

ENERGY ALERT

AMENDMENTS TO THE COAL AND GAS RESOURCE COORDINATION ACT

The Coal and Gas Resource Coordination Act (“Act”) – which applies to all gas wells which penetrate a workable coal seam – has recently been amended to modernize this existing legislation to address the impacts of horizontal drilling, associated with the Marcellus and Utica formations, through active coal seams in Pennsylvania. These amendments include:

- Substantive changes to the definitions of various terms including what is deemed an “active coal mine” and “workable coal seam” and addition of the term “well cluster”;
- Updates to reference permitting requirements set forth in the Oil and Gas Act;
- Requirement that well clusters covered by the Act be at least 2,000 feet apart, unless otherwise agreed by the coal and gas operators; and
- Requires oil and gas operators, whose well clusters will penetrate an operating coal mine, to obtain the written consent of the coal operator before drilling, and such consent is a prerequisite to obtaining a drilling permit.

As indicated above, several definitions have been revised and updated. The definition of “workable coal seam” has been updated to conform to the similar definition contained in the Oil and Gas Act. The definition of “active coal mine” has been revised to mean that portion of a “workable coal seam” which is shown on the five-year timing map prepared by the mine operator and provided to DEP upon issuance of a new, amended or renewed permit. The definition of an “operating coal mine” has been revised to mean that portion of a “workable coal seam” which is covered by an underground mining permit issued by DEP. It appears these definitions will provide a greater level of certainty for oil and gas operators determining whether their wells penetrate an active coal mine or an operating coal mine.

Although there have been significant changes to these definition, the main thrust of the amendments is to regulate spacing of “well clusters”. The Act now prohibits an oil and gas operator from locating a well cluster well within 2,000 feet of any other well cluster. A “well cluster” is defined as an area within a well pad intended to host multiple horizontal wells and which comprises an area no greater than 5,000 square feet. In this respect the Act now regulates spacing of well pads containing multiple horizontal wells, which is a common arrangement when drilling the Marcellus Shale.

Moreover, the amendments to the Act codify the requirement that oil and gas operators must obtain the written consent of the coal operator as to the proposed location of the well before drilling any well that will penetrate the operating coal mine. Indeed, the consent is a prerequisite to obtaining a drilling permit under the Oil and Gas Act. In the event the parties are unable to

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agree upon a drilling location the Act provides for a dispute resolution process. Additionally, oil and gas operators must also provide a copy of the well plat – as required under the Oil and Gas Act – to the coal owner if the coal rights have been severed from the surface. Previously, a copy of the well plat was only required to be sent to the surface owner. Oil and gas operators are also now required to prepare a well bore deviation survey and provide a copy to the coal owner within 60 days of completing drilling operations. This presumably is intended to notify the coal owner if the well was not drilled in the approved location pursuant to the Act.

The amendments also call on DEP 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. The Environmental Quality Board may promulgate regulations under the Act to modify the maximum area of a well cluster based on the pillar support study.

The Energy Alert is intended to keep readers current on matters affecting businesses and is not intended to be legal advice. Should you have any questions concerning the amendments to the Coal and Gas Resource Coordination Act, please contact James Pellow at 412.566.1986, Daniel Clearfield at 717.237.7173, Erin McDowell at 412.566.6070, or any other attorney with whom you have been working.

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