



MARCELLUS SHALE
IMPACT FEE
Implementing Act 13

Investing in the Future

What is Act 13?

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**Signed into
law
14 Feb 2012**

**Amends Title
58 (Oil &
Gas) of PA
Consolidated
Statutes**

- Act 13 provides for the imposition of an unconventional gas well fee.
- Law mandates that fees collected get disbursed to local and state entities for purposes outlined in Act 13
- Fee based on impact of natural gas development on local & state resources and infrastructure

What Act 13 is NOT

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- Act 13 is NOT a severance tax.
- Act 13 does NOT give relief on requirement to fix damages to bonded-roads etc
- Act 13 costs are NOT to be imposed on the land owners receiving royalty payments

Who Shaped Act 13?

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- Governor's Office
- State House
- State Senate
- PA State Assoc Twp Supervisors
- PA State Assoc Twp Commissioners
- PA League of Cities
- County Commissioners Association PA
- PA Boroughs Association
- Gas Industry
- Environmentalists
- Housing Coalitions

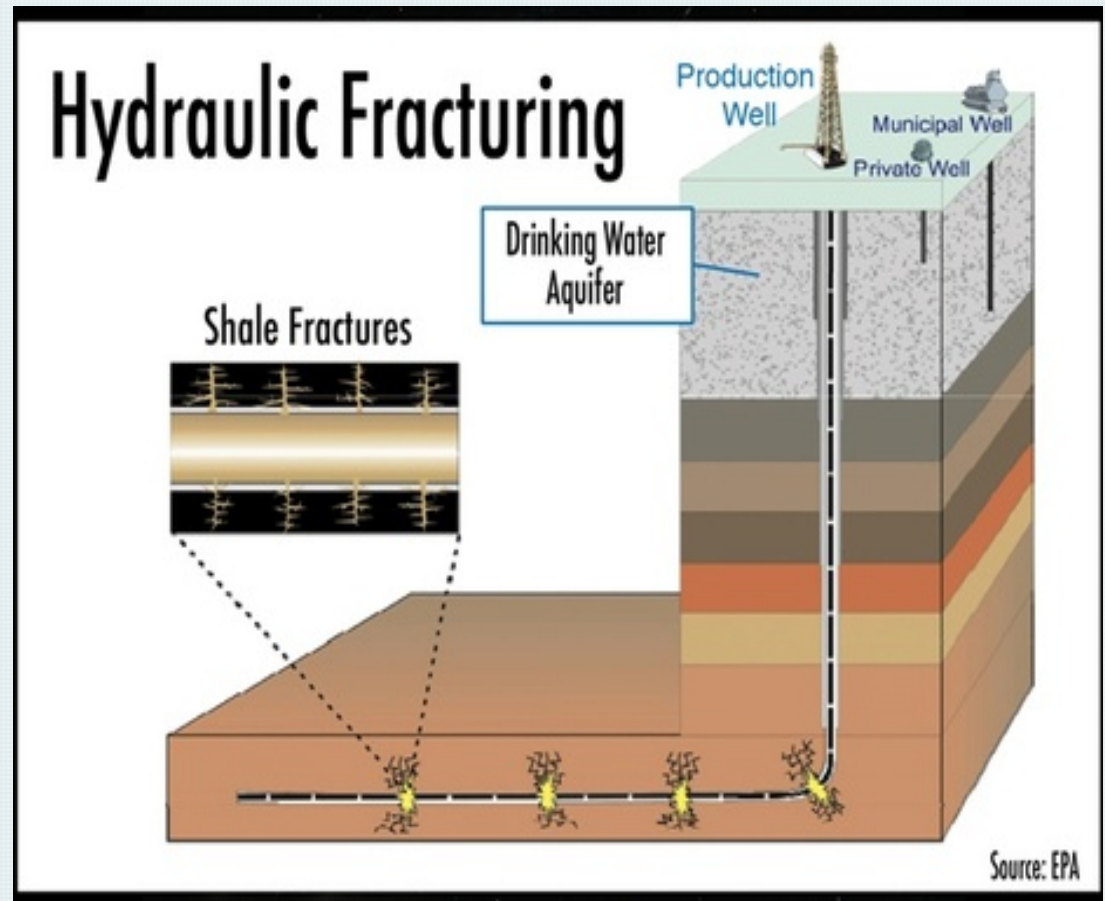
It's a Local Decision

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- Counties **may adopt** “implementing ordinance” by April 16th (within 60 days of Act 13 passage)
- Municipalities can “override by “resolution” (must be passed within 120 days of Act 13’s passage)
- **No ordinance enacted—no funds received!**
- Lycoming County Commissioners
 - ☑ **Notified PUC of intent to adopt ordinance**
 - ☑ **Scheduled adoption of ordinance for April 5th**

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- Drilled into Unconventional Formations like Marcellus or Utica Shale
- Vertical & Horizontal Drilling
- Stimulated by Fracking



Impact Fee Implementation

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Wells Subject to Impact Fee

- Spud Wells
 - ☑ Spud: *actual start of drilling of unconventional wells*
 - ☑ Unconventional Wells (100%)
 - ☑ Vertical Wells (20%)
- Capped Wells
- Re-stimulated Wells

Basis of Fee Application

- Annual fee based on preceding year's gas price
- Levied on wells for 15 years (beginning in 2012)
- Adjusted annually for inflation (CPI)

Stripper Well: *Not in count—yield less than 90,000cf/day*

Impact Fee Structure

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Year Spud	Average Annual Price of Natural Gas				
	\$0 - 2.25	\$2.26 - 2.99	\$3.00 - 4.99	\$5.00 - 5.99	\$6.00 ≥
1	40,000	45,000	50,000	55,000	60,000
2	30,000	35,000	40,000	45,000	55,000
3	25,000	30,000	30,000	40,000	50,000
4	10,000	15,000	20,000	20,000	20,000
5	10,000	15,000	20,000	20,000	20,000
6	10,000	15,000	20,000	20,000	20,000
7	10,000	15,000	20,000	20,000	20,000
8	10,000	15,000	20,000	20,000	20,000
9	10,000	15,000	20,000	20,000	20,000
10	10,000	15,000	20,000	20,000	20,000
11	5,000	5,000	10,000	10,000	10,000
12	5,000	5,000	10,000	10,000	10,000
13	5,000	5,000	10,000	10,000	10,000
14	5,000	5,000	10,000	10,000	10,000
15	5,000	5,000	10,000	10,000	10,000
TOTAL	\$190K	\$240K	\$310K	\$330K	\$355K

Impact Fee Enactment Timeline

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2/14/2012

Act 13
passage

4/16/2012

Counties have
60 days from
passage of Act
13 to enact
the legislation

8/12/2012

Review and
amendment of a
previously
enacted zoning
ordinance shall
be completed

2/27/2012

DEP provides
PUC with a list
of spud
unconventional
wells in the
Commonwealth

6/13/2012

Municipalities in
Counties that
did not enact
the legislation
can compel the
imposition of a
fee

Impact Fee Enactment Timeline

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9/1/2012

Fee on initial wells (spud before 1/1/2012) due to PUC from well operators

12/1/2012

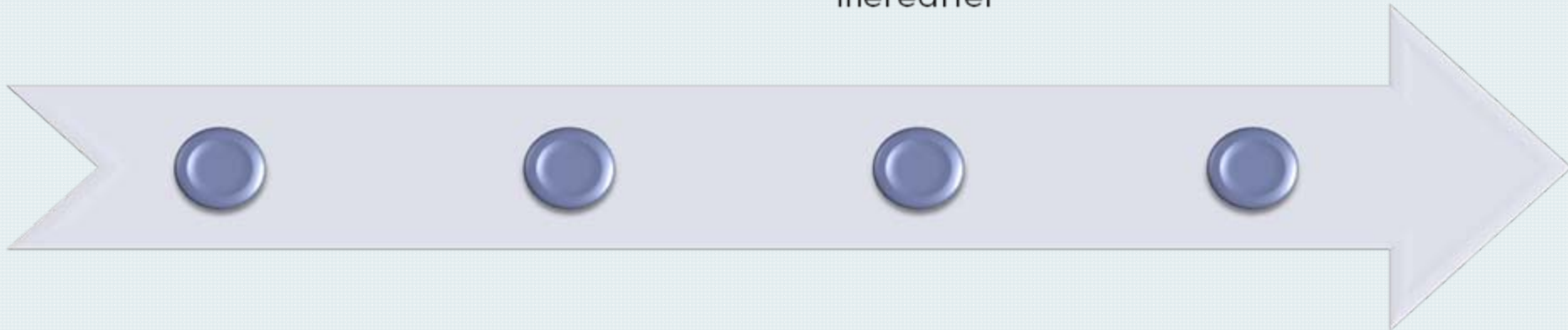
Counties and municipalities will receive funds—individual checks to each jurisdiction

4/1/2013

Fee due from well operators on wells spud after 1/1/2012. Fees due each April 1st thereafter

7/1/2013

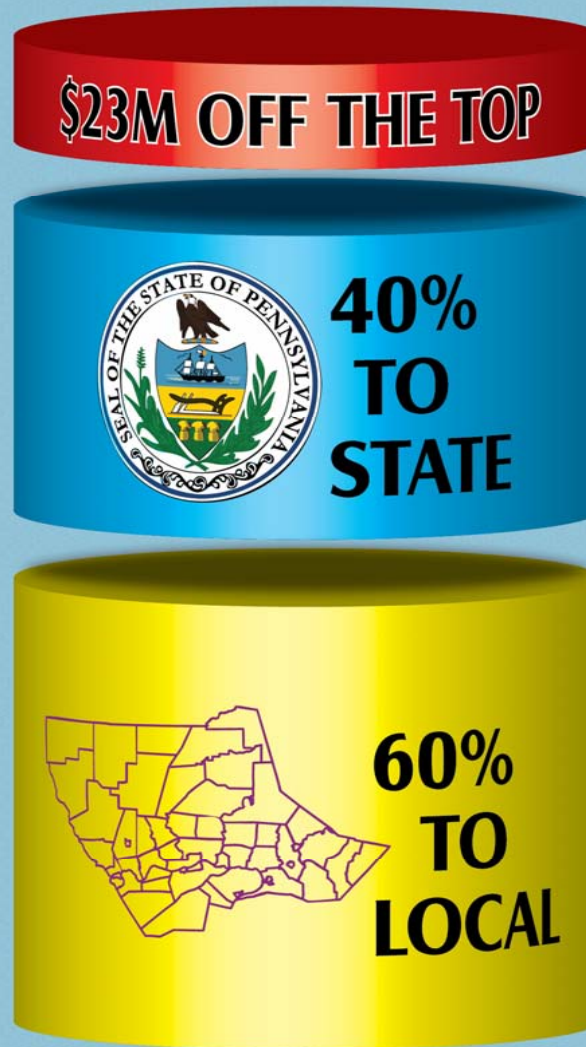
Counties and municipalities will receive funds. Funds distributed by July 1 thereafter



Impact Fee Distribution

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ACT
13



State Allocation—"Off The Top"

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The Unconventional Gas Well Fund

Program / Department	Year 1 Estimated Allocation
County Conservation Districts	\$2,500,000+
Pennsylvania Fish & Boat Commission	\$1,000,000
Public Utility Commission (PUC)	\$1,000,000
Dept. of Environmental Protection (DEP)	\$6,000,000
PA Emergency Management Agency (PEMA)	\$750,000
Office of State Fire Commissioners	\$750,000
PA Dept. of Transportation (PennDOT)	\$1,000,000
Natural Gas Energy Development (DEP)	\$10,000,000
TOTAL	\$23,000,000

State Share—40% of Remainder

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The Marcellus Legacy Fund

<i>Program / Department</i>	
20%	Commonwealth Financing Authority (CFA)
10%	Environmental Stewardship Fund
25%	Highway Bridge Improvement Fund
25%	PennVEST and H₂O program (CFA)
15%	Environmental Initiatives
5%	Dept. Community & Economic Development

Locals Benefit from State Share

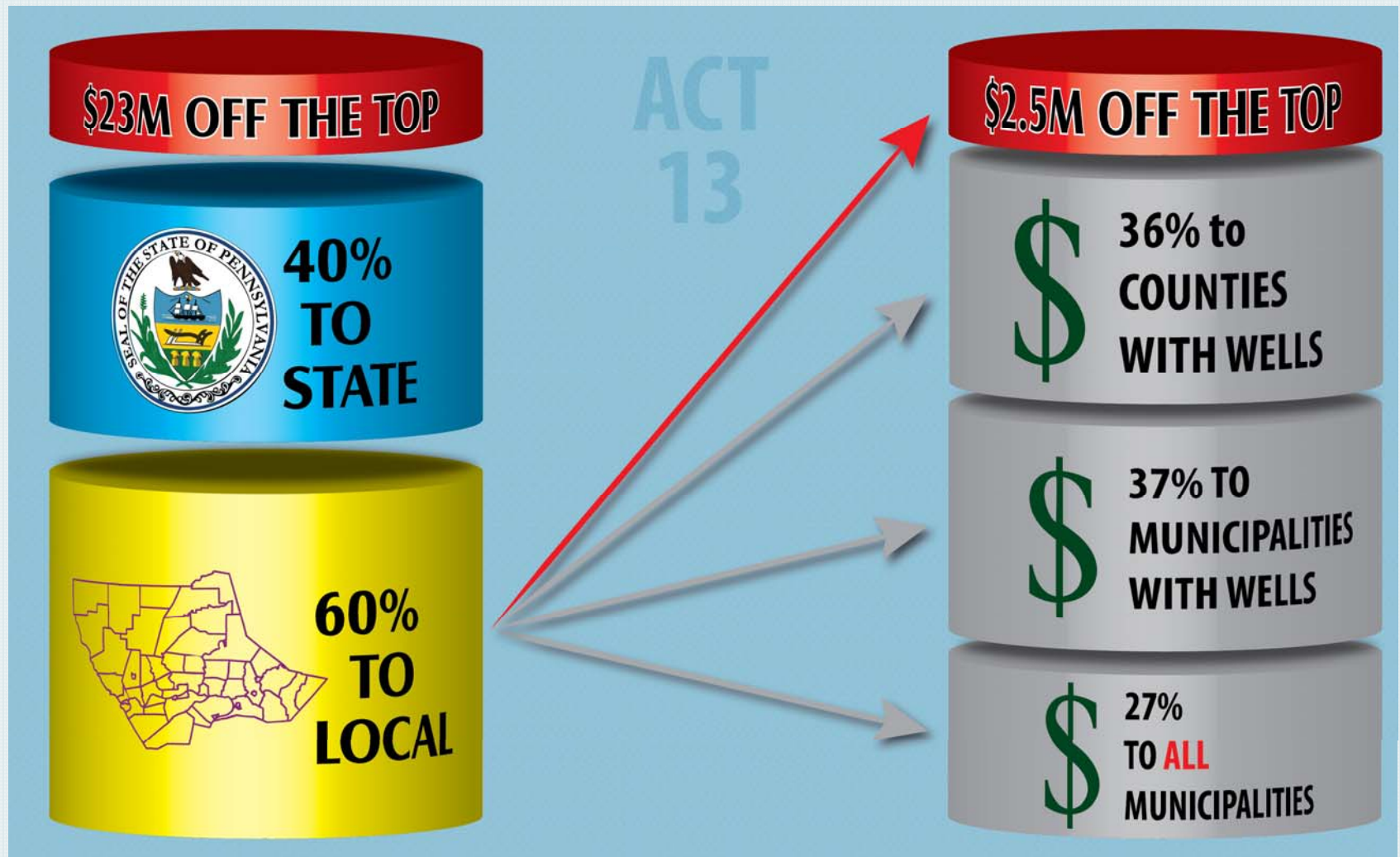
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The Marcellus Legacy Fund—Some Details

- **Highway Bridge Improvement Restricted Account**
 - ☑ Replace/repair local “at risk deteriorated bridges”
 - ☑ Funds allocated statewide to counties—based on pop
 - ☑ Min to a county \$40K—Lycoming expects \$180-220K
- **Environmental Initiatives**
 - ☑ Greenways/trails/heritage parks
 - ☑ Funds allocated statewide to counties—based on pop
 - ☑ Min to a county \$25K—Lycoming expects \$110-135K
- **Counties can apply for grants: CFA & PennVEST**

Local Share—60% of Remainder

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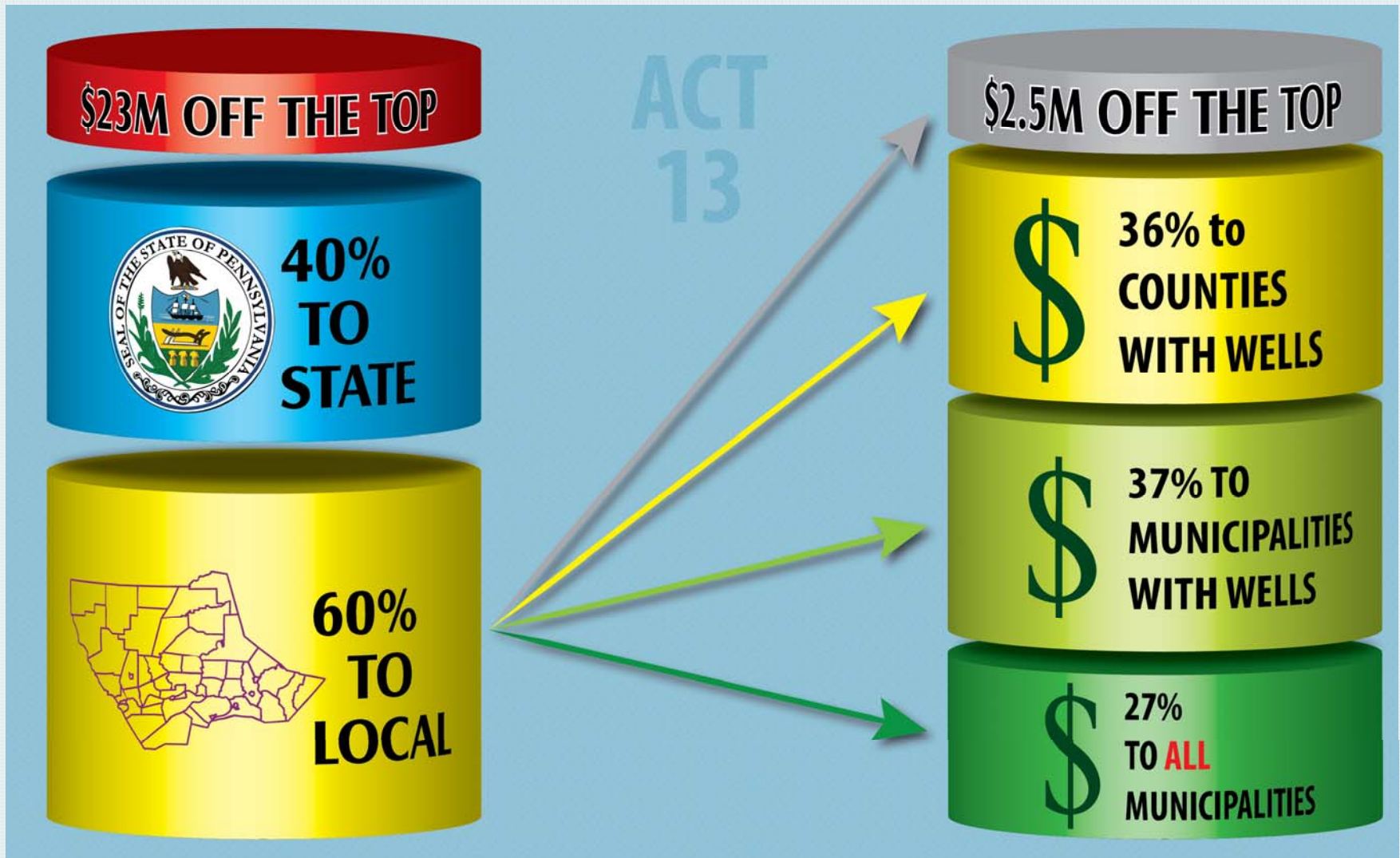
Funding to PHFA

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- PHFA receives \$2.5M “Off the Top”
- Funds **Housing Affordability & Rehab Enhancement**
 - ☑ Covers affordable (low-moderate income) housing projects
 - ☑ Covers rental assistance to LMI persons/families
- Applies only to counties hosting active, unconventional wells

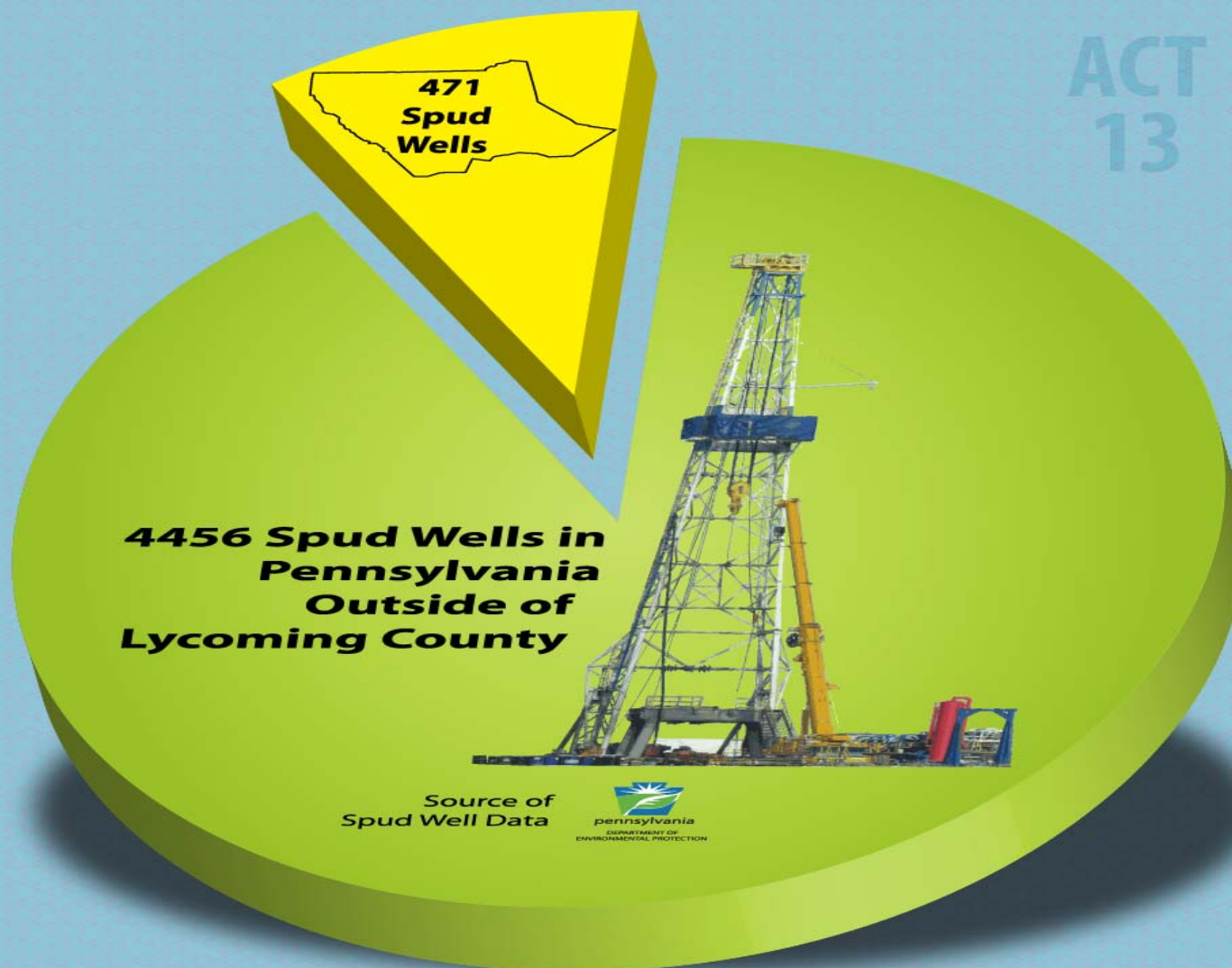
Local Share—60% of Remainder

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4,927 “Spud Wells” in PA*

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* On 12-31-2011

Getting the Count RIGHT

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- By Feb 28th DEP reported to PUC number of Spud Wells issued a Drilling Permit
- Lycoming County is reviewing Data for Accuracy
- Any Discrepancies will be brought to DEP for Resolution

County Impact Fee Allocation

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■ Lycoming County Estimated Allocation (36%)

Year	Estimated County Allocation
1	\$3,776,240
2	\$3,200,000
3	\$2,800,000

■ Key Components of County's Allocation

- ☑ Allocation based on proportion of spud wells physically located within Lycoming County
- ☑ Year 2 and 3 are conservative estimates

Spud Wells in Lycoming County

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■ County and municipal impact fee distributions

- ☑ Allocations based on total number of local spud wells *
- ☑ 471 -- Spud Wells in Lycoming County by 31 Dec 2011 (Year #1)
- ☑ 48 -- More Spud Wells in 2012 (Year #2)

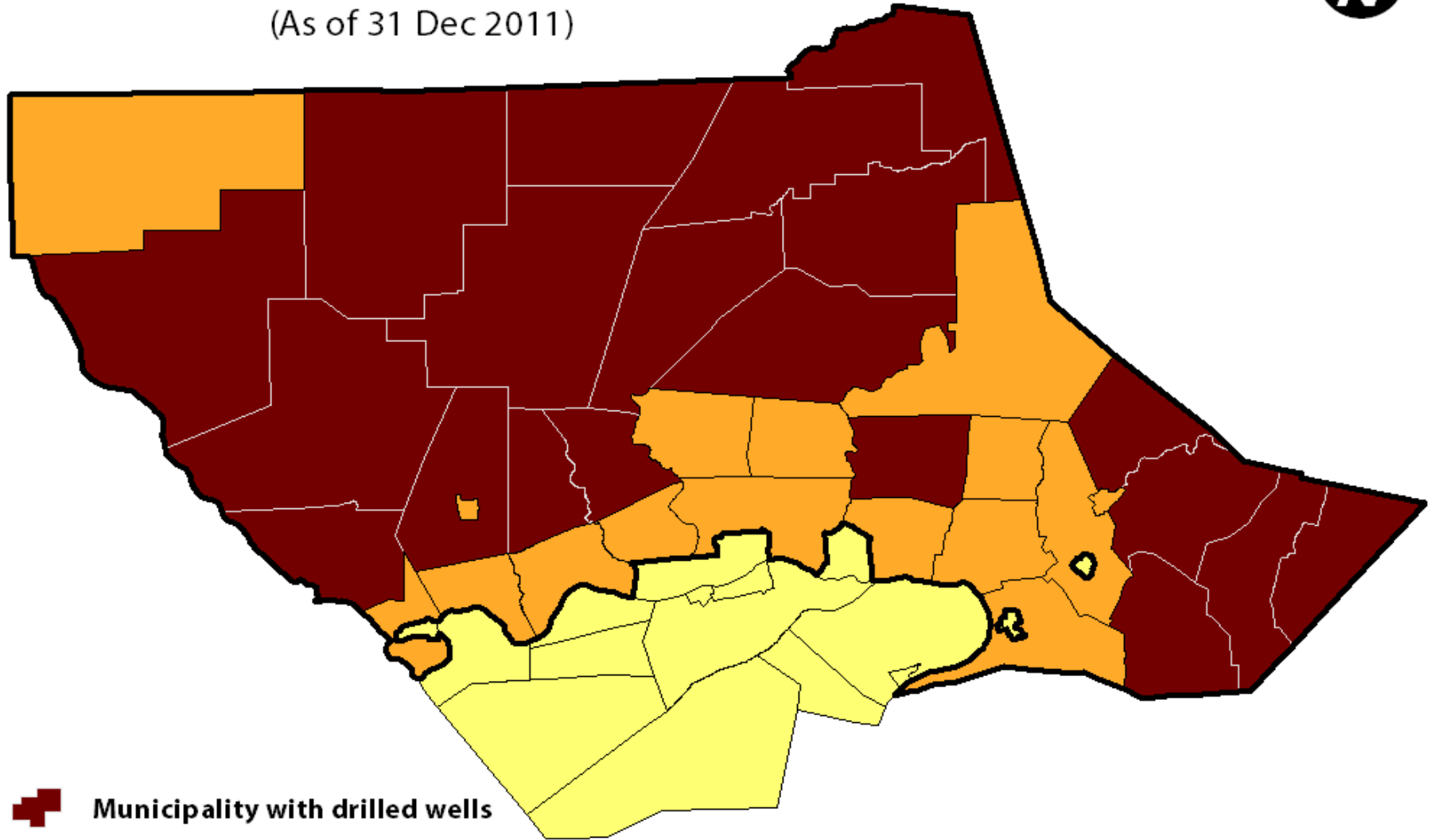
■ Lycoming County Municipalities with spud wells (37%)

- | | | |
|------------------------|---------------------|----------------------------|
| ☑ Anthony Township | ☑ Jordan Township | ☑ Moreland Township |
| ☑ Cascade Township | ☑ Lewis Township | ☑ Penn Township |
| ☑ Cogan House Township | ☑ Lycoming Twp | ☑ Pine Township |
| ☑ Cummings Township | ☑ McHenry Township | ☑ Shrewsbury Township |
| ☑ Franklin Township | ☑ McIntyre Township | ☑ Upper Fairfield Township |
| ☑ Gamble Township | ☑ McNett Township | ☑ Watson Township |
| ☑ Jackson Township | ☑ Mifflin Township | |

* Spud well totals accessed from PA Department of Environmental Protection

Where are they drilling?

(As of 31 Dec 2011)



Municipality with drilled wells



Contiguous Municipality



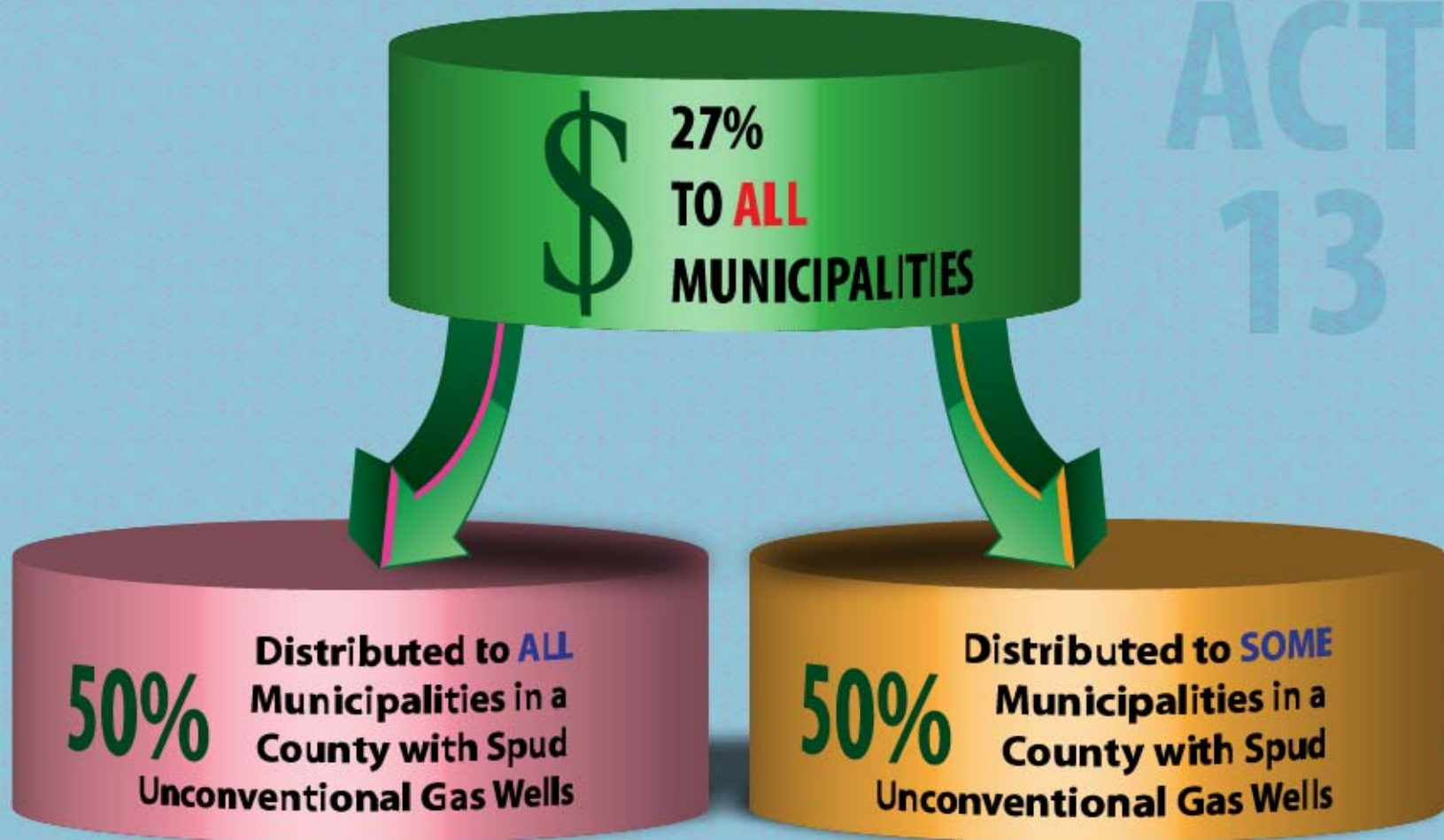
Non-Contiguous Municipality

0 5 10 20
Miles



ADOE - March 2012

The Final Slice (27%)



First Half of the Final Slice

24

- **First Half** goes to **Every** municipality
- $\frac{1}{2}$ is distributed based on the **population** of the municipality vs. total population of the county
- $\frac{1}{2}$ is distributed based on the **highway mileage** of the municipality vs. total highway mileage of county

Second Half of the Final Slice

25

- **Second Half** goes to **Some** municipalities
 - ☑ Those that have a Spud Well
 - ☑ Those that are contiguous with municipalities having Spud Well
 - ☑ Those that are within 5 linear miles of a Spud Well
- $\frac{1}{2}$ is distributed based on the **population** of the municipality vs. total population of the county
- $\frac{1}{2}$ is distributed based on the **highway mileage** of the municipality vs. total highway mileage of county

Municipal Impact Fee Allocation

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■ Estimated Municipal Allocation in Lycoming County

	Year 1 *	Year 2	Year 3
<i>Well-Host Municipal Allocation</i>	\$3,881,136	\$3,300,000	\$2,900,000
<i>Eligible Municipalities and All Municipalities Allocation</i>	\$2,832,180	\$2,400,000	\$2,200,000
Municipal Total	\$6,713,316	\$5,700,000	\$5,100,000

■ Key Components of Municipal Allocation

- ☑ All municipalities receive an allocation
- ☑ Well host municipalities receive an additional allocation
- ☑ Estimates for years 2 & 3 are conservative

*Calculations based on DEP well count

Estimated Municipal Allocation (Yr 1)

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Municipality	Impact Fee Allocation (estimated)	Municipality	Impact Fee Allocation (estimated)
Anthony Township	\$71,200	Gamble Township	\$229,300
Armstrong Township	\$18,200	Hepburn Township	\$77,300
Bastress Township	\$6,100	Hughesville Borough	\$39,500
Brady Township	\$5,600	Jackson Township	\$53,800
Brown Township	\$10,500	Jersey Shore Borough	\$79,900
Cascade Township	\$193,300	Jordan Township	\$66,700
Clinton Township	\$71,900	Lewis Township	\$91,000
Cogan House Township	\$618,600	Limestone Township	\$27,700
Cummings Township	\$1,348,400	Loyalsock Township	\$234,600
Duboistown Borough	\$9,400	Lycoming Township	\$99,200
Eldred Township	\$58,500	McHenry Township	\$293,800
Fairfield Township	\$71,200	McIntyre Township	\$122,100
Franklin Township	\$222,600	McNett Township	\$68,400

*Actual allocations may change based on municipal budget requirements.

**Calculations based on DEP well counts

Estimated Municipal Allocation (Yr 1)

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Municipality	Impact Fee Allocation (estimated)	Municipality	Impact Fee Allocation (estimated)
Mifflin Township	\$115,400	Pine Township	\$71,200
Mill Creek Township	\$34,900	Plunketts Creek Township	\$27,500
Montgomery Borough	\$13,200	Porter Township	\$41,400
Montoursville Borough	\$94,100	Salladasburg Borough	\$4,100
Moreland Township	\$135,300	Shrewsbury Township	\$55,500
Muncy Borough	\$20,700	South Williamsport Borough	\$53,900
Muncy Township	\$37,600	Susquehanna Township	\$9,200
Muncy Creek Township	\$88,500	Upper Fairfield Township	\$63,700
Nippenose Township	\$21,800	Washington Township	\$27,900
Old Lycoming Township	\$115,100	Watson Township	\$267,500
Penn Township	\$494,300	Williamsport City ⁽⁵⁾	\$538,100
Piatt Township	\$37,900	Wolf Township	\$85,300
Picture Rocks Borough	\$16,000	Woodward Township	\$52,000

*Actual allocations may change based on municipal budget requirements.

**Calculations based on DEP well counts

There's a Municipal Cap

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Maximum
Municipal
Share

ACT
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The Greater of:
50% of the previous years budget
- or -
\$500,000

All **remaining** funds
are allocated to
State PHFA



Additional Funding to PHFA

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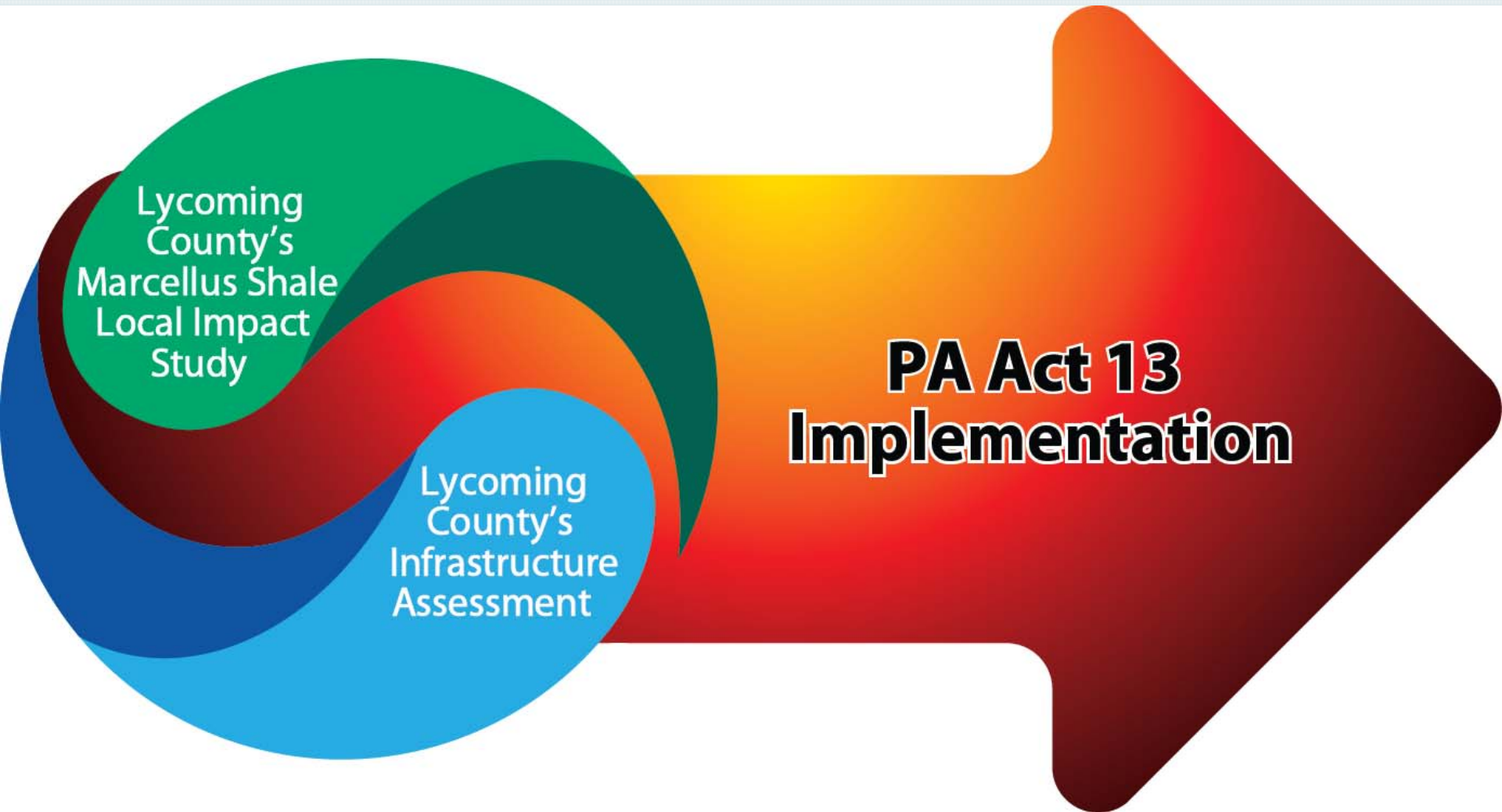
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 - ☑ Covers affordable (low-moderate income) housing projects
 - ☑ Covers rental assistance to LMI persons/families
- Applies only to counties hosting active, unconvent wells
- Funds exceeding Municipal Caps allocated to PHFA for local housing funds – to be used in impacted counties

Eligible Uses

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- **Roadways, bridges & public infrastructure**
- **Water, storm water and sewer systems**
- **Surface & subsurface waters and water supplies**
- **Capital reserve fund**
- **Emergency preparedness & public safety**
- **Environmental programs**
- **Tax reductions**
- **Records management, GIS & information technology**
- **Social services**
- **Judicial services**
- **Career & technical centers for training of workers**
- **Local or regional planning initiatives**
- **Affordable Housing**

Needs & Resources



Looking Across the County

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Infrastructure Assessment

- ❑ Collection of infrastructure projects in growth area communities
- ❑ Database of projects for future funding opportunities
- ❑ Infrastructure Council to provide regular input

Local Impact Study

- ❑ Quantitative assessment of Marcellus Shale industry impacts
 - ❑ Housing
 - ❑ Water/Sewer
 - ❑ Transportation
 - ❑ Emergency, Health & Human Services
- ❑ *Complete in Summer 2012*

Unprecedented Opportunity

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- Collaboration and Leveraging all funding sources:
 - ☑ State
 - ☑ County
 - ☑ Municipal
 - ☑ Developers
 - ☑ Private Partners
 - ☑ Federal Sources
- Municipalities may select to use their funding to support key infrastructure projects
- County may be able to assist with such projects

Transportation Project Illustration

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- Project: Bridge Connecting Two Municipalities
- Estimated Cost: \$4.25 million

Annual Debt Service for Bridge Repair / Replacement	
Impact Fee Funds for Municipality #1	\$112,500
Impact Fee Funds for Municipality #2	\$112,500
County Contribution	\$225,000
PennDOT Contribution	\$14,000
Total Annual Contribution	\$464,000

- Annual contribution for 10 years can secure \$4.25 million in debt using PA Infrastructure Bank at a rate of 1.625%

Annual Reporting Requirements

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- County and municipalities are required to submit Annual Reports to PA Public Utility Commission (PUC)
- “Usage Report” form being developed by PUC
- Annual report will include:
 - ☑ **Amount of funds received**
 - ☑ **Use of funds for eligible projects**
- Results published on municipal web site



Land Use/Zoning Requirements of Act 13

Land Use Planning—Ordinances

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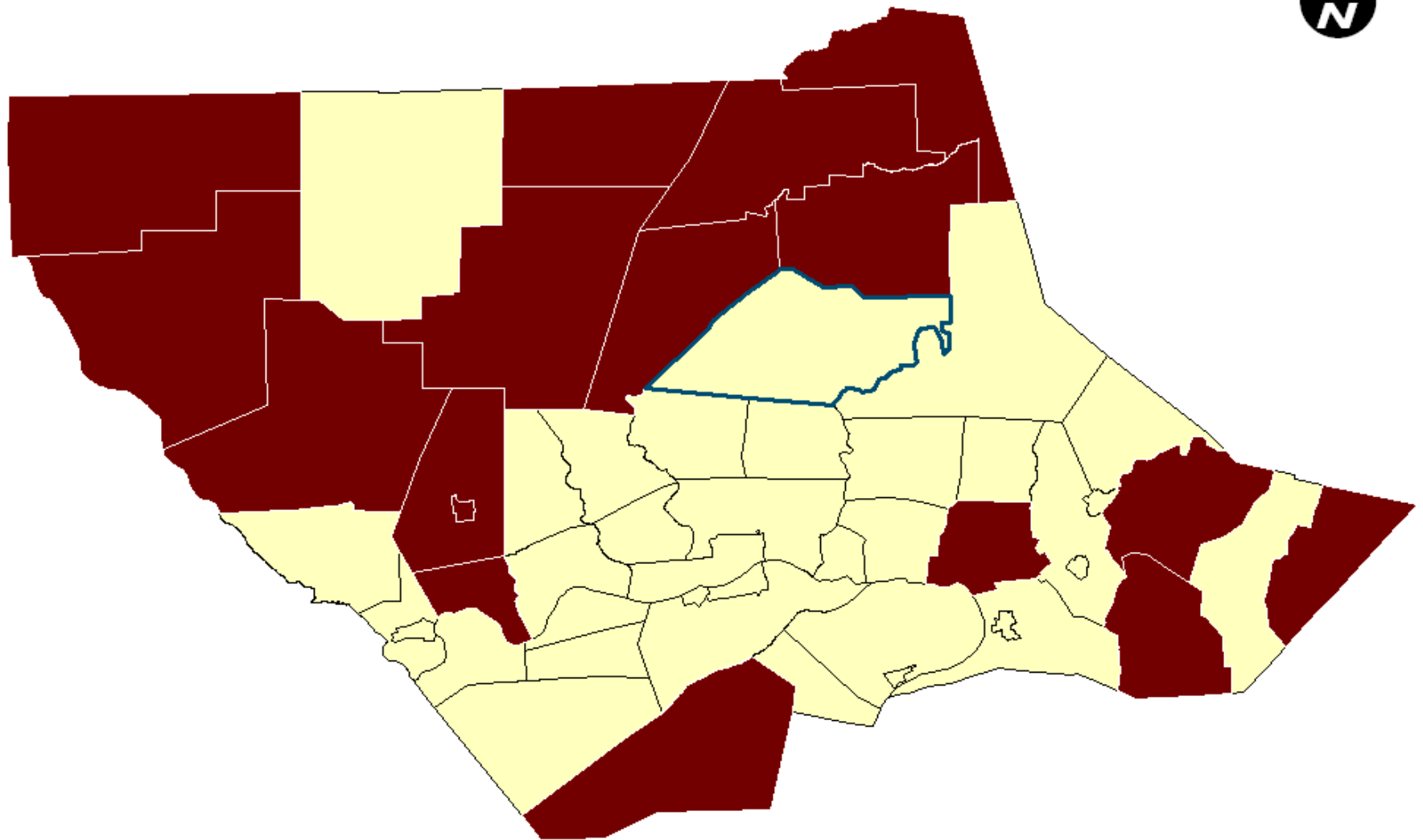
- Local governments can adopt zoning ordinances to regulate gas operations but must allow for reasonable development of gas resources
- Act 13 preserves local government authority granted under PA MPC and the Flood Plain Management Act
 - ☑ Prohibits drilling in floodplain with open-loop systems
 - ☑ Waivers may be issued by DEP
- Act 13 pre-empts local ordinances related to the development of gas operations

Land Use Planning—Timelines

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- Counties and municipalities must amend zoning ordinances by August 12th
- Lycoming County zoning ordinance update in progress
 - ☑ If discrepancy arises, County ordinance will recognize the pre-eminence of Act 13
- PUC to review previously enacted ordinances for compliance with Act 13 *(120 days to review)*
- Ordinances found to be in violation of Act 13 will make municipality or county ineligible for funding

Municipalities Zoned by Lycoming County



County Zoning

0 5 10 20 Miles



A.N. - March 2012

Land Use & Zoning

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Definition of Gas Operations

- ❑ **Well location including:**
 - ❑ Site prep
 - ❑ Construction
 - ❑ Drilling
 - ❑ Fracking
- ❑ **Impoundment and fluid storage areas**
- ❑ **Construction & installation of:**
 - ❑ Oil and gas pipelines
 - ❑ Compressor stations
 - ❑ Processing plants
- ❑ **Equipment associated with the above**

Local governments shall allow or permit oil and gas well site locations in every zoning district



Important Restrictions

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LOCAL ORDINANCE:

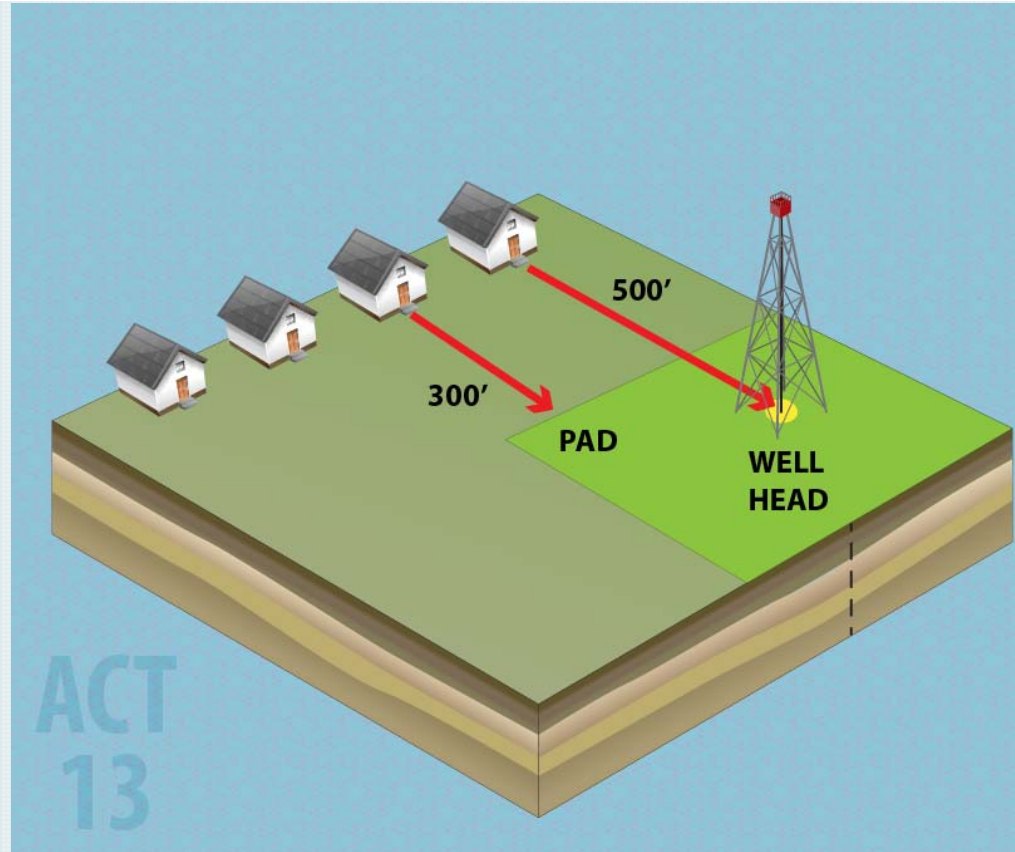
- May not impose local conditions or limitations on setbacks, heights, screening, fencing, lighting, or noise more stringent than those imposed on other industrial uses or developments in the zoning district
- May not restrict hours of operation for compressor stations, processing plants, or drilling operations
- May not unnecessarily delay—max review periods
 - ☑ **30 days for permitted uses**
 - ☑ **120 days for conditional uses**

Land Use & Zoning

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GAS WELLS IN RESIDENTIAL DISTRICTS

- May prohibit or permit as a “*conditional use*” wells in residential districts if well site can’t be placed so wellhead is at least 500 feet from an existing building



- In residential districts, outer edge of well pad must be at least 300 feet from an existing building

Land Use & Zoning

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COMPRESSOR STATIONS

Must authorize **compressor stations** as a *permitted use* in agricultural and industrial zoning districts and as a *conditional use* in all other zoning districts, if:

- ☑ Station is at least 750ft to nearest building or 200 ft from nearest lot line—whichever is greater
- ☑ Noise doesn't exceed lesser of 60dBA at property line or fed standard



Land Use & Zoning

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- Must allow impoundment areas as a *permitted use* in all zoning districts provided edge is at least 300 feet from an existing building
- Must authorize processing plant as a *permitted use* in an industrial zoning district and as a *conditional use* in an agricultural zoning district, subject to certain distance and noise requirements

PA DEP Safeguards

Effective April 16th

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- Municipal inputs on “local conditions” considered during permit review process
- Water Management Plan for H₂O withdrawal or use in fracking required
- Enhanced reporting requirements on well data
- More transparent hydraulic fracturing disclosure
- Increase set back distances to streams & wetlands
- Well restoration 9 months after drilling “complete”
- Restore/replace public/private water supply if affected
- Containment plans for drilling & fracking required

Next Steps

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- April 5th – Lycoming County to adopt an ordinance to implement Act 13
- Continue to work with PUC on the 22 Marcellus Shale Impact Fee policy recommendations & questions
- Coordinate with municipalities to identify partnering and leveraging opportunities for projects

