (58 P.S. § 601.401)

Certain companies have a limited right of eminent domain to acquire real property interests for gas storage purposes. The right of eminent domain cannot be exercised unless the recoverable reserves within the proposed reservoir have been depleted by 80% and the company has acquired the storage rights “underlying at least 75% of the area of the proposed storage reservoir.” In addition, companies cannot use eminent domain to acquire interests in land in which another gas company has a storage interest. The Act does not preclude the owner of nonstorage strata from drilling wells to extract gas above and below the storage stratum.

## **Chapter 5: Enforcement and Remedies**

Section 501: Conferences (58 P.S. § 601.501)

Any party “having a direct interest in the subject matter” of the Act may request that DEP convene a conference to resolve any issue that arises under the Act. Any mutual agreements reached at such conference must be consistent with the Act.

Section 502: Public Nuisances (58 P.S. § 601.502)

Permit violations and violations of the statutory provisions addressing well site restoration, protection of fresh groundwater, protection of water supplies, use of safety devices, and plugging requirements constitute a public nuisance.

Section 503: Enforcement Orders (58 P.S. § 601.503)

DEP has the authority to issue orders to enforce provisions of the Act. DEP also can suspend or revoke a permit if the well operator is in violation of certain statutes or regulations such as the Clean Streams Law or the Solid Waste Management Act. Before DEP suspends or revokes a permit, DEP shall provide written notice to the operator. The operator can request a conference prior to DEP's final determination. Following a determination, the aggrieved party has 30 days within which to file an appeal with the Environmental Hearing Board.

Section 504: Restraining Violations (58 P.S. § 601.504)

DEP can pursue an injunction to stop any activity in violation of the Act. The Court of Common Pleas and the Commonwealth Court have jurisdiction to hear such litigation.

Section 505: Penalties (58 P.S. § 601.505)

A violation of the Act is a summary offense and is punishable by a fine of not more than \$300 or imprisonment of not more than 90 days, or both. A willful violation of the Act is a misdemeanor offense and is punishable by a fine of not more than \$5,000 or imprisonment of up to one year, or both. Each day is considered to constitute a separate offense. DEP has authority to prosecute persons or municipalities.

Section 506: Civil Penalties (58 P.S. § 601.506)

The Environmental Hearing Board has authority to impose a civil penalty of up to \$25,000 plus \$1,000 per day of continued violation. The amount of the penalty depends on “the willfulness of the violation, damage or injury to natural resources . . . , 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.”

Section 507: Existing Rights and Remedies Preserved; Cumulative Remedies Authorized (58 P.S. § 601.507)

This act does not prevent the Commonwealth from using authority other than the Act to pursue legal action against people and companies polluting or creating nuisances. The Act is meant to provide “additional and cumulative remedies” to regulate drilling activities; it is not intended to prevent any other legal action or to abridge any rights.

Section 508: Production of Materials; Witnesses; Depositions; Rights of Entry (58 P.S. § 601.508)

DEP is authorized to inspect any facility or materials pertinent to an investigation. Owners and operators shall provide DEP with “free and unrestricted access” during an investigation or inspection.

Section 509: Unlawful Conduct (58 P.S. § 601.509)

It is unlawful for any person to engage in the following activity:

- Drilling without a permit
- Conducting extraction activities in ways that are unsafe or that create nuisances
- Interfering with DEP operations
- Lying or misleading in order to get a permit
- Not properly plugging a well.

Section 510: Collection of Fines and Penalties (58 P.S. § 601.510)

All fines and penalties are collectible the same as any other legal debt. DEP may transmit a certified copy of the judgment to the county prothonotary without the payment of costs.

Section 511: Third Party Liability (58 P.S. § 601.511)

If a person other than the well operator “renders a service or product to a well or well site,” that person is jointly and severally liable for any damages caused in connection with that person’s activity at the well site.

## **Chapter 6: Miscellaneous Provisions**

Section 601: Well Plugging Funds (58 P.S. § 601.601)

Fines are directed to the DEP to be used to carry out the purposes of the Act. Funds for the plugging of wells can be obtained from the Abandoned Well Plugging Fund and the Orphan Well Plugging Fund. Orphan wells cannot be plugged using General Funds.

Section 602: Local Ordinances (58 P.S. § 601.602)

The Act supersedes all local ordinances that attempt to regulate matters addressed by the Act. Ordinances cannot “contain provisions which impose conditions, requirements or limitations on the same features of oil and gas well operations regulated by this act or that accomplish the same purposes as set forth in this act.”

Section 603: Effect on Department Authority (58 P.S. § 601.603)

The Act does not limit the authority of DEP in the enforcement of other statutes.

Section 603a: Relationship to Solid Waste and Surface Mining (58 P.S. § 601.603a)

Well operators can satisfy the requirements of the Solid Waste Management Act by obtaining a permit or registration under this Act, satisfying the financial security requirements of this Act, and otherwise complying with this Act.

Section 604: Regulatory Authority (58 P.S. § 601.604)

“The Environmental Quality Board shall adopt regulations to implement” the Act.

Section 605: Severability (58 P.S. § 601.605)

If one section of the Act is found to be invalid, that invalidity will not affect other sections of the Act.

Section 606: Repeals (58 P.S. § 601.606)

The Act repealed the Gas Operations Well-Drilling Petroleum and Coal Mining Act.

Section 607: Effective Date (58 P.S. § 601.607)

The Act took effect on April 18, 1985.