



Pennsylvania  
**Department of  
Environmental Protection**

**Office of Oil and Gas Management**

**Standard Operating Procedure for Calculating Civil Penalty  
Assessments for Unconventional Oil and Gas Operations**

**February 2026**

# I. Introduction

## Purpose

This Standard Operating Procedure (SOP) is intended to assist Pennsylvania Department of Environmental Protection (Department) Office of Oil and Gas Management (Program) staff in applying reasonable interpretations of the various factors to be considered in assessing civil penalties related to unconventional oil and gas wells, well sites, and pipelines. While the guidance promotes consistency in penalty assessment, a particular case may encompass unique factors that warrant a penalty assessment different from what would be arrived at by applying these guidelines. That is, this SOP represents civil penalty assessment guidelines, not regulation. Program staff may deviate from this SOP when circumstances warrant, acting with the Department's administrative discretion.

This SOP supersedes "Civil Penalty Assessments in the Oil and Gas Management Program" (550-4180-001) issued on January 12, 2002, which has since been withdrawn.

## Statutory Authorities

The Department administers many laws that authorize civil penalties for violations. The Program would seek penalties mainly under the Oil and Gas Act (58 Pa. C.S. §§ 3201 – 3274), and the Clean Streams Law (35 P.S. Section 691.605). Occasionally, the Program may assess a penalty under a law with similar provisions, such as the Solid Waste Management Act (35 P.S. Section 6018.605) or the Dam Safety and Encroachments Act (35 P.S. Section 693.21). Also, on occasion the Department may need to invoke the Oil and Gas Conservation Law (58 P.S. Section 401 et seq.) and the Coal and Gas Resource Coordination Act (58 P.S. Section 501 et seq.), or other environmental laws of the Commonwealth.

As directed by the laws cited above, when assessing a civil penalty, the Department must consider factors such as (but not limited to):

- Danger to public health and welfare.
- Damage to air, water, land or other natural resources of the Commonwealth.
- Willfulness or culpability of the violator.
- Costs incurred by the Commonwealth as a result of the violation.
- Savings resultant to the violator.

This SOP considers danger to public health and safety, and damage to resources in the general category of impact of the violation. The good faith or cooperation of the offender in response to the violation and the violation history are also evaluated as relevant factors.

This SOP also considers DEP Technical Guidance Document, Environmental Justice Policy, Doc. ID No. 015-0501-002 and considers whether the violations have the potential to negatively impact residents in an Environmental Justice Area.

An assessed penalty may never exceed the statutory maximum. The statutory maximums for the Laws included in this SOP are as follows, and are for each violation committed by the violator:

- Oil and Gas Act: \$75,000 plus \$5,000 for each day during which the violation continues.
- The Clean Streams Law: \$10,000 per day.
- The Solid Waste Management Act: \$25,000 per day.

- Dam Safety and Encroachments Act: \$10,000 plus \$500 for each day during which the violation continues.

### **Stipulated Penalties in Consent Orders**

This SOP need not be used to calculate stipulated penalties for purposes of a Consent Order and Agreement, or an operating permit containing stipulated penalties. This SOP addresses violations of law; stipulated penalties apply to violations of a Consent Order and Agreement.

### **Consent Assessment of Civil Penalty (Settlement)**

This SOP is used to calculate a penalty to be assessed in settlement documents (Consent Assessment of Civil Penalty and Consent Order and Agreement) by the Department. The settlement amount calculated by utilizing this SOP reflects the value of avoiding litigation, but not at the cost of continuing environmental harm. If the violator does not wish to enter into a settlement document with the Department, and the Department utilizes a unilateral action to collect a civil penalty, Program staff may deviate from this SOP as a larger civil penalty assessment is appropriate in most of these circumstances.

While a civil penalty calculated for a consent assessment should result in a lower amount than a civil penalty calculated for a unilateral penalty assessment, each assessment will be considered on its particulars. The Program has not established a specific policy on what is a usual fraction or percentage for a penalty in a consent assessment compared to the penalty calculated for a unilateral assessment.

## **II. Penalty Calculation**

### **Relationship of Factors**

The base amount of a penalty calculation is assessed according to the impact of the offense, as determined by the resultant harm or risk of harm to people, property, and the environment. The willfulness or culpability of the offender is then evaluated to determine an additional penalty. The direct costs to the Commonwealth for investigation, response, and remediation, as well as any savings realized by the violator as a result of the penalized behavior, are added to arrive at a subtotal penalty amount. The violator's history is also considered, as a potential punitive additional amount, a percentage of the subtotal. The good faith and cooperation exhibited by the violator in clean-up, abatement, and restoration is rated as a mitigating factor. A favorable cooperation rating earns a percentage deduction from the previous subtotal resulting in the final penalty amount.

### **Penalty Formula**

The full penalty calculation formula is as follows: Penalty Amount = Impact \$ + Willfulness \$ + Commonwealth's Costs + Violator's Savings + Violator History \$ - Cooperation \$.

### **Continuing Violations**

Penalties for the duration of a continuing violation should apply only to discharges, damage, or conditions considered to be continuous or observed continually over time; for example, a sediment discharge into a water of the Commonwealth, venting of gas, or an unplugged abandoned well. Singular incidents or conditions that are not yet corrected, but not continually causing pollution or damage (e.g., erosion and sedimentation controls not installed or maintained appropriately), should be considered single events, or possibly multiple events if the violation remains uncorrected during follow up inspections, but should not have a daily penalty assessed for continuing in violation. Any violation that remains outstanding may be

subject to a higher willfulness category if circumstances warrant; for example, a negligent violation that initially was a result of a failure to correct a condition which the violator should have recognized carried a certain degree of risk may become reckless (prior warning provided via Notice(s) of Violation) or deliberate (prior knowledge that the action, or lack of action, constitutes a violation of law, regulation, and/or permit conditions).

### **Worksheet**

A penalty assessment worksheet is shown as Appendix 1.

## **III. Impact of Violations**

Base penalty amounts are determined by evaluating the impact of violations.

### **Violation of Oil and Gas Act that Endangered Health or Safety of Persons**

1. **Severe:** Base penalty = \$25,000 to \$75,000 if any of the following conditions occurred:
  - Physical injury, illness or death of a person.
  - Major damage to private or public property that reflects an endangerment of the safety of others.
  - Widespread evacuation or evacuation for a long period of time.
  - Loss of a source of a public or private water supply due to the migration of combustible gas.
  
2. **Significant:** Base penalty = \$5,000 to \$25,000 if any of the following conditions occurred:
  - Minor physical injury of individuals.
  - Verifiable damage to public or private property that reflects an endangerment of the safety of others.
  - Short term evacuation or evacuation over a limited area.
  - Moderate, but significant public nuisance.
  - Interruption or diminution of a public or private water supply that is sufficient to discontinue use of the water supply due to the migration of combustible gas.
  - Loss of a source of a public or private water supply due to impacts or contamination other than those caused by the migration of combustible gas.
  
3. **Moderate:** Base penalty = up to \$5,000
  - Short term, limited danger to the health and safety of persons, but no physical injuries occurred.
  - Minor public nuisance.
  - Temporary interruption of a public or private water supply that is sufficient to discontinue use of the water supply due to contamination other than the migration of combustible gas.
  - Temporary diminution of a public or private water supply due to impacts other than those caused by the migration of combustible gas.

- The rating for conditions that endangered health and safety of persons if effects other than those described under “Severe” or “Significant” above are produced.

**Damage from Violations Affecting Waters of the Commonwealth (Clean Streams Law)**

The severity of violations impacting water quality, or with the potential for such impacts, is rated according to protected uses of the stream or water body as described in 25 Pa. Code Chapter 93.

1. **Special Protection:** Waters designated Exceptional Value or High Quality.
2. **High Use:** Public water supply sources and/or extensive use as private water supplies, game fisheries not identified as special protection, and waters of considerable recreational or economic value.
3. **Moderate Use:** Waters with significant use as private water supplies, non-game fisheries not identified as special protection waters, and waters of considerable recreational or economic value.
4. **Low Use:** No significant water supply use exists, no known recreational or economic use exists, or waters polluted by other sources.

Resource damage to waters of the Commonwealth is rated in one of five categories:

1. **Severe:** Extensive damage to the resource or extensive impairment of one or more water uses.
2. **Significant:** Considerable damage to the resource or considerable impairment of one or more water uses.
3. **Moderate:** Minor damage to the resource or impairment of one or more water uses to the extent that there is some inconvenience to water users.
4. **Low:** Minimal damage to the resource and minimal inconvenience to water users.
5. **Negligible:** Violations that did not result in any detectable damage or inconvenience but are considered because of the preventative intent of the act.

From the water’s designated use and the rating of resource damage, assess a penalty for the impact of the violation up to the maximum amounts shown in Table 1.

**Table 1. Penalty Amounts for Impact of Violations under Clean Streams Law**

Damage	Use			
	Special Protection	High Use	Moderate Use	Low Use
Severe	\$10,000	\$8,000	\$6,000	\$4,000
Significant	\$8,000	\$6,000	\$4,000	\$2,000
Moderate	\$6,000	\$4,000	\$2,000	\$1,000
Low	\$4,000	\$2,000	\$1,000	\$500
Negligible	\$2,000	\$1,000	\$500	\$250

**Damage from Violations NOT Affecting Waters of the Commonwealth (Oil and Gas Act, Solid Waste Management Act, Dam Safety Encroachment Act)**

The impact of violations of laws other than the Clean Streams Law that caused or risked resource damage are rated according to the following descriptions:

**1. Severe:**

- Destruction, or contamination of critical habitat of threatened or endangered species.
- Destruction of significant areas or acreage of state parks, state forests, state game lands.
- Major impact on land use (agriculture, recreation, etc.).
- Damage to resources requiring long-term or artificial recovery.

**2. Significant:**

- Limited impact on wildlife or significant habitat.
- Limited impact on areas or acreage of state parks, state forests, state game lands.
- Significant but limited or short-term impact on land use.
- Damage to resources requiring a short-term recovery.
- Numerous violations at the project site.

**3. Moderate:**

- Minor, localized damage to resources that does not otherwise require short-term recovery efforts.
- Minimal inconvenience to landowners and/or the public.
- A few similar violations at the project site.
- The rating for violations where effects other than those described under “Severe” or “Significant” above are produced.

**4. Negligible:** A violation of the law occurred but resulted in no damage or risk of adverse effect on natural resources or property or others.

To determine the base penalty to assess in consideration of damage to resources, refer to Table 2.

**Table 2. Base Penalty Amounts for Impact or Resource Damage**

Impact	Applicable Law		
	Oil & Gas Act	Solid Waste Management Act	Dam Safety and Encroachment Act
Severe	\$25,000 to \$75,000	\$5,000 to \$25,000	\$2,000 to \$10,000
Significant	\$5,000 to \$25,000	\$1,000 to \$5,000	\$500 to \$2,000
Moderate	\$1,000 to \$5,000	\$500 to \$1,000	\$250 to \$500
Negligible	\$500 to \$1,000	Up to \$500	Up to \$250
Ongoing Daily Maximum	\$5,000	\$25,000	\$500

#### IV. Willfulness of Violator’s Actions

Regardless of the law under which a penalty is assessed, consideration of the violator’s willfulness or degree of culpability in committing the violations exerts a profound influence in determining the total amount of a penalty.

Willfulness is rated in one of four degrees: deliberate, reckless, negligent, or accidental.

1. **Deliberate:** An intentional action or intentional lack of action; a deliberate predetermined action with prior knowledge that the action constituted a violation of law, regulations, permit conditions, or a deliberate attempt to circumvent or avoid compliance.
2. **Reckless:** A conscious disregard of consequences, proceeding with risk in mind; a violation resulting from the disregard of an obvious risk, the existence, nature, and possible consequences of which are known, or of which prior warning had been given.
3. **Negligent:** Failure to prevent the occurrence of a violation due to indifference or lack of diligence; a violation resulting from the failure to recognize, correct or prevent a condition which the violator should have recognized carried a certain degree of risk.
4. **Accidental:** A violation resulting from factors beyond the control of the violator and, therefore, could not reasonably have been prevented.

To determine the amount of penalty to assess for the violator’s willfulness, refer to Table 3.

**Table 3. Base Penalty Amounts for Willfulness**

Degree of Willfulness	Applicable Law			
	Oil & Gas Act	Clean Streams Law	Solid Waste Management Act	Dam Safety & Encroachment Act
Deliberate	\$25,000 - \$75,000	\$2,000 - \$10,000	\$4,000 - \$25,000	\$2,000 - \$10,000
Reckless	\$7,500 - \$25,000	\$500 - \$2,000	\$2,000 - \$4,000	\$500 - \$2,000
Negligent	\$1,000 - \$7,500	\$100 - \$500	\$100 - \$2,000	\$100 - \$500
Accidental	Up to \$1,000	None	None	None
Ongoing Daily Maximum	\$5,000	\$10,000	\$25,000	\$500

#### V. Costs to the Commonwealth

A penalty assessment may include consideration of costs incurred by the Commonwealth as a result of the violation. In the penalty calculation formula, costs are added to the penalty subtotal that result from application of the willfulness and cooperation factors.

All costs related to the investigation and abatement of the incident or case may be included, such as costs of:

- Emergency response
- Abatement, remedial, and preventive actions taken by Commonwealth agencies
- Salaries and benefits

- Travel expenses for staff
- Legal staff costs
- Cost of contracts awarded to Commonwealth subcontractors
- Sampling and laboratory analyses

Costs incurred by personnel from all Commonwealth agencies involved should be included.

Cost estimates for the Commonwealth's efforts necessary for abatement or for a long-term environmental restoration must also be considered. Estimates for the cost of restoration or abatement may be based on a competitive procurement process when feasible.

## **VI. Savings to the Violator**

A penalty assessment may include an amount equal to the savings or economic benefit realized by the violator as a result of the violation, had it not been penalized. As with costs to the Commonwealth, this amount for violator's savings is added to the penalty subtotal resulting from application of the willfulness and cooperation factors.

The economic benefit resulting from failure to comply includes costs avoided and expenditures delayed. This amount is determined by estimating the costs of actions that should have been taken by the violator; the omission of which directly or indirectly caused the incident to occur.

Example: A severe erosion and sedimentation problem results from an operator's failure to implement surface runoff control measures and failure to restore the well site as called for in the erosion and sedimentation plan. Calculate the savings resulting from the failure to re-grade, seed, and mulch the site, and to install and maintain necessary control features.

## **VII. Violator's History**

A violator's recent past record of similar incidents is another punitive factor to consider in penalty assessments. If the offender has a record of recent similar incidents at any other sites, add a percentage of the subtotal of all punitive and cost factors described above before applying any discount for cooperation. The add-on for the violator's history may not exceed 20% of the subtotal.

## **VIII. Cooperation**

The Department may consider how promptly a violation is corrected as an indication of good faith on the part of the offender. Good faith can also be manifested by the violator's prompt self-reporting of non-compliance. In order to recognize and reward prompt proactive response to spills or pollution incidents, a discount is offered for above-average cooperation. A deduction will be given based on the violator's attempt to attain compliance after the violation became known.

However, when self-reporting of the violation is required by law, or where the violator demonstrates a lack of good faith in taking corrective action, the Department will not consider a reduction in the proposed penalty assessment. Likewise, there will be no good faith adjustment for willful or reckless violations.

### **Rating Cooperation**

Cooperation is included in penalty calculation as a percentage discount for a favorable rating. Ratings and percentage deductions are: Excellent, 20%; Good, 10%; and Poor, 0%.

### **Excellent Cooperation**

Excellent cooperation occurs when the violator quickly admits responsibility for the incident, cooperates fully during the investigation, and promptly cleans up or corrects the situation to the greatest extent possible. The violator would promptly notify the Department and immediately correct the violation after discovering it. The civil penalty assessment may be adjusted based on the violator's demonstration of good faith in complying with statutory or regulatory requirements. Good faith can also be demonstrated by the violator's prompt self-reporting of noncompliance. Other proactive measures by the violator may also be considered, such as providing laboratory facilities or bringing experts from other locations to assist. These actions must be voluntary and taken on the violator's own initiative.

### **Good Cooperation**

Good cooperation occurs when the violator does what they have to in the investigation and/or cleanup of the incident. The violator immediately corrects the violation after being notified of it by the Department. One difference between excellent and good cooperation is the degree of the violator's proactive response. Good cooperation describes the violator promptly carrying out corrective action after being informed of what to do by the Department.

### **Poor Cooperation**

Poor cooperation occurs when the violator is reluctant to admit responsibility, fails to promptly clean up a spill or correct a violation situation, or fails to cooperate in a subsequent investigation. Cooperation is rated "poor" if a violator must be persuaded or ordered to take appropriate action, or where the violator fails to pursue adequate corrective or remedial actions after the Department identifies deficiencies in previous efforts.

## **IX. Documentation**

Program staff involved in calculating penalty assessments will keep records and evidence to document penalty ratings and the assessment process. These records will include, as applicable: inspection reports, complaint investigation reports, photographs, laboratory reports, notices of violation, notes and memos summarizing conferences with the violator and compliance assistance offers extended by the Department, and penalty calculation worksheets. Some of these records and evidence will be treated as confidential information.

Appendix 1 shows a penalty calculation worksheet to be used by Program personnel in documenting the application of this policy for penalty assessment.

COMMONWEALTH OF PENNSYLVANIA  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 OFFICE OF OIL AND GAS MANAGEMENT

**Civil Penalty Calculation Worksheet**  
 (for DEP use only)

eFACTS Enf ID
Date Initiated
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Responsible Party (Violator)	ID or OGO #	Evaluator	Description of violations and applicable laws.
Site / Well Name and #	Prior Related Enforcement Actions		
API # or Permit #	eFACTS PF Id #	Type:            Enf ID:            Date:	
Location:    County            Municipality	Type:            Enf ID:            Date:		
Inspection Dates:			

**Penalty Calculation, Factors**

\$	<b>Endangering Public Safety or Health</b>	Severe    Significant    Moderate    None	<b>Environmental Justice Area?</b>	Yes	No
	<b>Damage to Natural Resources</b>	Severe    Significant    Moderate    Negligible	<b>Water Quality Related</b>	<b>Use:</b> Special Protection    High    Moderate    Low	<b>Damage:</b> Severe    Significant    Moderate    Low    Negligible
\$	<b>Willfulness</b>	Deliberate    Reckless    Negligent    Accidental			
\$	<b>Commonwealth Costs</b>	Samples \$            Photos \$            Mileage \$            Hours \$            Other \$			
\$	<b>Violator's Savings</b>	Notes:			
\$	<b>Violator's History</b>	Amount for violator's history, add    % of the sum of amounts in the first five rows.			
\$	<b>Subtotal Amounts Above</b>				
- \$	<b>Cooperation Discount</b>	Subtract    % of subtotal.			
\$	<b>Total</b>	Ratings and procedure			Date:
		reviewed / approved by:			