



Senate Environmental Resources and Energy Committee

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Summary of Amendment #A10641 to Senate Bill 1346

Amendment Sponsor: Senator Yudichak

Analysis

- Comprehensive amendment to replace the language creating Chapter 81A with language to amend Chapter 81 (Good Samaritan), which will allow DEP to utilize the current review process in place for the approval of other AMD abatement projects.

Summary

- Further amends “*eligible land and water*”, “*water pollution abatement facilities*” and “*water pollution abatement project*” to include the use (a structure system, practice, technique or method constructed) of mine drainage or mine pool water for hydraulic fracturing or other development of gas wells.
- Includes new definitions for:
 - “*Mine operator.*” The permittee of an active or closed mine that treats mine drainage pursuant to a permit or permits issued by the Department.
 - “*Treated mine drainage.*” Water from an active or closed mine that is treated by the mine operator pursuant to permits issued by the Department. Treated mine drainage that meets the effluent limits for the National Pollutant Discharge Elimination System permit for the source mine is not a solid waste as that term is defined in the Solid Waste Management Act and the regulations there under.
- Amends § 8105 (d) by further clarifying that the department will review each proposed water pollution abatement project and approve the project if the department determines the proposed project is likely to improve the water quality *of an existing pollutional discharge or will likely have a beneficial impact on water resources in the Commonwealth.*
- Amends § 8106 to include “any downstream riparian landowner” as a third party.
- Creates new subsection (D) in §8106 regarding the use of mine water for hydraulic fracturing.

- Landowners and mine operators that are responsible for treating mine drainage or mine pool water from a permitted mining activity site will not be deemed to assume legal responsibility or incur liability for any cost, injury or damage that occurs in connection with the use of mine drainage, mine pool water or treated mine water in connection with the hydraulic fracturing process or other development of a gas well.
- Amends § 8107 to clarify that a person who provides equipment, materials, *funding* or services at no cost *to the Commonwealth*, or at cost for a reclamation project or a water pollution abatement project *or who implements any such project* shall:
 - Be immune from liability for any injury to or damage suffered by a person, *including any downstream riparian landowner*, which occurs as a result of:
 - The water pollution abatement facilities constructed or installed during water pollution abatement project, *and*
 - *A reclamation project or a water pollution abatement project.*
 - *Not be considered to be engaging in surface or underground mining activities pursuant to the Surface Mining Conservation and Reclamation Act or the Bituminous Mine Subsidence and Land Conservation Act, when the water pollution abatement project involves the use of mine drainage or mine pool water for hydraulic fracturing or other development of a gas well.*
 - *Not be considered to be engaging in surface or underground mining activities pursuant to the act of May 31, 1945 (P.L. 1198, No. 418), known as the Surface Mining Conservation and Reclamation Act, or the act of April 27, 1966 (1st Sp. Sess., P.L. 31, No. 1), known as the Bituminous Mine Subsidence and Land Conservation Act, when the water pollution abatement project involves the use of mine drainage or mine pool water for hydraulic fracturing or other development of a gas well.*
- Clarifies §8111 by stating that the following will not be eligible nor will receive the benefit of the protections for the following:
 - Any person who under existing law will be or may become responsible to reclaim the land or treat or abate the water pollution.
 - Any person who receives payment consideration or some other benefit through a contract to reclaim the land or treat or abate the water pollution.
 - Any person who through a consent order and agreement or otherwise agrees or is ordered to perform or complete reclamation or treat or abate water pollution as a study as a surety which provided a bond for the site.
- Assures that any person who uses and any person who allows the use of or provides mine drainage, mine pool water or treated mine water, as part of a water pollution abatement project, including a mine operator that provides for payment or otherwise treated mine drainage, for hydraulic fracturing or other development of a gas well shall receive the benefit of the protections and immunities available under the Good Samaritan Chapter.