

58:4A-4.1. Responsibilities of well owner, drilling contractors, violations

2. The owner of any well shall be responsible for having the well sealed in accordance with the rules and regulations of the department if the well is not in use or if it endangers or threatens the subsurface or percolating waters by the intrusion of salt water or from any other cause, or if it endangers life. Notwithstanding the well owner's responsibility to seal a well, the drilling contractor is also and primarily responsible for sealing a borehole or well that is abandoned during construction or is not completed or constructed in accordance with rules and regulations in effect at the time of construction. Any person who violates the provisions of this section shall be guilty of a disorderly persons offense and shall be subject to the penalty provisions and other remedies set forth in section 20 of P.L.1947, c.377 (C.58:4A -24). Nothing in this section shall be construed to limit the ability of the owner of a well to seek indemnification, contribution, or other civil damages from the drilling contractor as may be authorized pursuant to any other statutory or common law.

L.1951,c.193,s.2; amended 1979,c.398,s.21; 1995,c.312,s.2.

58:4A-4.2. Sealing of abandoned borehole, well

3. The department shall have the power to direct the sealing of any abandoned borehole or well not in use, or any well when, in its judgment, the condition of the well endangers or threatens the subsurface or percolating waters by the intrusion of salt water or from any other cause, or if it endangers life. The department may, when it determines that an emergency condition exists, direct the prompt sealing of an abandoned borehole or well. An owner or drilling contractor of any abandoned borehole or well who is responsible for having that borehole or well sealed pursuant to section 2 of P.L.1951, c.193 (C.58:4A -4.1) but fails or refuses to seal it in the time and manner directed by the department shall be subject to the penalty provisions and other remedies set forth in section 20 of P.L.1947, c.377 (C.58:4A -24).

L.1951,c.193,s.3; amended 1979,c.398,s.22; 1995,c.312,s.3.

58:4A-4.2a. Departmental discretion to seal borehole well; treble damages

4. If a well is not in use, or if a well is found by the department to endanger or threaten the subsurface or percolating waters by the intrusion of salt water or from any other cause, or if it endangers life, or if an abandoned borehole exists, and the responsible party cannot be found or refuses to seal the borehole or well as directed by the department pursuant to section 3 of P.L.1951, c.193 (C.58:4A-4.2), the department may, in its discretion, act to seal the borehole or well. A responsible party who fails to comply with a directive to seal a borehole or well shall be liable to the department in an amount equal to three times the cost of sealing the borehole or well. The amount shall be assessed and recovered in accordance with section 20 of P.L.1947, c.377 (C.58:4A-24), and the amount collected shall be deposited in the "well sealing fund" established pursuant to section 5 of P.L.1995, c.312 (C.58:4A-4.2b).

L.1995,c.312,s.4.

58:4A-4.2b. "Well sealing fund" established

5. There is established in the Department of Environmental Protection a nonlapsing, revolving fund, to be known as the "well sealing fund." All penalties collected by the department for violations of sections 2 and 3 of P.L.1951, c.193 (C.58:4A-4.1 and C.58:4A-4.2), and all monies recovered by the department pursuant to section 4 of P.L.1995, c.312 (C.58:4A -4.2a), shall be deposited into the "well sealing fund." The fund shall be utilized solely for the purpose of administering and conducting a well sealing program as provided in section 4 of P.L.1995, c.312 (C.58:4A -4.2a).

L.1995,c.312,s.5.

58:4A-5. Rules, regulations

1. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the provisions of P.L.1947, c.377 (C.58:4A-5 et seq.), including construction and other standards applicable to engaging in well drilling and pump installing.

L.1947,c.377,s.1; amended 1968,c.308,s.1; 1979,c.398,s.2; 1995,c.312,s.6.

58:4A-6. Requirements for well drilling, pump installation

2. a. No person, partnership or corporation shall engage in well drilling or pump installation in this State, except as provided in section 20 of P.L.1947, c.377 (C.58:4A-24), unless that individual, if a person, or member of the firm, if a partnership, or executive officer, if a corporation:

- (1) possesses a valid New Jersey license of the proper class; or
- (2) secures the services of a person possessing a valid New Jersey license of the proper class.

The department shall establish, by regulation, classes of licenses required for all well drilling and pump installing activities.

b. No person, partnership, or corporation shall employ more than three other well drillers in well drilling in this State unless the well drillers' supervisor is qualified as a master well driller pursuant to the criteria established therefor under the rules and regulations of the department.

c. No other agency or political subdivision of the State is authorized to license or to establish standards, requirements, or specifications for well drilling or pump installation regulated pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.).

L.1947,c.377,s.2; amended 1968,c.308,s.2; 1979,c.398,s.3; 1995,c.312,s.7.

58:4A-7. Board of well driller and pump installer examiners created

3. A board of nine well driller and pump installer examiners is created, to be appointed by the commissioner, which shall function as an examining board of well drillers and pump installers, and as an advisory board to the department. The board shall be constituted as follows: three members of the board shall be employees of the department; one member shall be a person not employed by the State or pecuniarily involved in well drilling or pump installing; one member shall be licensed as a well driller in any classification established by the department; one member shall be licensed as a pump installer; and the remaining three members shall be licensed as master well drillers. Members of the board shall be appointed for terms of three years. A quorum of the board shall consist of five members, except that a quorum shall not exist unless at least three of the members present are the licensed well driller or pump installer members. No action may be approved by the board except upon the approval of a majority of the members present. All persons appointed to the board shall be citizens of the United States and residents of the State of New Jersey. The commissioner may remove any member of the board, after hearing, for misconduct, incompetence, neglect of duty or for any other sufficient cause.

L.1947,c.377,s.3; amended 1968,c.308,s.3; 1979,c.398,s.4; 1995,c.312,s.8.

58:4A-8. "State Well Drillers and Pump Installers Examining and Advisory Board"

4. The board so appointed shall be designated and known as the "State Well Drillers and Pump Installers Examining and Advisory Board."

Each member of the board, except those who are employees of the department, shall receive actual and necessary expenses, such charges to be approved by the commissioner and paid from monies in the "Environmental Services Fund" established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), as are appropriated to the department for this purpose.

L.1947,c.377,s.4; amended 1968,c.308,s.4; 1979,c.398,s.5; 1995,c.312,s.9.

58:4A-9. Meetings of examining board

The board shall meet on the call of the commissioner within 30 days after its members are first appointed and thereafter shall hold at least one meeting each year. A special meeting of the board shall be called by the commissioner, or his duly authorized representative, whenever the necessity for such a meeting exists.

department regulations pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5) that is drilled, bored, cored,

L.1947, c. 377, p. 1195, s. 5. Amended by L.1968, c. 308, s. 5, eff. Sept. 26, 1968.

58:4A-10. Powers, duties of board

6. The board shall be vested with the following powers and duties:

a. It shall be the duty of the board to recommend and consent to examination questions, review applications to ascertain the experience and qualifications of persons applying for a license, review examination results, review continuing education certification required for license renewals pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) and recommend to the department when licenses should be issued or denied. A board recommendation that a license be issued or denied shall be adopted at the next scheduled meeting following completion of the examination therefor. A board recommendation that a license be renewed shall be adopted at the next scheduled meeting following acceptance of continuing education certification therefor. Examinations may be oral or written, and may include observation of applicants for any license in the field, or any combination thereof, and shall cover the proper methods and regulatory procedures of well drilling and pump installation.

b. It shall, by a majority of all its members, formulate and recommend to the department rules, regulations, and standards, including construction standards for engaging in well drilling or pump installing and a continuing education program for well drillers and pump installers which shall be applicable to any person licensed under this act.

L.1947,c.377,s.6; amended 1968,c.308,s.6; 1979,c.398,s.6; 1995,c.312,s.10;
2005, c.134s1

58:4A-11. Licenses; issuance, classifications, requirements, rules, regulations, standards: continuing education requirements

7. a. (1) The department shall, upon recommendation of the board and payment of the required fee, issue new licenses to persons to engage in well drilling or pump installing.

(2) The department shall require each well driller or pump installer, as a condition for license renewal pursuant to section 14 of P.L.1947, c.377 (C.58:4A-18), to complete any continuing education requirements established by rules and regulations adopted by the department pursuant to this section.

b. The department shall adopt various classifications of well driller licenses to reflect the different well drilling disciplines. Commencing July 5, 1997, the department:

(1) shall issue a new well driller license only for the classification of well driller for which an applicant qualifies, based upon passing a licensing examination for that classification;

(2) shall issue a new master well driller license only to an applicant who has passed the examination for each classification of well driller established by the department pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5); and

(3) shall issue a renewal of a master well driller license, a well driller license, or a pump installer license only to an applicant who has provided evidence to the department of completion of the continuing education requirements established pursuant to subsection c. of this section.

c. The department shall establish rules, regulations and standards for continuing education of well drillers and pump installers as a condition for license renewal and shall develop and implement this continuing education program. The department may, in its discretion, waive requirements for continuing education on an individual basis for reasons of hardship, including, but not limited to, active duty in the military or reserves, illness or disability, or other good cause.

L.1947,c.377,s.7; amended 1979,c.398,s.7; 1995,c.312,s.11; 2005, c.134s.2.

58:4A-12. Suspension, revocation of license; charges; hearing; final agency action

8. The board may, after conducting a hearing, recommend that the commissioner revoke indefinitely or suspend for a period of less than one year the license of any well driller or pump installer, if

department regulations pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5) that is drilled, bored, cored, the license was obtained through error or fraud, or if the board shall find the well driller or pump installer guilty of gross neglect, incompetency, or misconduct in the practice of well drilling or pump installing or if the holder thereof has willfully violated any provision of P.L.1947, c.377 (C.58:4A-5 et seq.) or of P.L.1951, c.193 (C.58:4A-4.1 et seq.), or any rule or regulation adopted pursuant thereto. The recommendation of the board shall be made in writing and shall be accompanied by all documentation resulting from the hearing held by the board. Any person whose license has been revoked may, after the expiration of one year from the date of revocation, apply for a new license. Any person whose license has been suspended may, after expiration of the period of suspension, be reinstated upon review and approval by the board.

The charges against any well driller or pump installer against whom complaint is made shall be in writing and sworn to by the complainant, and filed with the board.

Such charges, unless dismissed by the board as unfounded or trivial, shall be heard and determined by the board within three months after the date on which they are preferred unless the board shall determine that good cause exists for further delay. The board shall have the power at any such proceeding to require the attendance of witnesses before it, and the production of such books, papers and documents as it may require, and to issue or authorize the issuance of subpoena therefor.

The time and place of the hearing, which may be adjourned from time to time, shall be fixed by the board. A copy of the charges, together with a notice of the time and place of hearing, shall be served on the accused by the board personally or by certified mail, addressed to his last known place of residence at least 30 days before the day fixed for the hearing. At the hearing the accused shall have the right to appear personally or by counsel and to cross-examine witnesses against him and to produce evidence in his defense.

The commissioner may accept, reject, or modify the recommendation of the board. A decision of the commissioner shall represent final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

L.1947,c.377,s.8; amended 1968,c.308,s.7; 1979,c.398,s.8; 1995,c.312,s.12.

58:4A-13. On-site supervision required

9. a. Any operation on the drilling, boring, coring, driving, jetting, digging, sealing or other construction or repair of wells shall be under the immediate on-site supervision of a licensed well driller of the proper class, and the name of the well drilling contractor shall be displayed on the equipment used by such driller.

b. Any installation, removal, alteration, or repair of well pumping equipment or appurtenances shall be under the immediate on-site supervision of a licensed pump installer or a licensed well driller, and the name of the pump installing contractor or well drilling contractor shall be displayed on the equipment used in the installation, removal, alteration or repair.

c. Nothing in P.L.1947, c.377 (C.58:4A-5 et seq.) shall be construed as applying to the drilling of blast holes in quarries or mines; or to persons licensed pursuant to, and acting in accordance with, P.L.1968, c.362 (C.45:14C-1 et seq.); or to excavations that do not endanger or threaten subsurface or percolating waters or endanger life and that are not defined as a well pursuant to section 19 of P.L.1947, c.377 (C.58:4A-23), including, but not limited to, septic system installations, wetlands determinations, and site suitability studies.

L.1947,c.377,s.9; amended 1948,c.148; 1968,c.308,s.8; 1979,c.398,s.9; 1995,c.312,s.13.

58:4A-14. Permit required, application; fees

10. a. (1) Except in the case of an emergency or a general permit, no well requiring a permit shall be constructed until a permit has been issued therefor by the department. Application for a permit shall be made upon forms prescribed and supplied by the department, and the applicant shall give such information pertaining to the proposed well as the department shall require. The department may issue a site-wide permit for the construction of multiple wells at a site, subject to standards adopted by the department by regulation.

department regulations pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5) that is drilled, bored, cored,

(2) The department shall adopt, by regulation, a general permit for the construction of certain categories of wells up to a depth of 50 feet and a maximum diameter to be set by the department to protect public health and safety.

b. The department shall adopt and periodically revise, by regulation, well permit requirements, including emergency permits, and regulations establishing a fee schedule setting forth reasonable application and permit fees to cover the costs of administering permit and permit enforcement programs. Permit fees shall not include the cost to the department of operating well drilling equipment, except when the department seals a well. The department may allocate a portion of the permit fees to local health agencies certified pursuant to P.L.1977, c.443 (C.26:3A2-21 et seq.) for administration and enforcement of permits issued pursuant to this act. Upon adoption of a fee schedule pursuant to this subsection, the fees set forth in the fee schedule shall supercede the fees set forth in subsection d. of this section.

c. As a further condition to the issuance of a permit, the department may require that accurate samples of the materials encountered in constructing the proposed well shall be preserved and delivered to the department. Within 90 days of the completion of the construction of any permitted well, a well record, on forms prescribed and supplied by the department, shall be filed by the driller with the department giving the log (i.e. description of materials penetrated), the size and depth of the well, the diameters and lengths of casing and screen installed therein, the static and pumping levels and the yield of the well, and such other information pertaining to the construction or operation of the well as the department may require.

d. Pending adoption by regulation of a permit fee schedule by the department in accordance with subsection b. of this section, the following permit fees shall be required: (1) a fee of \$50 for each permit for a well with a pumping capacity of under 70 gallons per minute; (2) a fee of \$125 for each permit for a well with a pumping capacity of 70 gallons or more per minute; and (3) a fee of \$100 for each site-wide permit. Payment of the fee shall accompany each permit application.

L.1947,c.377,s.10; amended 1951,c.261,s.1; 1968,c.308,s.9; 1971,c.155,s.3; 1979,c.398,s.10; 1995,c.312,s.13.

58:4A-14.1. Expedited permit processing service, account established

15. a. The department shall establish an expedited permit processing service for well permit applications. This service shall accept properly completed permit applications by electronic media, including but not limited to telefax machines. The department may establish, by regulation, an additional fee not to exceed the cost of maintaining this expedited service.

b. There is established within the department a special dedicated non-lapsing account into which any person licensed pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.) may deposit and maintain such funds as shall be sufficient to cover permit or license renewal fees that the licensee may accrue from permit or license renewal applications. Upon authorization of the licensee, the department may withdraw from this account permit application or license renewal fees for any well permit or license renewal application.

L.1995,c.312,s.15.

58:4A-16. Licensing without examination

12. The department may license without examination, upon payment of the required license fee, applicants who are duly licensed under the laws of any other state having requirements deemed by the department to be at least equivalent to those of this State.

L.1947,c.377,s.12; amended 1979,c.398,s.11; 1995,c.312,s.16.

58:4A-17. Expiration of license

13. Every license issued under the authority of P.L.1947, c.377 (C.58:4A -5 et seq.), unless sooner revoked, shall expire on the thirtieth day of June three years following the date of issuance of such license, except that any license issued prior to the effective date of P.L.1995, c.312 (C.58:4A-4.2a et al.) shall expire on the thirtieth day of June next following the date of issuance of such license.

L.1947,c.377,s.13; amended 1995,c.312,s.23.

department regulations pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5) that is drilled, bored, cored,

58:4A-18. Renewal of license

14. a. No license shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements established by the department pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11).

b. A license once issued, unless revoked or suspended, may be renewed at any time within one year before its expiration date on application therefor and payment of the required renewal fee, and any such renewal shall become effective on and after July 1 next following the date of renewal. A license not renewed prior to its expiration date may be reinstated within six months of the expiration date by payment of the license renewal fee.

After the six-month period, renewal shall require the passing of an examination prescribed by the department pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) for applicants for new licenses.

L.1947,c.377,s.14; amended 1968,c.308,s.10; 1995,c.312,s.17; 2005,c.134s3.

58:4A-19. Fee schedule

15. a. (Deleted by amendment, P.L. 2005, c. 134).

b. The department shall adopt, and may periodically amend, by regulation, a fee schedule setting forth reasonable fees for license applications and examinations, and for issuance and renewal of any license in amounts adequate to cover the costs of administering all licensing and license enforcement programs. Upon adoption of a fee schedule pursuant to this subsection, the fees set forth in the fee schedule shall supersede the fees set forth in subsection a. of this section.

All revenues derived from this section, section 10 of P.L.1947, c.377 (C.58:4A-14), and section 15 of P.L.1995, c.312 (C.58:4A-14.1) shall be deposited in the "Environmental Services Fund" established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and shall be used for the administration of well programs pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.).

L.1947,c.377,s.15; amended 1979,c.398,s.12; 1995,c.312,s.18; 2005,c.134s.4.

58:4A-20. Powers, rights of department

16. The department shall have the power to make such inspections and take such samples as may be deemed necessary for the investigation of the construction, sealing, and repair of wells throughout the State. The department shall also have the right to enter upon any and all property for the purpose of obtaining information about wells, whether idle, in use or abandoned.

L.1947,c.377,s.16; amended 1951,c.261,s.2; 1968,c.308,s.11; 1979,c.398,s.13; 1995,c.312,s.16.

58:4A-20.1. Authority of master well driller

16. A master well driller shall have the authority to certify that the well, including well pumping equipment and appurtenances thereto, has been constructed to meet the standards promulgated pursuant to P.L.1954, c.199 (C.58:11-23 et seq.), P.L.1977, c.224 (C.58:12A-1 et seq.), and P.L.1947, c.377 (C.58:4A-5 et seq.).

L.1979,c.1979,c.398,s.16; amended 1995,c.312,s.20.

58:4A-21. Repealed Repealed by L. 1995, c. 312, s.25.

58:4A-22. Repealed Repealed by L. 1995, c. 312, s.25.

department regulations pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5) that is drilled, bored, cored,
58:4A-23. Definitions relative to well drilling

19. As used in this act:

"Commissioner" means the Commissioner of Environmental Protection.

"Well" means a hole or excavation larger than a minimum diameter and depth established by driven, jetted, dug, or otherwise constructed for the purpose of removal or emplacement of, or investigation of, or exploration for, fluids, water, oil, gas, minerals, soil, or rock, or for the installation of an elevator shaft.

"Well drilling" means the drilling, digging, driving, boring, coring, sealing, jetting, or other construction or repair of any well.

"Well driller" means a person possessing a New Jersey license as a well driller of the proper class, including but not limited to test borers and such other classifications as the department establishes by regulation, who engages in well drilling or pump installing.

"Master well driller" means a well driller possessing a New Jersey master well driller's license who has at least five years' experience in the trade, business, or calling of well drilling, including at least two years of experience as a licensed journeyman well driller in this State, and is skilled in the planning, superintending, and practical construction of wells, and the installation and repair of well pumping equipment and appurtenances thereto.

"Journeyman well driller" means a well driller possessing a New Jersey journeyman well driller's license who has at least three years of experience under the supervision of a New Jersey licensed well driller in the trade, business, or calling of well drilling, with concentration in the practical construction of wells, and the installation and repair of well pumping equipment and appurtenances thereto, or who satisfies equivalent experience and other requirements as prescribed by the department.

"Pump" means a mechanical device used to remove or emplace gases, water or fluids from or into a well.

"Pump installer" means a person possessing a New Jersey license as a pump installer who has at least one year of experience under the supervision of a New Jersey licensed well driller or a New Jersey licensed pump installer, and is qualified to engage in pump installing.

"Pump installing" means the installation, removal, alteration, or repair of well pumping equipment and appurtenances thereto in connection with any well including connecting lines between a well and storage tank or appurtenance thereto.

"Board" means the "State Well Drillers and Pump Installers Examining and Advisory Board."

"Department" means the Department of Environmental Protection.

"License of the proper class" or "license" means a document issued to a person pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) authorizing the individual to engage and perform work in the trade, business, or calling of well drilling, or pump installing.

1947,c.377,s.19; amended 1951,c.261,s.3; 1952,c.84; 1968,c.308,s.12; 1979,c.398,s.14; 1995,c.312,s.21.

58:4A-24. Violations, penalties

20. a. Any person who shall engage in the trade, business, or calling of a well driller, or who shall operate a well drilling machine without having a New Jersey license, except in the presence and under the immediate on-site supervision of a New Jersey licensed well driller of the proper class, or any person, partnership, or corporation that engages in the trade, business, or calling of well drilling without employing a New Jersey licensed well driller to operate a well drilling machine, or that engages in the trade, business, or calling of pump installing without employing a New Jersey licensed pump installer or New Jersey licensed well driller, for the work or the immediate on-site supervision of the actual work, or that operates without a permit as provided in this act, or that negligently aids or abets in the commission of any violation, or that violates any provision of P.L.1947, c.377 (C.58:4A-5 et seq.), any rule or regulation adopted, or order or directive issued, pursuant thereto, shall be subject to, as applicable, any or all of the following:

- (1) A civil administrative penalty imposed pursuant to subsection c. of this section;
- (2) A civil penalty collected, as provided in subsection d. of this section, in an action by the department, or a political subdivision of the State, in a court of competent jurisdiction in a summary proceeding pursuant to "the penalty enforcement law," (N.J.S.2A:58-1 et seq.);
- (3) A civil action in accordance with subsection b. of this section; or
- (4) An order by the department requiring a violator to comply with the provisions of this act or any rules or regulations adopted pursuant thereto in accordance with subsection e. of this section.

Use of any remedy available pursuant to this subsection shall not preclude the use of any other remedy available thereunder, except that not more than one monetary penalty may be assessed for any single violation. Any penalties or costs collected in an action brought by a political subdivision pursuant to paragraph (2) of this subsection shall be payable to that political subdivision.

Acceptance by any person, partnership, or corporation of any money or other consideration of value for the construction of any well or installation or repair of a pump by anyone other than a licensed well driller of the proper class or licensed pump installer, shall be deemed prima facie evidence of the violation of this act.

b. The department may institute an action or proceeding in the Superior Court for injunctive and other relief for any violation of P.L.1947, c.377 or of any rule, regulation, order, or directive issued pursuant thereto, and the court may proceed in the action in a summary manner. Such relief may include, singly or in combination:

- (1) Assessment of the reasonable costs of any investigation, inspection or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and litigating the

case under this subsection;

(2) Assessment of the reasonable cost incurred by the State in terminating any adverse effects of a violation on water quality or other elements of the environment;

(3) Assessment of compensatory damages for any loss or destruction of wildlife, fish or other aquatic life, or other natural resources, and for any other actual damages;

(4) The recovery of the costs of sealing a well as may be required pursuant to section 4 of P.L.1995, c.312 (C.58:4A-4.2a); and

(5) A temporary or permanent injunction.

Compensatory damages collected pursuant to paragraph (3) of this subsection shall be paid to the General Fund, except that compensatory damages shall be paid by specific order of the court to any persons who have been aggrieved by the violation. Recovery of assessments pursuant to paragraph (4) of this subsection shall be paid into the "well sealing fund" established pursuant to section 5 of P.L.1995, c.312 (C.58:4A-4.2b).

c. The department may assess, in accordance with a uniform policy adopted therefor, a civil administrative penalty of not more than \$5,000 for each violation directly related to the construction of a well, and a civil administrative penalty of not more than \$1,000 for each violation that is not construction-related, and each day during which a violation continues shall constitute an additional, separate and distinct offense.

Any amount assessed under this subsection shall fall within a range established by regulation by the department for violations of a similar type, seriousness, and duration.

In adopting rules for a uniform civil administrative penalty policy for determining the amount of a civil administrative penalty to be assessed, the department shall take into account the type, seriousness, extent and frequency of a violation, the harm to the public health or the environment resulting from the violation, the economic benefits from the violation gained by the violator, the degree of cooperation or recalcitrance of the violator in remedying the violation, any measures taken by the violator to avoid a repetition of the violation, and any other pertinent factors that the department determines measure the seriousness or frequency of the violation, or conduct of the violator.

No civil administrative penalty shall be levied pursuant to this subsection until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or order or directive violated; a concise statement of the facts alleged to constitute a violation; a statement of the amount of the civil administrative penalties to be imposed; and a statement of the party's right to a hearing. The party shall have twenty days from the receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order assessing a penalty up to the amount of the penalty specified in the order. If no hearing is requested, the notice shall become a final order on the twenty-first day after receipt of the notice. Payment of the assessment is due when a final order is issued, or the notice becomes a final order.

d. Any person who violates the provisions of P.L.1947, c.377, or any rule or regulation adopted, or order or directive issued pursuant thereto, or a court order issued pursuant to subsection b. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection c. of this section, shall be subject, upon order of a court, to a civil penalty of not more than \$5,000 for each violation directly related to the construction of a well, and a civil administrative penalty of not more than \$1,000 for each violation that is not construction-related, and each day the violation continues shall constitute an additional, separate, and distinct offense.

Any civil action to impose a penalty pursuant to this subsection may be commenced in the Superior Court or in the municipal court and that penalty may be enforced and collected with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

e. Whenever the department finds that a person has violated any provision of P.L.1947, c.377, or any rule or regulation adopted, or order or directive issued pursuant thereto, the department may issue an

order specifying the provision or provisions of P.L.1947, c.377, or the rule, regulation, or order or directive issued, pursuant thereto, of which the person is in violation, citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of the right to a hearing on the matters contained in the order. The ordered party shall have 20 calendar days from receipt of the order within which to deliver to the department a written request for a hearing. Such order shall be effective upon receipt and any person to whom such order is directed shall comply with the order immediately. A request for hearing shall not automatically stay the effect of the order.

f. The department may compromise any remedy and settle any claim for a penalty under this section in the amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

L.1947,c.377,s.20; amended 1968,c.308,s.13; 1979,c.398,s.15; 1995,c.312,s.22.

58:4A-27. Partial invalidity

If any part, section, subsection, sentence, clause or phrase of this act shall be held unconstitutional or void for any reason, such decisions shall not affect the validity of the remaining portions of this act.

L.1947, c. 377, p. 1199, s. 23.

58:4A-28. Effective date

This act shall take effect immediately, except that section twenty shall be inoperative until ninety days thereafter.

L.1947, c. 377, p. 1199, s. 24.

58:4A-29. Rules, regulations

24. Within 18 months of the effective date of P.L.1995, c.312 (C.58:4A -4.2a et al.), the department shall adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act.

L.1995,c.312,s.24.