

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2494 Session of
2014

INTRODUCED BY SANTARSIERO, O'BRIEN, COHEN, PARKER, BROWNLEE,
DAVIS, MURT, McCARTER, McNEILL, QUINN AND SCHREIBER,
SEPTEMBER 18, 2014

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 18, 2014

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, further providing
3 for definitions and for unconventional gas well fee;
4 providing for State land drilling impact fee; further
5 providing for administration, for well information, for
6 duties of Department of Environmental Protection, for
7 Pennsylvania Public Utility Commission, for enforcement and
8 for distribution of unconventional gas well fee; providing
9 for fees; establishing the State Lands Drilling Impact
10 Mitigation Fund; prohibiting drilling on State lands; further
11 providing for expiration of chapter; in development, further
12 providing for well permits, for comments by municipalities
13 and storage operators, for well location restrictions, for
14 protection of water supplies, for well reporting
15 requirements, for bonding and for criminal and civil
16 penalties; and making editorial changes.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 2301 of Title 58 of the Pennsylvania
20 Consolidated Statutes is amended by adding definitions to read:

21 § 2301. Definitions.

22 The following words and phrases when used in this chapter
23 shall have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

1 * * *

2 "State land." Land owned by the Commonwealth. The term
3 includes the following:

4 (1) A State park.

5 (2) A State game land.

6 (3) A State forest.

7 (4) Land owned by a State-related university.

8 (5) Land under the jurisdiction of any of the following:

9 (i) The Department of Transportation.

10 (ii) The Department of Education.

11 (iii) The Department of General Services.

12 "State land drilling impact fee." The State land drilling
13 impact fee imposed under section 2302.1 (relating to State land
14 drilling impact fee).

15 "State park." An area under the jurisdiction of the
16 Department of Conservation and Natural Resources acquired or
17 administered as a park under section 303 of the act of June 28,
18 1995 (P.L.89, No.18), known as the Conservation and Natural
19 Resources Act, or designated or administered as a park under
20 section 302(a)(12) of the Conservation and Natural Resources
21 Act. The term includes:

22 (1) A State park.

23 (2) A State park preserve.

24 (3) A parkway.

25 (4) A conservation area as defined in 17 Pa. Code § 44.1
26 (relating to defined) that is administered and managed by the
27 Bureau of State Parks of the Department of Conservation and
28 Natural Resources.

29 (5) A State park natural area as defined in 17 Pa. Code
30 § 17.2 (relating to State Parks Natural Area definition).

1 (6) An environmental education center administered by
2 the Bureau of State Parks of the Department of Conservation
3 and Natural Resources.

4 (7) State park waters under 17 Pa. Code § 11.203
5 (relating to State park waters).

6 * * *

7 Section 2. Section 2302(a.3)(1) and (b)(5) of Title 58 are
8 amended to read:

9 § 2302. Unconventional gas well fee.

10 * * *

11 (a.3) Prohibition.--

12 (1) A county subject to this section, in which the
13 governing body does not adopt an ordinance imposing an
14 unconventional gas well fee within 60 days of the effective
15 date of this section, shall be prohibited from receiving
16 funds under sections 2314(d)(1) (relating to distribution of
17 unconventional gas well fee) and 2315(a.1)(3) and (5)
18 (relating to Statewide initiatives).

19 * * *

20 (b) Components.--The fee adopted under subsection (a), (a.1)
21 or (a.4) is imposed on every producer and shall apply to
22 unconventional gas wells spud in this Commonwealth regardless of
23 when spudding occurred. Unconventional gas wells spud before
24 the fee is imposed shall be considered to be spud in the
25 calendar year prior to the imposition of the fee for purposes of
26 determining the fee under this subsection. Prior to adjustment
27 under subsection (c), the impact fee for each unconventional gas
28 well on State land shall be determined as follows:

29 * * *

30 (5) Years 11, 12, 13, 14 and 15 and each year

1 thereafter:

2 (i) If the average annual price of natural gas is
3 less than \$3.00, the fee shall be \$5,000 for the 10th
4 through 14th calendar years following the year in which
5 the unconventional well is spud.

6 (ii) If the average annual price of natural gas is
7 greater than \$2.99, the fee shall be \$10,000 for the 10th
8 through 14th calendar years following the year in which
9 the unconventional well is spud.

10 * * *

11 Section 3. Title 58 is amended by adding a section to read:

12 \$ 2302.1. State land drilling impact fee.

13 (a) General rule.--Beginning January 1, 2013, a State land
14 drilling impact fee shall be levied on every spud unconventional
15 natural gas well located on State land in this Commonwealth and
16 on every spud unconventional gas well involving any State land
17 in this Commonwealth. The State land drilling impact fee shall
18 be levied on these wells regardless of whether the
19 unconventional gas well fee in section 2302 (relating to
20 unconventional gas well fee) has been levied.

21 (b) Components.--The State land drilling impact fee is
22 imposed on every producer and shall apply to unconventional gas
23 wells that meet the criteria in subsection (a) regardless of
24 when spudding occurred. Unconventional gas wells spud before
25 the fee is imposed shall be considered to have been spud in the
26 calendar year prior to the imposition of the fee for purposes of
27 determining the fee under this subsection. The State land
28 drilling impact fee for each unconventional gas well shall be
29 \$200,000.

30 (c) Nonproducing unconventional gas wells.--If a spud

1 unconventional gas well subject to the fee imposed under this
2 section is subsequently capped or does not produce natural gas
3 in quantities greater than that of a stripper well within two
4 years after paying the initial fee, then the fee shall be
5 suspended. The following apply:

6 (1) The fee shall be reinstated for a calendar year
7 during which the unconventional gas well produces natural gas
8 in quantities greater than that of a stripper well.

9 (2) Each calendar year during which a fee is suspended
10 shall not be considered a calendar year following spud for
11 purposes of determining the amount of the fee under
12 subsection (b).

13 (d) Restimulated unconventional gas wells.--The year in
14 which the restimulation occurs shall be considered the first
15 year of spudding for purposes of imposing the fee under this
16 section.

17 (e) Cessation.--Payment of the fee shall cease upon
18 certification to the department by the producer that the
19 unconventional gas well has ceased production and has been
20 plugged according to the regulations established by the
21 department.

22 (f) Vertical unconventional gas well fee.--The fee for a
23 vertical unconventional gas well shall be 80% of the fee
24 established in subsections (b) and (c).

25 Section 4. Sections 2303(c)(3), 2304(b), 2305(c), 2307(a),
26 (b) and (e), 2308(c) and 2314 section heading, (b) and (c.1)
27 introductory paragraph of Title 58 are amended to read:

28 § 2303. Administration.

29 * * *

30 (c) Costs of commission.--

1 * * *

2 (3) By June 30, 2012, and each June 30 thereafter, the
3 commission shall estimate its expenditures for the next
4 fiscal year that will be directly attributable to the
5 administration and enforcement of this chapter. After
6 subtracting any annual administrative charges imposed under
7 paragraph (1), amounts received by the commission under
8 section 2314(c.1)(2) (relating to distribution of
9 unconventional gas well fee) and any amounts collected during
10 the prior fiscal year that exceeded actual expenditures
11 directly attributable to the administration and enforcement
12 of this chapter, the commission shall assess the remaining
13 balance on all producers subject to the unconventional gas
14 well fee in proportion to the number of wells owned by each
15 producer. Producers shall pay the assessments within 30 days
16 of the receipt of notice from the commission. The amount of
17 the assessment may be challenged by a producer consistent
18 with 66 Pa.C.S. § 510(c), (d) and (e). Any collections that
19 exceed any of the following shall be used to offset
20 administrative charges or assessments for the next fiscal
21 year:

22 (i) The budget amount approved by the General
23 Assembly and the Governor for administration and
24 enforcement of this chapter and Chapter 33.

25 (ii) Actual expenditures directly attributable to
26 the administration and enforcement of this chapter and
27 Chapter 33.

28 § 2304. Well information.

29 * * *

30 (b) Updates.--A producer subject to the [fee] fees under

1 this chapter shall notify the commission of the following within
2 30 days after a calendar month in which the change occurs:

3 (1) The spudding of an unconventional gas well.

4 (1.1) The initiation of production at an unconventional
5 gas well.

6 (2) The removal of an unconventional gas well from
7 production.

8 § 2305. Duties of department.

9 * * *

10 (c) Payment of fees.--The commission shall provide the
11 department with information necessary to determine that the
12 producer has paid all unconventional gas well fees owed for an
13 unconventional gas well under [section] sections 2302[.] and
14 2302.1 (relating to State land drilling impact fee).

15 § 2307. Commission.

16 (a) Powers.--The commission shall have the authority to make
17 all inquiries and determinations necessary to calculate and
18 collect the [fee] fees, administrative charges or assessments
19 imposed under this chapter, including, if applicable, interest
20 and penalties.

21 (b) Notice.--If the commission determines that [the] an
22 unconventional gas well fee has not been paid in full, it may
23 issue a notice of the amount due and demand for payment and
24 shall set forth the basis for the determination.

25 * * *

26 (e) Intent.--If no report is filed or a producer files a
27 false or fraudulent report with the intent to evade [the] a fee,
28 an assessment of the amount owed may be made at any time.

29 § 2308. Enforcement.

30 * * *

1 (c) Timely payment.--If the commission determines that a
2 producer has not made a timely payment of [the] a fee, the
3 commission shall send written notice of the amount of the
4 deficiency to the producer within 30 days from the date of
5 determining the deficiency. The commission shall notify the
6 department of a producer that has failed to pay the fee for any
7 unconventional gas well under section 2302 (relating to
8 unconventional gas well fee). If the producer does not have a
9 pending appeal related to payment of the fee in process, the
10 department shall suspend the permit for that well until the fee
11 has been paid.

12 * * *

13 § 2314. Distribution of unconventional gas well fee.

14 * * *

15 (b) Deposit.--All fees imposed and collected under [this
16 chapter] section 2302 (relating to unconventional gas well fee)
17 shall be deposited into the fund and are hereby appropriated for
18 the purpose set forth in this section.

19 * * *

20 (c.1) Additional distributions.--From fees collected under
21 [this chapter] section 2302 and deposited in the fund for 2011
22 and each year thereafter:

23 * * *

24 Section 5. Title 58 is amended by adding a section to read:

25 § 2314.1. Distribution of State land drilling impact fee.

26 (a) Establishment.--There is established a fund in the State
27 Treasury to be known as the State Land Drilling Impact
28 Mitigation Fund to be administered by the Department of
29 Conservation and Natural Resources.

30 (b) Deposit.--All fees imposed and collected under section

1 2302.1 (relating to State land drilling impact fee) shall be
2 deposited into the fund and are hereby appropriated on a
3 continuing basis for the purpose set forth in this section.

4 (c) Use of fund.--The Department of Conservation and Natural
5 Resources shall use the money in the fund as follows:

6 (1) To mitigate damage to State land caused by drilling
7 or activity related to drilling.

8 (2) To acquire replacement land and buffers.

9 (3) To purchase the rights to gas and minerals under
10 State land.

11 (4) To take any other action it deems necessary to
12 avoid, minimize or mitigate the impact of gas exploration on
13 State land.

14 (5) To preserve the environmental, recreational,
15 cultural and aesthetic values of State lands that are
16 impacted by gas drilling.

17 (d) Administrative expense limitation.--No more than 5% of
18 the moneys collected under section 2302.1 shall be used by the
19 Department of Conservation and Natural Resources for
20 administrative expenses, including expenses necessary to fulfill
21 the purposes of this section.

22 (e) Definition.--As used in this section, the term "fund"
23 means the State Land Drilling Impact Mitigation Fund.

24 Section 6. Section 2315(a.1) introductory paragraph of Title
25 58 is amended to read:

26 § 2315. Statewide initiatives.

27 * * *

28 (a.1) Deposit and distribution.--Following distribution
29 under section 2314(c), (c.1) and (c.2) (relating to distribution
30 of unconventional gas well fee) from fees collected for 2011 and

1 each year thereafter, 40% of the remaining revenue in the fund
2 shall be deposited into the Marcellus Legacy Fund and
3 appropriated to the commission and distributed within three
4 months after the date the fee is due as follows:

5 * * *

6 Section 7. Title 58 is amended by adding a section to read:

7 § 2316.1. State land drilling prohibited.

8 A producer may not drill an unconventional gas well on any
9 tract or parcel of land located in this Commonwealth in which
10 the mineral rights in the tract or parcel of land are owned by
11 the Commonwealth.

12 Section 8. Sections 2318(b) and 2702(a) of Title 58 are
13 amended to read:

14 § 2318. Expiration.

15 * * *

16 (b) Date.--[This] The provisions of this chapter pertaining
17 to the unconventional gas well fee shall expire on the date of
18 the publication of the notice under subsection (a).

19 § 2702. Assistance.

20 (a) Funding.--Grants under this chapter shall be made from
21 amounts deposited in the Marcellus Legacy Fund under section
22 2314(c.2) (relating to distribution of unconventional gas well
23 fee).

24 * * *

25 Section 9. Sections 3211(b), 3212.1(a.1) and (b), 3215(a),
26 (b) and (d), 3218(c) and (d), 3222(b.2), 3225(a)(1), 3255(a) and
27 (b) and 3256 of Title 58 are amended to read:

28 § 3211. Well permits.

29 * * *

30 (b) Plat.--

1 (1) The permit application shall be accompanied by a
2 plat prepared by a competent engineer or a competent
3 surveyor, on forms furnished by the department, showing the
4 political subdivision and county in which the tract of land
5 upon which the well to be drilled, operated or altered is
6 located; a list of municipalities adjacent to the well site;
7 the name of the surface landowner of record and lessor; the
8 name of all surface landowners and water purveyors whose
9 water supplies are within 1,000 feet of the proposed well
10 location or, in the case of an unconventional well, within
11 [3,000] 4,200 feet from the vertical well bore; the name of
12 the owner of record or operator of all known underlying
13 workable coal seams; the acreage in the tract to be drilled;
14 the proposed location of the well determined by survey,
15 courses and distances of the location from two or more
16 permanent identifiable points or landmarks on the tract
17 boundary corners; the proposed angle and direction of the
18 well if the well is to be deviated substantially from a
19 vertical course; the number or other identification to be
20 given the well; the workable coal seams underlying the tract
21 of land upon which the well is to be drilled or altered and
22 which shall be cased off under section 3217 (relating to
23 protection of fresh groundwater and casing requirements); and
24 any other information needed by the department to administer
25 this chapter.

26 (2) The applicant shall forward by certified mail a copy
27 of the plat to the surface landowner; the municipality in
28 which the tract of land upon which the well to be drilled is
29 located; each municipality within [3,000] 4,200 feet of the
30 proposed unconventional vertical well bore; the

municipalities adjacent to the well; all surface landowners and water purveyors, whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within [3,000] 4,200 feet of the proposed unconventional vertical well bore; storage operators within [3,000] 4,200 feet of the proposed unconventional vertical well bore; the owner and lessee of any coal seams; and each coal operator required to be identified on the well permit application.

* * *

§ 3212.1. Comments by municipalities and storage operators.

* * *

(a.1) Storage operators.--A storage operator located within [3,000] 4,200 feet of a proposed unconventional vertical well bore may submit written comments to the department describing circumstances which the storage operator has determined should be considered by the department in rendering its determination on the unconventional well permit. A comment under this subsection must be submitted to the department within 15 days of the receipt of the plat under section 3211(b). The storage operator shall simultaneously forward a copy of its comments to the permit applicant and all other parties entitled to a copy of the plat under section 3211(b), who may submit a written response. A written response must be submitted to the department within ten days of receipt of the comments of the storage operator.

(b) Consideration by department.--Comments and responses under subsections (a) and (a.1) [may] shall be considered by the department in accordance with section 3215(d) (relating to well location restrictions).

1 * * *

2 § 3215. Well location restrictions.

3 (a) General rule.--Wells may not be drilled within 200 feet,
4 or, in the case of an unconventional gas well, [500] 1,200 feet,
5 measured horizontally from the vertical well bore to a building
6 or water well, existing when the copy of the plat is mailed as
7 required by section 3211(b) (relating to well permits) without
8 written consent of the owner of the building or water well.

9 Unconventional gas wells may not be drilled within [1,000] 3,000
10 feet measured horizontally from the vertical well bore to any
11 existing water well, surface water intake, reservoir or other
12 water supply extraction point used by a water purveyor without
13 the written consent of the water purveyor. [If consent is not
14 obtained and the distance restriction would deprive the owner of
15 the oil and gas rights of the right to produce or share in the
16 oil or gas underlying the surface tract, the well operator shall
17 be granted a variance from the distance restriction upon
18 submission of a plan identifying the additional measures,
19 facilities or practices as prescribed by the department to be
20 employed during well site construction, drilling and operations.
21 The variance shall include additional terms and conditions
22 required by the department to ensure safety and protection of
23 affected persons and property, including insurance, bonding,
24 indemnification and technical requirements. Notwithstanding
25 section 3211(e), if a variance request has been submitted, the
26 department may extend its permit review period for up to 15 days
27 upon notification to the applicant of the reasons for the
28 extension.]

29 (b) Limitation.--

30 (1) No well site may be prepared or well drilled within

1 100 feet or, in the case of an unconventional well, [300] 420
2 feet from the vertical well bore or [100] 200 feet from the
3 edge of the well site, whichever is greater, measured
4 horizontally from any solid blue lined stream, spring or body
5 of water as identified on the most current 7 1/2 minute
6 topographic quadrangle map of the United States Geological
7 Survey.

8 (2) The edge of the disturbed area associated with any
9 unconventional well site must maintain a [100-foot] 300-foot
10 setback from the edge of any solid blue lined stream, spring
11 or body of water as identified on the most current 7 1/2
12 minute topographic quadrangle map of the United States
13 Geological Survey.

14 (3) No unconventional well may be drilled within 300
15 feet of any wetlands greater than one acre in size, and the
16 edge of the disturbed area of any well site must maintain a
17 [100-foot] 300-foot setback from the boundary of the
18 wetlands.

19 [(4) The department shall waive the distance
20 restrictions upon submission of a plan identifying additional
21 measures, facilities or practices to be employed during well
22 site construction, drilling and operations necessary to
23 protect the waters of this Commonwealth. The waiver, if
24 granted, shall include additional terms and conditions
25 required by the department necessary to protect the waters of
26 this Commonwealth. Notwithstanding section 3211(e), if a
27 waiver request has been submitted, the department may extend
28 its permit review period for up to 15 days upon notification
29 to the applicant of the reasons for the extension.]

30 * * *

1 (d) Consideration of municipality and storage operator
2 comments.--The department [may] shall consider the comments
3 submitted under section 3212.1 (relating to comments by
4 municipalities and storage operators) in making a determination
5 on a well permit. [Notwithstanding any other law, no
6 municipality or storage operator shall have a right of appeal or
7 other form of review from the department's decision.]

8 * * *

9 § 3218. Protection of water supplies.

10 * * *

11 (c) Presumption.--Unless rebutted by a defense established
12 in subsection (d), it shall be presumed that a well operator is
13 responsible for pollution of a water supply if:

14 (1) except as set forth in paragraph (2):

15 (i) the water supply is within 1,000 feet of an oil
16 or gas well; and

17 (ii) the pollution occurred within six months after
18 completion of drilling or alteration of the oil or gas
19 well; or

20 (2) in the case of an unconventional well:

21 (i) the water supply is within [2,500] 4,200 feet of
22 the unconventional vertical well bore; and

23 (ii) the pollution occurred within 12 months of the
24 later of completion, drilling, stimulation or alteration
25 of the unconventional well.

26 * * *

27 (d) Defenses.--To rebut the presumption established under
28 subsection (c), a well operator must affirmatively prove any of
29 the following:

30 (1) except as set forth in paragraph (2):

1 (i) the pollution existed prior to the drilling or
2 alteration activity as determined by a predrilling or
3 prealteration survey;

4 (ii) the landowner or water purveyor refused to
5 allow the operator access to conduct a predrilling or
6 prealteration survey;

7 (iii) the water supply is not within 1,000 feet of
8 the well;

9 (iv) the pollution occurred more than six months
10 after completion of drilling or alteration activities;
11 and

12 (v) the pollution occurred as the result of a cause
13 other than the drilling or alteration activity; or

14 (2) in the case of an unconventional well:

15 (i) the pollution existed prior to the drilling,
16 stimulation or alteration activity as determined by a
17 predrilling or prealteration survey;

18 (ii) the landowner or water purveyor refused to
19 allow the operator access to conduct a predrilling or
20 prealteration survey;

21 (iii) the water supply is not within [2,500] 4,200
22 feet of the unconventional vertical well bore;

23 (iv) the pollution occurred more than 12 months
24 after completion of drilling or alteration activities; or

25 (v) the pollution occurred as the result of a cause
26 other than the drilling or alteration activity.

27 * * *

28 § 3222. Well reporting requirements.

29 * * *

30 [(b.2) Trade secret or confidential proprietary

1 information.--When an operator submits its stimulation record
2 under subsection (b.1), the operator may designate specific
3 portions of the stimulation record as containing a trade secret
4 or confidential proprietary information. The department shall
5 prevent disclosure of a designated trade secret or confidential
6 proprietary information to the extent permitted by the act of
7 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law
8 or other applicable State law.]

9 * * *

10 § 3225. Bonding.

11 (a) General rule.--The following shall apply:

12 (1) Except as provided in subsection (d), upon filing an
13 application for a well permit and before continuing to
14 operate an oil or gas well, the owner or operator of the well
15 shall file with the department a bond covering the well and
16 well site on a form to be prescribed and furnished by the
17 department. A bond filed with an application for a well
18 permit shall be payable to the Commonwealth and conditioned
19 upon the operator's faithful performance of all drilling,
20 water supply replacement, restoration and plugging
21 requirements of this chapter. A bond for a well in existence
22 on April 18, 1985, shall be payable to the Commonwealth and
23 conditioned upon the operator's faithful performance of all
24 water supply replacement, restoration and plugging
25 requirements of this chapter. The amount of the bond required
26 shall be in the following amounts and may be adjusted by the
27 Environmental Quality Board every two years to reflect the
28 projected costs to the Commonwealth of plugging the well:

29 (i) For wells with a total well bore length less
30 than 6,000 feet:

1 (A) For operating up to 50 wells, \$4,000 per
2 well, but no bond may be required under this clause
3 in excess of \$35,000.

4 (B) For operating 51 to 150 wells, \$35,000 plus
5 \$4,000 per well for each well in excess of 50 wells,
6 but no bond may be required under this clause in
7 excess of \$60,000.

8 (C) For operating 151 to 250 wells, \$60,000 plus
9 \$4,000 per well for each well in excess of 150 wells,
10 but no bond may be required under this clause in
11 excess of \$100,000.

12 (D) For operating more than 250 wells, \$100,000
13 plus \$4,000 per well for each well in excess of 250
14 wells, but no bond may be required under this clause
15 in excess of \$250,000.

16 (ii) For wells with a total well bore length of at
17 least 6,000 feet:

18 (A) For operating up to 25 wells, [\$10,000]
19 \$20,000 per well, but no bond may be required under
20 this clause in excess of [\$140,000] \$280,000.

21 (B) For operating 26 to 50 wells, [\$140,000]
22 \$280,000 plus [\$10,000] \$20,000 per well for each
23 well in excess of 25 wells, but no bond may be
24 required under this clause in excess of [\$290,000]
25 \$580,000.

26 (C) For operating 51 to 150 wells, [\$290,000]
27 \$580,000 plus [\$10,000] \$20,000 per well for each
28 well in excess of 50 wells, but no bond may be
29 required under this clause in excess of [\$430,000]
30 \$860,000.

(D) For operating more than 150 wells,
[\$430,000] \$860,000 plus [\$10,000] \$20,000 per well
for each well in excess of 150 wells, but no bond may
be required under this clause in excess of [\$600,000]
\$1,200,000.

* * *

§ 3255. Penalties.

(a) General violation.--A person violating a provision of
this chapter commits a summary offense and, upon conviction,
shall be sentenced to pay a fine of not more than [\$1,000]
\$5,000 or to imprisonment of not more than 90 days, or both.
Each day during which the violation continues is a separate and
distinct offense.

(b) Willful violation.--A person willfully violating a
provision of this chapter or an order of the department issued
under this chapter commits a misdemeanor and, upon conviction,
shall be sentenced to pay a fine of not more than [\$5,000]
\$10,000 or to imprisonment of not more than one year, or both.
Each day during which the violation continues is a separate and
distinct offense.

* * *

§ 3256. Civil penalties.

In addition to other remedies available at law or in equity
for a violation of this chapter, a regulation of the department,
a departmental order or a permit condition, the department,
after a hearing, may assess a civil penalty regardless of
whether the violation was willful. The penalty shall not exceed
[\$25,000] \$50,000 plus [\$1,000] \$2,000 for each day during which
the violation continues or, in the case of a violation arising
from the construction, alteration or operation of an

1 unconventional well, [\$75,000] \$100,000 plus [\$5,000] \$10,000
2 for each day during which the violation continues. In
3 determining the amount, the department shall consider
4 willfulness of the violation, damage or injury to natural
5 resources of this Commonwealth or their uses, endangerment of
6 safety of others, the cost of remedying the harm, savings
7 resulting to the violator as a result of the violation and any
8 other relevant factor. When the department proposes to assess a
9 civil penalty, it shall notify the person of the proposed amount
10 of the penalty. The person charged with the penalty must, within
11 30 days of notification, pay the proposed penalty in full or
12 file an appeal of the assessment with the Environmental Hearing
13 Board. Failure to comply with the time period under this section
14 shall result in a waiver of all legal rights to contest the
15 violation or the amount of the penalty. The civil penalty shall
16 be payable to the Commonwealth and collectible in any manner
17 provided at law for collection of debts. If a violator neglects
18 or refuses to pay the penalty after demand, the amount, together
19 with interest and costs that may accrue, shall become a lien in
20 favor of the Commonwealth on the real and personal property of
21 the violator, but only after the lien has been entered and
22 docketed of record by the prothonotary of the county where the
23 property is situated. The department may transmit to the
24 prothonotaries of the various counties certified copies of all
25 liens. It shall be the duty of each prothonotary to enter and
26 docket the liens of record in the prothonotary's office and
27 index them as judgments are indexed, without requiring payment
28 of costs as a condition precedent to entry.

29 Section 10. This act shall take effect in 60 days.