
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 313 Session of
2015

INTRODUCED BY YAW, VULAKOVICH, BROWNE AND HUGHES,
JANUARY 23, 2015

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 23, 2015

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional oil and gas conservation,
3 consolidating the Oil and Gas Conservation Law with
4 modifications relating to definitions, standard unit order,
5 process, administration, standard of review, hearings and
6 appeals, establishment of units, integration of various
7 interests, lease extension and scope, providing for gas and
8 hazardous liquids pipelines; and repealing the Oil and Gas
9 Conservation Law.

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

12 Section 1. Part III of Title 58 of the Pennsylvania
13 Consolidated Statutes is amended by adding a chapter to read:

14 CHAPTER 34

15 UNCONVENTIONAL OIL

16 AND GAS CONSERVATION

17 Subchapter

18 A. Preliminary Provisions

19 B. (Reserved)

20 C. Establishment of Standard Units

21 D. Procedure

1 E. Effect of Order

2 F. (Reserved)

3 G. (Reserved)

4 H. (Reserved)

5 I. (Reserved)

6 J. Miscellaneous Provisions

7 SUBCHAPTER A

8 PRELIMINARY PROVISIONS

9 Sec.

10 3401. Short title of chapter.

11 3402. Legislative intent.

12 3403. Definitions.

13 § 3401. Short title of chapter.

14 This chapter shall be known and may be cited as the
15 Unconventional Oil and Gas Unit Conservation and Integration
16 Act.

17 § 3402. Legislative intent.

18 The purposes of this chapter are:

19 (1) To promote the development of unconventional oil and
20 gas resources of this Commonwealth in accordance with the
21 best principles and practices of oil and gas conservation
22 while reasonably protecting the correlative rights of the
23 person affected.

24 (2) To provide for the protection of the environment.

25 § 3403. Definitions.

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

29 "Coal and Gas Resource Coordination Act." The act of
30 December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas

1 Resource Coordination Act.

2 "Commission." The Pennsylvania Public Utility Commission.

3 "Consenting party." A person participating in a unit
4 established under this chapter who agrees or elects to
5 participate in a pro rata share of costs and production of a
6 well drilled on that unit in accordance with a joint operating
7 agreement.

8 "Control." To own or to have the right to explore for,
9 develop, operate and produce oil or gas from the stratigraphic
10 interval proposed to be included in a unit.

11 "Correlative rights." The rights of each owner of oil and
12 gas interests included or proposed to be included in a standard
13 unit or in land that constitutes stranded acreage to have fair
14 and reasonable opportunity to obtain a just and equitable share
15 of the oil and gas in the unit without being required to drill
16 unnecessary wells or incur other unnecessary expense to recover
17 the oil or gas or its equivalent. The term includes the owners
18 of oil and gas interests in properties adjacent to properties
19 included or proposed to be included within the unit.

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

22 "Drill." The drilling or redrilling of a well or the
23 deepening or plugging back of an existing well.

24 "Drill pad." The area of surface operations surrounding the
25 surface location of a well or wells.

26 "Horizontal well." A directional well that is drilled nearly
27 vertically to a certain depth and then angled out horizontally
28 or nearly horizontally to produce from and remain substantially
29 or entirely within a specific geologic interval until the
30 desired terminus of the well bore is reached.

1 "Hydraulic fracture." A process to stimulate production in
2 oil and gas wells by inducing or propping fractures in oil and
3 gas bearing rocks using hydraulic pressure. The fluid mixtures
4 that are typically pumped down the well during this process
5 include water, sand and other specialty items.

6 "Joint operating agreement." An agreement governing the
7 actions of all participants in an established standard unit or a
8 model agreement generally recognized in the extraction industry
9 and all schedules and exhibits pertaining to the agreement.

10 "Lateral." The portion of a well bore that deviates from
11 approximate vertical orientation to approximate horizontal
12 orientation and all well bores beyond such deviation to total
13 depth or terminus.

14 "Nonconsenting party." A person participating in an
15 established standard unit who elects not to participate in its
16 pro rata share of the costs of a well drilled upon that unit and
17 who will pay a risk avoidance under the joint operating
18 agreement.

19 "Perforated segment." The entire perforated length of each
20 lateral well bore, as shown on a directional survey or
21 predrilled unsurveyed plan, projected vertically to the surface.
22 In the event of the use of a form of completion that does not
23 involve cementing and perforating, the term shall mean the
24 entire length of each lateral from penetration point of the
25 target reservoir to the terminus of the well bore.

26 "Plat." A map, drawing or print showing the proposed or
27 existing location of a well or a unit.

28 "Royalty interests." An interest in oil or gas or rights
29 expressly stated to be royalty interests, overriding royalty
30 interests or rights to participate in a share of production but

1 that do not provide a right to conduct exploration, drilling or
2 production.

3 "Standard unit." A unit for the production of oil or natural
4 gas that is not more than 640 acres in area, plus 10% tolerance
5 for possible survey error or other acreage discrepancies, and
6 that, absent interference by an adjacent preexisting voluntary
7 unit, includes all interests in the oil and gas within the
8 boundaries of the proposed standard unit. Acreage in excess of
9 the 640-acre maximum and 10% tolerance may be included in a
10 standard unit if necessary to:

11 (1) Avoid the creation of stranded acreage.

12 (2) Prevent the loss of the use and benefit of potential
13 recoverable oil and gas.

14 (3) More efficiently recover oil or gas.

15 "Stranded acreage." Land that cannot be developed for
16 production of oil or gas from unconventional reservoirs because
17 of the 250 feet minimum setback requirements under this chapter
18 when applied to the boundaries of standard units.

19 "Unconventional reservoir." A formation below the base of
20 the Elk Sandstone or its geologic equivalent stratigraphic
21 interval that contains or produces oil or gas that generally
22 cannot be economically produced at flow rates or in volumes
23 except by hydraulic fracturing, horizontal or multi-lateral well
24 bores or other techniques to expose the reservoir to the well
25 bore.

26 "Unit." A consolidation of interests of persons actively
27 engaged in the business of extracting oil or gas from land owned
28 or leased by the persons within a defined geographic area to
29 facilitate the drilling of wells from one or more unconventional
30 reservoirs.

1 "Voluntary unit." A unit created under a lease or other
2 voluntary agreement of the owners and lessees of all interests
3 in the oil or gas in the unit.

4 "Waste." The unnecessary loss of potentially recoverable oil
5 or gas.

6 "Working interest owner." An owner of the right to develop,
7 operate and produce the oil or gas sought to be produced, except
8 where specifically provided in a joint operating agreement
9 governing a standard unit.

10 SUBCHAPTER B

11 (Reserved)

12 SUBCHAPTER C

13 ESTABLISHMENT OF STANDARD UNITS

14 Sec.

15 3421. Standard unit order.

16 3422. Technical assistance.

17 § 3421. Standard unit order.

18 (a) Authorization.--A person actively engaged in the
19 business of extracting oil or gas who owns or leases at least
20 65% of the oil or gas working interests in a proposed unit that
21 does not have a voluntary agreement to extract oil or gas from
22 the entire area may apply to the commission for an order to
23 establish a standard unit under this chapter to integrate the
24 interests controlled by another person actively engaged in the
25 business of extracting oil or gas who owns or leases the
26 remaining land in the proposed unit.

27 (b) Approval.--If a person does not own or control at least
28 65% of the oil or gas working interests in a proposed standard
29 unit but demonstrates by written evidence that the person has an
30 agreement with collaborating owners who control interests within

1 the proposed unit that total 65% of the unit, the person may
2 apply for the establishment of a standard unit.

3 (c) Other interests.--Interests of a person actively engaged
4 in the business of extracting oil or gas that may be combined
5 under subsection (a) into a standard unit may include interests
6 of the other working interest owners and royalty interests.

7 (d) Integration.--Upon the grant of an order by the
8 commission establishing a standard unit, all oil and gas
9 interests within the unit shall be integrated in accordance with
10 this chapter.

11 (e) Scope.--This chapter shall apply to interests of owners
12 engaged in the business of extracting oil or gas.

13 § 3422. Technical assistance.

14 The Bureau of Topographic and Geologic Survey of the
15 Department of Conservation and Natural Resources shall provide
16 technical and other assistance to the commission as requested by
17 the commission.

18 SUBCHAPTER D

19 PROCEDURE

20 Sec.

21 3431. Process.

22 3431.1. Powers of commission.

23 3432. Standard unit protest.

24 3433. Standard of review.

25 3434. Hearings and appeals.

26 3435. Final action.

27 3436. Appellate jurisdiction of Commonwealth Court.

28 § 3431. Process.

29 (a) Filing.--An applicant for an order to establish a
30 standard unit under this chapter shall file the application with

1 the commission. The commission shall review the application for
2 completeness and notify the applicant of any deficiencies and
3 refer a completed application to the Office of Administrative
4 Law Judge within five business days of submission.

5 (b) Voluntary unit.--An order of the commission shall not be
6 required for working interest owners or standard units to
7 establish a voluntary unit under a lease or other agreement.

8 (1) Lessees that provide the establishment of voluntary
9 units may proceed under the terms of their leases and no
10 proceedings under this chapter shall be required.

11 (2) A lessee may file to establish a unit under this
12 chapter. If the application is approved, this chapter shall
13 supersede the terms of the leases relating to pooling and
14 utilization with respect to the lands included in the unit.

15 (c) Application.--A standard unit application shall be in a
16 form approved by the commission and shall include:

17 (1) Information regarding all working interest owners
18 proposed to be included in the standard unit that are
19 controlled and that are not controlled by the applicant.
20 Working interests shall include all leases, mortgages,
21 judgments and other liens and encumbrances of record upon any
22 interest in the proposed unit. The list shall include:

23 (i) The name and address of each owner of an
24 interest proposed to be integrated.

25 (ii) The type of interest held by each owner.

26 (iii) The extent of the interest held.

27 (2) A plat that:

28 (i) Depicts the boundaries of the proposed standard
29 unit, the total acreage and the location and acreage of
30 each tract included in the proposed standard unit.

1 (ii) Identifies the location of all initial proposed
2 wells and laterals.

3 (iii) Identifies the stratigraphic interval proposed
4 for integration.

5 (3) A statement of the allocation of interests in the
6 proposed standard unit.

7 (4) Proof that notice of the filing of the standard unit
8 application has been given to the following:

9 (i) The owners of interests not controlled by the
10 applicant that are proposed to be included in the
11 standard unit.

12 (ii) The owners of all land adjacent to the proposed
13 standard unit.

14 (5) Proof of notice of the filing of the standard unit
15 application. The notice shall identify all parcels and parts
16 of parcels proposed to be included using the existing tax and
17 property records of the county.

18 (6) A statement of the estimated well costs that
19 includes an industry form for authorizing expenditures with
20 detailed tangible and intangible drilling costs.

21 (7) A joint operating agreement with an attached
22 proposed lease and all relevant schedules.

23 (d) Review.--Applications shall be referred to the Office of
24 Administrative Law Judge for review within five days of a
25 determination that the application is complete.

26 (e) Protests.--

27 (1) A protest shall be filed within 20 days of the
28 filing of the application. If no protest is filed within 20
29 days of the filing of the application, the application shall
30 be deemed approved and a notice shall be transmitted to the

1 commission. If the commission takes no action on the
2 application within 30 days of its filing, the application
3 shall be deemed approved and a letter closing the docket
4 shall be filed.

5 (2) The commission may reject the application if it
6 fails to meet the requirements of section 3433 (relating to
7 standard of review). If a protest is filed within 20 days of
8 the filing of the application, the administrative law judge
9 shall schedule a hearing to be held within 20 days of the
10 close of the protest period. The hearing may be held at a
11 later date if the applicant and protestants agree to an
12 extension of time.

13 (3) Following the hearing, the staff shall prepare a
14 recommendation for submission to the commission. A
15 recommendation may include proposed amendments to the
16 application or joint operating agreement or conditions to
17 protect correlative rights. The recommendation and
18 certification of the evidentiary record shall be forwarded to
19 the commission.

20 (f) Decision.--The commission shall rule on protested
21 applications within 45 days of the hearing.

22 § 3431.1. Powers of commission.

23 (a) Authority.--The commission may promulgate regulations
24 and policy statements and issue orders to carry out its duties
25 under this chapter.

26 (b) Temporary regulations.--The commission may promulgate
27 regulations in order to promptly implement this chapter. The
28 regulations shall be deemed temporary regulations and shall
29 expire no later than two years following their adoption. The
30 temporary regulations shall not be subject to:

1 (1) Sections 201, 202 and 203 of the act of July 31,
2 1968 (P.L.769, No.240), referred to as the Commonwealth
3 Documents Law.

4 (2) The act of June 25, 1982 (P.L.633, No.181), known as
5 the Regulatory Review Act.

6 (c) Expiration of authority.--The authority of the
7 commission to adopt temporary regulations under subsection (b)
8 shall expire two years from the effective date of this
9 subsection. Regulations adopted after this period shall be
10 promulgated as provided by law. Permanent regulations shall be
11 published within 12 months following the effective date of this
12 section.

13 (d) Compliance.--A person subject to the provisions of this
14 chapter shall comply with the regulations and orders of the
15 commission and their terms and conditions.

16 (e) Employees.--The commission may appoint employees,
17 attorneys, consultants and other individuals as necessary to
18 carry out the purposes of this chapter. Employees under this
19 subsection shall serve at the pleasure of the commission.

20 (f) Fees and costs.--The commission shall adopt a reasonable
21 filing fee for applications under this chapter. Additional
22 process costs of the Office of Administrative Law Judge may be
23 assessed on the application.

24 § 3432. Standard unit protest.

25 (a) Parties with standing.--Parties with standing to protest
26 a proposed standard unit application are the following:

27 (1) The owners of a working interest subject to
28 integration in the standard unit who have not entered into a
29 voluntary agreement with the applicant.

30 (2) The owners of oil and gas in land directly adjacent

1 to but outside the proposed standard unit.

2 (3) The owners of interests in potentially stranded
3 acreage who have not entered into a voluntary agreement with
4 the applicant.

5 (4) The owner of the mineral rights that are proposed to
6 be integrated.

7 (b) Notice.--Applicants shall employ reasonable methods to
8 determine the identity of persons entitled to notice as follows:

9 (1) An applicant shall send a notice of the filing of a
10 standard unit order application to all persons with standing
11 to object.

12 (2) Notices shall state the date intended for the filing
13 of an application.

14 (3) Notices shall be sent via United States certified
15 mail with return receipt requested or other mail or delivery
16 service providing a proof of delivery.

17 (4) Notices shall be sent at least five business days
18 before the filing of a standard unit application.

19 (5) An applicant may arrange for personal service of a
20 notice required under this chapter if proof of service is
21 provided.

22 (6) Notices to persons who cannot be identified or
23 located shall be given in accordance with the requirements of
24 Pa.R.C.P. No. 430 (relating to service pursuant to special
25 order of court. publication).

26 § 3433. Standard of review.

27 (a) Standard of review.--The commission shall order the
28 establishment of the proposed standard unit if the applicant
29 shows by a preponderance of the evidence that the plan for the
30 establishment of the unit will minimize surface disruption or

1 impact to property or other environmental impact and:

2 (1) prevent the unnecessary loss of the use and benefits
3 of potentially recoverable oil or gas to a person or the
4 Commonwealth; or

5 (2) protect the rights of owners of oil or gas interests
6 in a manner that ensures the fair and reasonable ability to
7 obtain an equitable share of oil and gas.

8 (b) Determination.--In making a determination under
9 subsection (a), the commission may consider whether the
10 establishment of the unit will permit the optimal development of
11 oil and gas resources in this Commonwealth consistent with the
12 protection of the health, safety, environment and property of
13 its citizens.

14 (c) Protests.--Protests to applications for a standard unit
15 may be filed only for the following reasons:

16 (1) The application fails to comply with the
17 requirements of this subsection.

18 (2) The terms of the proposed joint operating agreement,
19 including royalty payments, are not reasonable or the
20 applicant failed to act in good faith.

21 (3) An owner or lessor of a working interest proposed to
22 be integrated into the unit has or will have the capacity and
23 resources and plan to develop their respective acreage
24 outside the proposed unit in a manner that is consistent with
25 oil and gas conservation principles. In determining whether a
26 protest under this paragraph shall result in denial or
27 modification of the application as to the acreage subject to
28 the objection, the commission shall consider the following:

29 (i) The timing of the proposed development of the
30 applicant and the protestant.

1 (ii) The investment of the parties in their
2 respective acreage.

3 (iii) The impact of the inclusion or exclusion of
4 the contested parcel on the long-term development plans
5 of the applicant and the objector.

6 (iv) The scope of the proposed development of the
7 applicant and the protestant.

8 (v) The type of commitments each applicant is
9 willing to make to develop the contested land.

10 (vi) Whether inclusion of the acreage that is the
11 subject of the protest meets the objectives of section
12 3402 (relating to legislative intent).

13 (vii) Any other relevant factors the commission
14 reasonably determines to be appropriate.

15 (4) The proposed standard unit fails to protect the
16 correlative rights of an owner of adjacent oil or gas
17 interests, the owner of potentially stranded acreage or the
18 integrated mineral owner. This objection must be filed by the
19 owner.

20 (d) Other protests.--Protests by persons other than those
21 specified with standing or authorized under section 3432(a)
22 (relating to standard unit protest) shall not be considered.

23 (e) Averments.--Averments of a party relied upon by the
24 commission in evaluating a protest under this section shall be
25 made part of the joint operation agreement.

26 (f) Expansion.--The commission may order expansion of
27 proposed standard units to avoid the potential for stranded
28 acreage.

29 § 3434. Hearings and appeals.

30 (a) Nature of proceedings.--Proceedings at all hearings

1 shall be conducted in accordance with this chapter and rules
2 adopted by the commission.

3 (b) Proposed findings and conclusions.--Before submission of
4 a recommendation to the commission, the parties are entitled to
5 a reasonable opportunity to submit for consideration:

6 (1) proposed findings and conclusions to be included in
7 the recommendations submitted to the commission; and

8 (2) supporting reasons for the proposed findings or
9 conclusions.

10 (c) Action by commission.--If the commission determines that
11 an applicant failed to make a good faith effort to reach a
12 voluntary agreement to establish a unit comprised of land owned
13 or leased by a business actively engaged in the extraction of
14 oil or gas for control of all unleased oil and gas interest
15 owners and all working interests to be integrated into the unit,
16 the commission may exclude the property subject to that
17 determination from the proposed unit and the applicant shall
18 have the option of proceeding with the unit as modified or of
19 withdrawing its application for the unit.

20 § 3435. Final action.

21 The decisions of the commission shall constitute the final
22 action of the commission with respect to the matters subject to
23 the hearing.

24 § 3436. Appellate jurisdiction of Commonwealth Court.

25 Appeals from decisions of the commission shall be heard by
26 the Commonwealth Court. The court shall consider appeals on the
27 record of the proceedings before the commission and shall apply
28 a narrow certiorari review standard.

29 SUBCHAPTER E

30 EFFECT OF ORDER

1 Sec.

2 3441. Establishment of units.

3 3442. (Reserved).

4 3443. Integration of working interests.

5 3444. Additional considerations.

6 3445. Joint operating agreement.

7 § 3441. Establishment of units.

8 (a) Establishment.--Upon the grant of an order establishing
9 a standard unit, all oil or gas interests within the unit shall
10 be integrated in accordance with this chapter.

11 (b) Stratigraphic intervals.--Standard units created under
12 this chapter:

13 (1) Shall be specific as to the stratigraphic intervals
14 sought to be explored and produced by the applicant.

15 (2) May be created in stratigraphic intervals in lands
16 already subject to voluntary units or to involuntary units
17 established under this chapter. To incorporate in whole or in
18 part a prior voluntary or involuntary unit of which the
19 applicant does not control at least 65% of the interests, the
20 prior units may not contain a well capable of producing from
21 that stratigraphic interval and no active drilling permit
22 exists for such a well, and, upon the creation of a unit
23 under this chapter within any part of a preexisting voluntary
24 or involuntary unit producing from a different stratigraphic
25 interval, the voluntary or involuntary unit shall not be
26 applicable to the portion of the specific stratigraphic
27 interval that is subject to the new standard unit. Otherwise,
28 the prior unit shall continue in effect as originally
29 created.

30 (c) Location of involuntary unit.--Nothing in this chapter

1 shall prohibit the commission from establishing a standard unit
2 which is located around or, in whole or in part, within a
3 voluntary unit of which the applicant controls at least 65% of
4 the interests producing from the same formation or stratigraphic
5 interval. An objection to a proposed allocation of royalty or
6 other payment from that unit may be adjusted as necessary to
7 promote fairness among all interest holders.

8 (d) Perforated segments.--A standard unit may be established
9 on lands upon which a well exists, except no perforated segment
10 of a well drilled under a later unit shall be less than 500 feet
11 from any perforated segment in the same stratigraphic interval
12 existing on the date of its establishment.

13 (e) Contiguous units.--Upon the agreement of the working
14 interest owner of at least 65% of the cost-bearing interests in
15 two or more contiguous units, wells may be drilled within 250
16 feet from the adjacent boundaries of those units and production
17 shall be allocated among the units as agreed by the working
18 interest owner.

19 (f) Royalties and interests.--Royalties and interests shall
20 be apportioned and paid to royalty interest holders based upon
21 the relative surface acreage of the interests in each unit as
22 set forth in the commission's order unless all of the owners of
23 integrated interests expressly agree in writing to deviate from
24 this chapter and adopt a different allocation method. Nothing in
25 this section shall alter the application of the rule of
26 apportionment of royalties as to oil and gas leases partially
27 included in any unit established under this chapter.

28 (g) Stranded acreage.--If an application results in stranded
29 acreage and 65% of the interests in the stranded acreage is
30 timely filed as a protest to the application, the commission may

1 order any of the following:

2 (1) Incorporation of the stranded acreage into the unit.

3 (2) Granting the protesters an exception to allow the
4 land to be developed for oil and natural gas production
5 without regard to the mandatory 250 feet setback requirements
6 under this chapter.

7 § 3442. (Reserved).

8 § 3443. Integration of working interests.

9 (a) Working interest.--A working interest owner within the
10 approved standard unit who has not entered into a voluntary
11 agreement with the applicant may elect to be treated as one of
12 the following:

13 (1) A nonconsenting party subject to the terms of the
14 joint operating agreement for the unit, entitling him to a
15 proportionate share of profits after being assessed a risk
16 fee apportioned among all nonconsenting parties at the rate
17 of 300% of their proportionate share of all of the costs
18 incurred by the designated operator.

19 (2) A consenting party subject to the terms of the joint
20 operating agreement for the unit, requiring him to contribute
21 a proportionate share of the costs of preparing, drilling,
22 completing and operating the well at the time of his election
23 under this subsection and entitling him to a proportionate
24 share of profits.

25 (b) Election.--The election under subsection (a) shall be
26 exercised by returning a signed election form to the working
27 interest owner and the Commonwealth within 14 calendar days of
28 the date of the order establishing the unit. A working interest
29 owner who fails to make an election under this subsection shall
30 be treated as a nonconsenting party under subsection (a) (1).

1 (c) Limited nature of election.--A working interest owner
2 shall be subject to the terms, conditions, rights and
3 obligations specified in the joint operating agreement. The
4 election shall apply only to the well for which the election is
5 made, with any further elections to be governed by the joint
6 operating agreement.

7 § 3444. Additional considerations.

8 (a) Additional matters.--Additional matters subject to an
9 order of the commission under this chapter shall be governed by
10 a joint operating agreement. An applicant may file a proposed
11 joint operating agreement for the unit as part of the
12 application for a standard unit order on a form approved by the
13 commission. The following shall apply to an agreement under this
14 subsection:

15 (1) A party controlling at least 15% of the working
16 interests in the unit may propose additional drilling. No
17 party owning or controlling less than 65% of interests in the
18 unit may propose the drilling of more than one well in a
19 calendar year.

20 (2) A lease attached to the joint operating agreement
21 shall be the lease currently in use by the applicant.

22 (3) The cash and royalty provided under the lease shall
23 be as provided under this chapter. The royalty shall be
24 treated as a cost shared pro rata among all consenting and
25 nonconsenting parties to the joint operating agreement.

26 (4) A risk avoidance penalty as provided under this
27 chapter.

28 (5) Parties to the joint operating agreement shall have
29 the right to take their gas in kind. Should a consenting
30 party or a nonconsenting party not elect to take its share of

1 gas in kind, the operator of the unit shall have the right to
2 market the share of production along with the operator's
3 production in accordance with the terms of the joint
4 operating agreement. In no event may the nonoperator be
5 entitled to receive an amount in excess of the amount
6 received by the operator for its share of production. The
7 joint operating agreement shall include an oil and gas
8 balancing agreement. No working interest owner transporting
9 oil or gas from a well in which the working interest owner
10 has an interest shall be deemed a utility.

11 (b) Aggrieved party.--A party aggrieved by terms proposed by
12 the applicant in a joint operating agreement filed with the
13 application may protest as provided in this chapter.

14 (c) Withdrawal.--An applicant may withdraw its application
15 within 10 days after an order.

16 § 3445. Joint operating agreement.

17 (a) Applicants and lessors.--A standard unit under this
18 chapter shall be operated in accordance with the terms of the
19 applicable leases, as modified by an order issued by the
20 commission, if the only interest holders in the unit are the
21 applicant and lessors.

22 (b) Other units.--All other standard units established under
23 this chapter shall be operated under the terms of applicable
24 leases, as modified by commission order and under the terms of
25 the joint operating agreement. The consenting and nonconsenting
26 parties may alter the terms of the joint operating agreement
27 only by unanimous consent or by filing a petition with the
28 commission for amendment. The commission shall approve or deny
29 the amendment within 90 days of the date of filing. An amendment
30 adopted by unanimous consent shall be filed with the commission.

1 SUBCHAPTER F

2 (Reserved)

3 SUBCHAPTER G

4 (Reserved)

5 SUBCHAPTER H

6 (Reserved)

7 SUBCHAPTER I

8 (Reserved)

9 SUBCHAPTER J

10 MISCELLANEOUS PROVISIONS

11 Sec.

12 3491. Certain rights preserved.

13 3492. Trade secrets.

14 3493. Applicability.

15 3494. Well setback.

16 3495. Voluntary establishment of a standard unit.

17 3496. Drilling permit not required.

18 § 3491. Certain rights preserved.

19 (a) Policy statement.--Voluntary units implemented in
20 accordance with the terms of executed oil and gas leases for the
21 bona fide purpose of promoting the development of unconventional
22 natural gas resources are declared to be necessary and
23 reasonable for the development of unconventional gas resources
24 in accordance with reasonable conservation principles and to
25 reasonably protect affected correlative rights. Units created
26 under a voluntary unitization agreement are declared to be per
27 se reasonable and subject to modification only in accordance
28 with the terms of the applicable leases or the express terms of
29 this chapter.

30 (b) Common law rights.--Except as expressly provided under

1 this chapter and in orders issued by the commission, this
2 chapter does not supersede any common law rights of any person
3 before or after the effective date of this chapter recognized by
4 the courts of this Commonwealth.

5 (c) Successors in interest.--All rights related to units
6 created under this chapter and all leases integrated in the
7 units, in whole or in part, shall be binding upon the heirs,
8 successors and assigns of all parties, including a party taking
9 title to the property as the result of judicial sale, mortgage
10 foreclosure, tax sale or by other operation of law and shall be
11 binding upon and shall run with the land. No action by an owner
12 of any interest in a lien, judgment, mortgage or other
13 encumbrance shall extinguish or impair the establishment of a
14 standard unit under this chapter.

15 § 3492. Trade secrets.

16 (a) Right to privacy.--Confidential proprietary information
17 or trade secrets submitted by parties during proceedings under
18 this chapter may not be disclosed by the commission or any other
19 parties privy to such information or secrets. The information
20 may be submitted under seal for review by the administrative law
21 judge only and shall be exempt from the act of February 14, 2008
22 (P.L.6, No.3), known as the Right-to-Know Law.

23 (b) Violations.--A violation of this section shall
24 constitute a violation of this chapter and also a violation of
25 12 Pa.C.S. Ch. 53 (relating to trade secrets), for which relief
26 may be sought by an aggrieved party under and in accordance with
27 the terms of 12 Pa.C.S. Ch. 53.

28 § 3493. Applicability.

29 (a) Sandstone extractions.--This chapter shall apply to all
30 wells drilled after the effective date of this chapter into and

1 producing from unconventional oil and natural gas reservoirs
2 below the base of the Elk Sandstone or its geologic equivalent
3 stratigraphic interval in this Commonwealth other than coal bed
4 methane.

5 (b) Vertical wells.--The only provision of this chapter that
6 shall apply to vertical wells is the 250 feet setback
7 requirement from lease or unit lines and from other wells
8 seeking production from the same stratigraphic interval. In the
9 event of a preexisting vertical well on land subject to an
10 integrated unit proceeding, a setback of 250 feet around the
11 bore of that well shall be maintained in all operations upon a
12 unit created under this chapter. The acreage within that setback
13 area shall not be acreage within the unit. For horizontal wells,
14 the 250 feet setback requirement from lease and unit lines
15 imposed under section 3421(c) (relating to standard unit order)
16 shall apply to wells drilled after the effective date of this
17 chapter.

18 § 3494. Well setback.

19 No perforated segment of any well drilled to be produced from
20 an unconventional reservoir shall be located at any point less
21 than 250 feet from the boundary of:

- 22 (1) a lease not included in a proposed voluntary unit or
23 unit applied for or established under this chapter;
24 (2) a voluntary unit formed for the well; or
25 (3) any unit applied for or established under this
26 chapter for the well.

27 § 3495. Voluntary establishment of a standard unit.

28 An order of the commission shall not be required for the
29 voluntary establishment of a standard unit.

30 § 3496. Drilling permit not required.

1 The commission may not require an applicant to obtain a
2 drilling permit to qualify for the establishment of a standard
3 unit.

4 Section 2. Repeals are as follows:

5 (1) The General Assembly declares that the repeal under
6 paragraph (2) is necessary to effectuate the addition of 58
7 Pa.C.S. Ch. 34.

8 (2) The act of July 25, 1961 (P.L.825, No.359), known as
9 the Oil and Gas Conservation Law, is repealed.

10 Section 3. The addition of 58 Pa.C.S. Ch. 34 is a
11 continuation of the act of July 25, 1961 (P.L.825, No.359),
12 known as the Oil and Gas Conservation Law. The following apply:

13 (1) Except as otherwise provided in 58 Pa.C.S. Ch. 34,
14 all activities initiated under the Oil and Gas Conservation
15 Law shall continue and remain in full force and effect and
16 may be completed under 58 Pa.C.S. Ch. 34. Orders,
17 regulations, rules and decisions which were made under the
18 Oil and Gas Conservation Law and which are in effect on the
19 effective date of section 2(2) of this act shall remain in
20 full force and effect until revoked, vacated or modified
21 under 58 Pa.C.S. Ch. 34. Contracts, obligations and
22 collective bargaining agreements entered into under the Oil
23 and Gas Conservation Law are not affected nor impaired by the
24 repeal of the Oil and Gas Conservation Law.

25 (2) Except as set forth in paragraph (3), any difference
26 in language between 58 Pa.C.S. Ch. 34 and the Oil and Gas
27 Conservation Law is intended only to conform to the style of
28 the Pennsylvania Consolidated Statutes and is not intended to
29 change or affect the legislative intent, judicial
30 construction or administration and implementation of the Oil

1 and Gas Conservation Law.

2 (3) Paragraph (2) does not apply to the addition of the
3 following provisions:

4 (i) The following definitions in section 3403:

5 (A) "Nonconsenting party."

6 (B) "Unit."

7 (ii) Section 3421(a) and (c).

8 (iii) Section 3431.1(a) and (c).

9 (iv) Section 3433(c) (2) and (3).

10 (v) Section 3434(c).

11 (vi) Section 3441(c).

12 (vii) Section 3443(a) introductory paragraph.

13 Section 4. This act shall take effect immediately.