

Natural Gas and Municipal Regulation in Pennsylvania

Road Posting and Bonding

Local authorities that adopt ordinances under the Size, Weight and Load chapter of the Vehicles Title or that establish size and weight restrictions that differ from those provided in the chapter must comply with Department of Transportation regulations. 75 Pa. Cons. Stat. § 4901. Those regulations can be found in the Pennsylvania Code in Chapter 189, Hauling in Excess of Posted Weight Limit, 67 Pa. Code §§ 189.1-189.4.

An explanation of key procedures and standards for posting and bonding of roads and for bridges located on posted roads can be found on page 8 of *Timber Harvesting in Pennsylvania: Information for Citizens and Local Government Officials*, published by the School of Forest Resources at Penn State and available online at <http://pubs.cas.psu.edu/FreePubs/pdfs/uh097.pdf>. *Posting and Bonding Procedures for Municipal Highways*, PennDOT publication 221, is available for purchase through the PennDOT Sales Store.

Municipal Regulation and the Oil and Gas Act, 58 P.S. § 601.101-601.607

The ability of municipalities to regulate natural gas exploration is addressed in Section 601.602 of the Oil and Gas Act: “[n]o ordinances or enactment, adopted pursuant to the aforementioned acts shall contain provisions which impose conditions, requirements or limitations on the same features of oil and gas well operations regulated by this act...” 58 P.S. § 601.602.

The Pennsylvania Commonwealth Court has decided two cases concerning this section of the act. *See Great Lakes Energy Partners v. Salem Township*, 931 A.2d 101 (Pa. Commw. Ct. 2007); *Huntley & Huntley, Inc. v. Borough of Oakmont*, 929 A.2d 1252 (Pa. Commw. Ct. 2007). In these cases, the court has held that municipal regulations that restrict areas already addressed by the act, and even those municipal regulations that are consistent with the act, are subject to preemption. In *Huntley* the court said that even though any regulation related to features the act already addressed would be preempted, the Oil and Gas Act doesn’t preempt all local regulation.

Both cases are currently on appeal to the Pennsylvania Supreme Court. Below is a list of all the section titles and areas addressed by the Oil and Gas Act:

- Well Permits: §601.201
- Well Registration and Identification: §601.203
- Inactive Status: §601.204
- Well Location Restrictions: §601.205
- Well Site Restoration: §601.206
- Protection of Fresh Groundwater, Casting Requirements: §601.207
- Protection of Water Supplies: §601.208
- Use of Safety Devices: §601.209
- Plugging Requirements: §601.210
- Approval of Alternative methods: §601.211
- Well Reporting Requirements: §601.212
- Notification and Effect of Well Transfer: §601.213
- Coal Operator Responsibilities: §601.214
- Bonding: §601.215

- Oil and Gas Technical Advisory Board: §601.216
- Reporting Requirements for Gas Storage Operations: §601.301
- Reporting Requirements for Coal Mining Operations: §601.302
- General Gas Storage Reservoir Operations: §601.303
- Gas Storage Reservoir Operations in Coal Areas: §601.304
- Inspection of Facilities and Records: §601.305
- Exemptions: §601.307
- Appropriation of Interest in Real Property: §601.401
- Conferences: §601.501
- Public Nuisances: §601.502
- Enforcement Orders: §601.503
- Restraining Violations: §601.504
- Penalties: §601.505
- Civil Penalties: §601.506
- Existing Rights and Remedies Preserved; Cumulative Remedies Authorized: §601.507
- Production of Materials; Witnesses; Depositions; Rights of Entry: §601.508
- Unlawful Contact: §601.509
- Third Party Liability: §601.511
- Well Plugging Funds: §601.601
- Local Ordinances: §601.602
- Effect on Department Authority: §601.603
- Relationship to Solid Waste and Surface Mining: §601.603(a)
- Regulatory Authority: §601.604
- Severability: §601.605
- Repeals: §601.606
- Effective Date: §601.607