



Ohio Governor Kasich Signs Energy Bill Into Law With Implications for State Fracking Operations

by Squire, Sanders & Dempsey. Reprinted with permission.*

On June 11, 2012, Ohio Governor Kasich signed into law Am. Sub. S.B. 315 (129th Ohio General Assembly), which expands Ohio's current shale gas regulatory scheme applicable to fracking operations within the state, clarifies jurisdictional issues related to the siting of intrastate gas pipelines, incentivizes the development of cogeneration technologies and makes a host of other energy-related changes to Ohio law. SB 315 constitutes the energy portion of Kasich's mid-biennium review (MBR) of state government operations and is the outgrowth of several energy proposals discussed at the two-day energy summit hosted by the Governor last September.

Introduced on March 22, 2012, SB 315 quickly worked its way through the General Assembly, undergoing several changes before receiving final approval at the end of May. After signing the bill, Kasich took the unusual step of visiting the Senate to thank legislators for their efforts in enacting this and other MBR-

related measures. Although certain changes became effective immediately, most will take effect in 90 days (September 10, 2012). The following pages provide a brief overview of significant topics addressed by SB 315.

Shale Gas

SB 315 establishes a new definition of "horizontal well" to ensure that fracking operations within the state are subject to the Ohio Department of Natural Resource's (ODNR) existing permitting and regulatory scheme. "Horizontal well" is defined as "a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated." The bill also includes amendments to ODNR's oil and gas statutes that would:

(Continued on page 4)

Inside this issue:

State Fracking Law Update	1
Tech Tip: Westlaw	2
Fastcase Webinars	3
Free CLE	3
You and the Legal System: Institutional Medicaid	6
Elder Law Resources	7

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[www.http://www.hamilton-co.org/cinlawlib/](http://www.hamilton-co.org/cinlawlib/)

Tech Tip: Westlaw materials available to you as a subscriber

By Julie Koehne

Ever wonder what you get for the subscription fee you pay every year? Here is a look at what you have access to from Westlaw.

- + American Law Reports
- + American Jurisprudence Pleading and Practice Forms Annotated
- + American Jurisprudence Proof of Facts & Trials Library
- + Federal Practice and Procedure
- + American Jurisprudence 2d
- + Restatements of the Law & Principles of the Law
- + Major Litigation Treatises and Legal Forms
- + Major Secondary Publications
- + Journals and Law Reviews
- + Federal Analytical Library
- + Causes of Action
- + CJS Slice
- + ABA Journal
- + American Jurisprudence Legal Forms 2d
- + Ohio Forms
- + Ohio Jurisprudence 3d
- + Baldwin's Ohio Practice Library
- + Jury Verdicts
- + Kentucky Practice
- + Ohio PRO Plan
- + Keycite
- + Ohio Family Practice Analytical
- + Family Law Practitioner National Analytical
- + Ohio Municipal Law Core
- + Municipal Law Practitioner Core
- + Ohio Estate Planning Practitioner Core
- + Estate Planning Practitioner Core
- + FormFinder

Titles available within Baldwin's Ohio Practice

- Criminal Law
- Domestic Relations
- Elder Law
- Evidence
- Probate Law
- Construction Law
- Real Estate Law
- Tort Law
- Appellate Practice
- Arrest, Search & Seizure
- Consumer Law
- Criminal Defense Motions
- Domestic Violence law
- Driving under the influence law
- Employment Practice Law
- Ohio Forms and Transactions
- Insurance Coverage
- Juvenile Law
- Landlord Tenant Law
- Mechanics and Materialmens Liens
- Personal Injury practice
- Planning and Zoning Law
- School Law

Just one book typically costs over \$100!



You may access these materials in our lab!

OR contact us via phone (946-5300) or email

reference@cms.hamilton-co.org

and we will be happy to retrieve your request.

Free CLE

Due to increased attendance, registration in advance is now required for all Law Library CLEs.

Free to subscribers; \$35 for non-subscribers

To register, call 513.946.5300 or via email masweeney@cms.hamilton-co.org

Social Networking for Litigation Research

Thursday, August 2

Noon-1pm

Susan M. Boland from the University of Cincinnati Law Library will show you how to use social networking sites for litigation research, focusing on:

- General research techniques
- Specifics on finding info on expert witnesses, opposing counsel, jurors and witnesses
- Ethical considerations when using social media for research

Approved for 1.0 hour of general CLE in Ohio, and Kentucky.

Pulled Over: Wil It Be A DUI?

Friday, September 28

Noon-1pm

Attorney Chuck Strain will focus on the legal issues the arise just before and after a DUI arrest. He will address such questions as:

- What should an individual say and not say to the officer?
- What should an individual be certain not to do as you exit the vehicle?
- Should an individual submit to field sobriety tests?
- Should an individual refuse a blood

or urine test at the station?

- How should you handle that 3 am phone call from the police station?
- Have chemical test refusals become criminalized? If so, is it unethical to advise a client to refuse?

1.0 hour of general CLE is pending in Ohio and Kentucky.

Free Fastcase Webinars

Did you know that remote access to Fastcase comes with your Law Library subscription? Join us this summer for free Fastcase training! We will be broadcasting the following webinars here at the Law Library:

Tips for Enhanced Legal Research with Fastcase

Wednesday, August 8

1:00-2:00pm

Keyword (Boolean Search) for Lawyers

Monday, August 27

1:00-2:00pm

To register, call 946.5300 or email reference@cms.hamilton-co.org

Subscribers can also access these webinars from your home or office. Check out the list of upcoming webinars here-

<http://www.fastcase.com/webinars/>

To view a webinar from your office, click register and fill out the form. You will receive a link to the webinar in your email.

***Note: these are not CLE programs.**

(Continued from page 1)

- Direct ODNR to establish rules governing horizontal wells, production facilities associated with horizontal wells and the amount and sources of ground or surface water used in fracking operations;
- Require permit applications to ODNR for shale gas production sites to identify the source and estimated amount of water that will be used in fracking production and whether any water will be withdrawn from the Lake Erie or Ohio river watersheds;
- Require pre-drilling sampling for groundwater wells located within 300 feet of a new proposed well in an urbanized area or within 1,500 feet of a new proposed horizontal well in non-urban areas;
- Require the owner of a horizontal well to maintain liability insurance coverage in the amount of US\$5 million in order to pay for potential injuries or property damage caused by the owner's fracking operations within the state as well as a "reasonable level" of coverage for environmental liability;
- Require shale drilling operators to disclose within 60 days after the completion of drilling operations certain information, including identification of any additives used, regarding the products, fluids and substances intentionally added to facilitate the drilling of any portion of the well until the surface casing is set and properly sealed or to stimulate the well;
- Create a trade secret exemption from disclosure requirements for certain information relating to chemical components used, provided that access to such information must be given to medical professionals if needed for diagnosis or treatment;
- Authorize ODNR to adopt rules that help ensure the safe disposal of wastewater

through underground injection and establish related requirements and procedures to protect public health and safety;

- Require permit applications for new horizontal wells to include either a "reasonable" road use and maintenance agreement with the relevant public official(s) or an affidavit attesting that no such agreement could be reached despite "good faith" efforts; and
- Subject well operators who violate safety and environmental regulations to mandatory daily fines.

In addition, SB 315 requires Ohio EPA, in coordination with ODNR, US EPA and others, to evaluate emerging wastewater treatment and recycling technologies that may reduce reliance on underground injection wells and assist in the exploration and production of oil and gas, such as through pilot projects on wastewater treatment and recycling.

Gas Pipelines

SB 315 clarifies and amends the jurisdiction of the Public Utilities Commission of Ohio (PUCO) and Ohio Power Siting Board (OPSB) over the siting of intrastate gas pipelines, specifically exempting certain businesses from the definition of a "pipeline company" subject to PUCO jurisdiction. The law clarifies the types of projects that constitute a "major utility facility" subject to OPSB's jurisdiction, exempting from that definition gathering and processing pipeline infrastructure that will be required to move Ohio-produced shale resources to refineries and thereafter to market. It also excludes from OPSB siting jurisdiction "natural gas liquids finished product pipelines," pipelines from a gas processing plant to a natural gas liquids fractionation plant, and compressors associated with such pipelines. At the same time, SB 315 also includes provisions that strengthen and clarify the PUCO's oversight of pipeline safety and the application of federal pipeline safety

infrastructure.

Electric Reliability

SB 315 requires the OPSB to adopt rules for an accelerated review of construction certificate applications for electric transmission lines needed for reliability purposes, expediting review of grid enhancements to support grid reliability as Ohio's older and coal-fired generation facilities are retired in coming years.

Alternative Energy Portfolio Standard

SB 315 provides that new or retrofit projects that generate electricity from "exhaust heat" at an industrial site qualify as "waste energy recovery" (WER) projects eligible for renewable energy credits that may be used to meet existing law requirements that electric utilities secure 12.5 percent of their electricity supplies from renewable and alternative energy resources. In addition, certain other WER projects can be included in a utility's energy efficiency program. SB 315 incentivizes cogeneration in the form of combined heat and power (CHP) systems by allowing these technologies to meet alternative efficiency standards in certain instances as well. The bill also revamps the Energy Loan Fund to place more focus on energy efficiency and alternative fuels and requires the Ohio Department of Administrative Services to review cogeneration as an energy source as part of new construction and major renovation in state facilities.

*For additional information regarding these changes and other specific revisions included within SB 315, or for assistance or legal support with shale gas or other energy matters, please contact one of the Squire Sanders lawyers listed or with whom you routinely work.

[Vincent Atriano](#)
[Andrew Etter](#)
[Douglas A. McWilliams](#)
[Kendra S. Sherman](#)
[Nancy A. White](#)
[Karen A. Winters](#)

Law Library Director News

The Law Librarian and Director position is currently vacant. Steve Miller resigned July 13, and the Board will select a new Law Librarian shortly.

Proposed Ohio CLE Changes

On June 11, the Ohio Supreme Court announced proposed changes to the CLE rules. Some highlights of the proposed changes:

- **Professional Conduct Requirement:** Attorneys currently are required to earn two and one-half hours of professional conduct instruction, including one hour of ethics, one hour of professionalism, and one-half hour of substance abuse instruction, every two years. The proposed amendments "unbundle" this requirement to give attorneys more flexibility in choosing courses that most closely meet their professional and practice needs. The amendments also provide that instruction on mental health issues and access to justice and fairness in the courts would now qualify for professional conduct accreditation.
- **Self-Study Credit:** The number of self-study credit hours an attorney could earn each biennial compliance period would be increased from six to twelve hours.
- **Credit for Activities Concurrent with the Consumption of a Meal:** Credit could be awarded for presentations that are concurrent with the consumption of a meal.

For more info on the changes, check out the Supreme Court's website:

http://www.supremecourt.ohio.gov/PIO/news/2012/ruleAmend_061112.asp

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to 6 weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepards', CCH Omnitax, CCH Human Resources Group, and CCH Business Group resources, Hein Online Law Journals and Federal Register, and over 70 Aspen / LOISLaw treatises in 16 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

5 meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/ LOISLaw treatises and CCH Newsletters

You and the Legal System: Institutional Medicaid

Miriam Sheline of Pro Seniors is our next speaker in the *You and the Legal System* Series for the public. Ms. Sheline will address Institutional Medicaid on Friday, August 17, 2012 at 12:00 noon at the Law Library. Topics will include:

- Eligibility and the Medicaid Process
- What assets can I keep?
- What will I have to pay to the nursing home?
- What if I am married, what can my spouse keep of my assets and income?

The program is free to the public. To register, call 513.946.5300.

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact Laura Dixon-Caldwell at 513.946.5300.

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service.

Save the date for the next event in the *You and the Legal System* Series. James Grey Wolf will discuss criminal law on September 21.



Library Resources on Elder Law

The Law Library offers a variety of print and electronic resources on Elder Law. If you have questions about access to any of these resources, just call us at 513.946.5300.

Books

Alive and kicking : legal advice for boomers / Kenney F. Hegland, Robert B. Fleming.
KF3823.Z9 H44 2007

Anderson's Ohio Elder Law Practice Manual/ Gregory S. French, Ruth R. Longenecker and Richard T. Taps
KFO140 .L66

Elder law and financial strategies: planning for later in life/ Jerry A. Hyman
KF390 .A4 H96

Elder law answer book / Robert B. Fleming, Lisa Nachmias Davis.
KF390.A4 F58 2010

Elder law handbook / Daniel P. Seink, editor.
KFO91.A3 E42 2010

Elderlaw forms manual/ Harry S. Margolin**
KF390.A4 M37

Elderlaw portfolio series/ Harry S. Margolin, Editor
KF390.A4 E429

Estate planning and recovery for elderly clients in Ohio
KFO91 .A3 E78 2010

Everyday law for seniors / Lawrence A. Frolik and Linda S. Whitton.
KF390.A4 F7535 2010

How to protect elders from harm/ James T. O'Reilly
KF1257 .O757 2009

Litigating the nursing home case / James T. O'Reilly.

KF3826.N8 O74 2009

Long-term care: how to plan and pay for it/ Joseph T. Matthews*
KF3826 .N8 M38 2010

Medicaid: Planning, Application and Appeals [in Ohio]
KFO341.5 .P65 M432 2010

Ohio elder law/ Margaret H. Kreiner.
KFO91.A3 O365 2010

Ohio elder law institute.
KFO91.A3 O38 2011

The Ohio Medicaid manual : the how-to manual for attorneys providing the tools to plan in a post DRA 2005 world / Richard T. Taps, Rhonda J. Cress.
KFO341.5.P65 T36 2008

Resolving legal and financial issues in elder care in Ohio
KFO91.A3 E43 2011

**Available online through Loislaw/Aspen
*Available online through EBSCO

Online Resources

These resources may be accessed remotely through the Law Library's website

Aspen/Loislaw Elder Law Library

Representing the Elderly Client
Elder Law Answer Book
Social Security & Medicare Answer Book

EBSCO NOLO Guides

Complete Guide to Medicare & Nursing Home Costs
Social Security, Medicare & Government Pensions
Social Security & Medicare handbook

Upcoming Events

August 2: CLE: Social Networking for Litigation Research

August 8: Fastcase Webinar: Tips for Enhanced Legal Research with Fastcase

August 20: You and the Legal System: Institutional Medicaid

August 27: Fastcase Webinar: Keyword (Boolean Search) for Lawyers

September 17: You and the Legal System: Criminal Law

September 28: DUI CLE

Law Library Holidays

The Law Library will be closed on Monday, September 3 in observance of Labor Day.

August 2012 Law Library Newsletter

INSIDE THIS MONTH

- Elder Law Resources
- Tech Tip: Westlaw Access
- Free CLE
- You and the Legal System: Institutional Medicaid

ADDRESS CORRECTION REQUESTED

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