

SHALL BE ASSESSED ONLY AFTER THE DEPARTMENT DETERMINES THAT A VIOLATION DID OCCUR AND THE AMOUNT OF THE PENALTY WHICH IS WARRANTED AND HAS ISSUED AN ORDER REQUIRING THE PENALTY BE PAID. The civil penalty assessed MAY [shall be \$500] NOT EXCEED \$5,000 for each day of violation[, not exceeding a total sum of \$10,000]. In determining whether or not to seek assessment of a civil penalty, the Department shall consider the wilfulness of the violation; the nature and extent of the damage or potential damage to land and structures including adjacent land and structures, and general welfare, safety and health; and the effect of the violation on the rate and effectiveness of reclamation of the affected area.

(2) The civil penalty is payable to the State and collectible in any manner provided at law for the collection of debts. If any person liable to pay the penalty neglects or refuses to pay it after demand, the amount, together with interest and any costs that may accrue, shall be a lien in favor of the State upon the property, both real and personal, of the person and shall be recorded in the clerk of court's office for the political subdivision in which the property is located. The moneys shall be credited to the Bituminous Coal Open-Pit Mining Reclamation Fund.

(C) IF AN OPERATOR FAILS TO CORRECT A VIOLATION WITHIN THE TIME FOR COMPLIANCE SPECIFIED BY A NOTICE OR ORDER ISSUED PURSUANT TO § 7-507(C) OR (D), THE SECRETARY SHALL ASSESS A CIVIL PENALTY OF NOT LESS THAN \$750 FOR EACH DAY DURING WHICH THE VIOLATION CONTINUES.

7-517.1.

WHENEVER A CORPORATION VIOLATES ANY RULE OR REGULATION PROMULGATED PURSUANT TO § 7-503, ANY PERMIT ISSUED PURSUANT TO THIS SUBTITLE OR FAILS TO CORRECT A VIOLATION WITHIN THE TIME SPECIFIED BY A NOTICE OR ORDER ISSUED PURSUANT TO § 7-507(C) OR (D), ANY OFFICER, DIRECTOR OR AGENT OF THE CORPORATION WHO WILLFULLY AND KNOWINGLY AUTHORIZED, ORDERED OR CARRIED OUT THE VIOLATION OR FAILURE SHALL BE SUBJECT TO THE PENALTY PROVISIONS OF § 7-516(B) AND § 7-517(B) AND (C).

7-519.

(A) NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED AS AFFECTING IN ANY WAY THE RIGHT OF ANY PERSON TO ENFORCE OR PROTECT HIS INTEREST IN WATER RESOURCES AFFECTED BY OPEN-PIT MINING.

(B) THE OPERATOR OF AN OPEN-PIT MINE SHALL REPLACE THE WATER SUPPLY OF AN OWNER OF INTEREST IN REAL PROPERTY WHO OBTAINS ALL OR PART OF HIS SUPPLY OF WATER FOR DOMESTIC, AGRICULTURAL, INDUSTRIAL, OR OTHER LEGITIMATE USE FROM AN UNDERGROUND OR SURFACE SOURCE WHERE THE DEPARTMENT DETERMINES THAT SUCH SUPPLY HAS BEEN AFFECTED BY CONTAMINATION, DIMINUTION, OR INTERRUPTION PROXIMATELY RESULTING FROM SUCH OPEN-PIT MINE OPERATIONS.