



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Oil and Gas Management

# **Final-Form Rulemaking: Unconventional Well Permit Application Fees (25 Pa. Code Chapter 78a)**

Environmental Quality Board  
January 21, 2020

Tom Wolf, Governor

Patrick McDonnell, Secretary

# Statutory Framework

The purposes of the 2012 Oil and Gas Act are to:

- (1) Permit optimal development of oil and gas resources of this Commonwealth consistent with protection of the health, safety, environment and property of Pennsylvania citizens.
- (2) Protect the safety of personnel and facilities employed in coal mining or exploration, development, storage and production of natural gas or oil.
- (3) Protect the safety and property rights of persons residing in areas where mining, exploration, development, storage or production occurs.
- (4) Protect the natural resources, environmental rights and values secured by the Constitution of Pennsylvania.



# Statutory Framework (Continued)

Section 3274 of the 2012 Oil and Gas provides: “The Environmental Quality Board shall promulgate regulations to implement [the 2012 Oil and Gas Act].”

Section 3211(d) of the 2012 Oil and Gas Act provides: “Each application for a well permit shall be accompanied by a permit fee, established by the Environmental Quality Board, which bears a ***reasonable relationship*** to the cost of administering [the 2012 Oil and Gas Act].” 58 Pa.C.S. § 3211(d).

Factors to establish reasonable fees for different types of wells (unconventional, conventional, home use) :

- Annual well permit application projections
- Total well bore length
- Cost to develop
- Costs to Program by industry sector
- Ability to pay

# Background

Prior well permit application fee increases:

- 2009 fee increase: Sliding scale based on well type & total well bore length
- 2014 fee increase: Eliminated sliding scale for unconventional well permit applications only & established a flat fee for nonvertical and vertical unconventional wells provided the Program receives 2,600 unconventional well permits annually

# Background (Continued)

Since 2014 fee increase, there has been a decline in unconventional well permit applications received

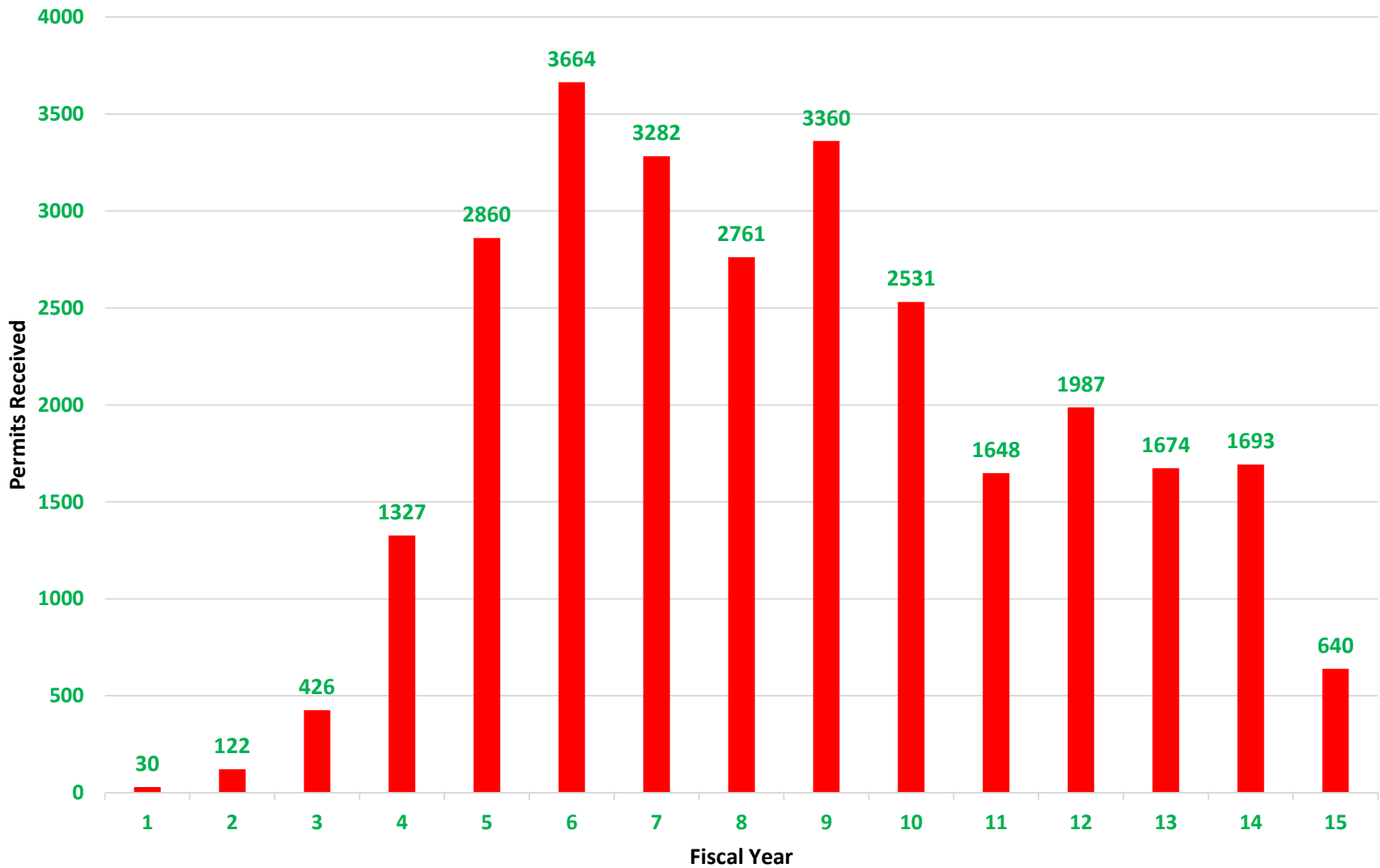
Cost-saving measures:

- Reduced staff complement from 226 to 190 employees
- Reduced operating and fixed asset costs by 38% (\$1 million)

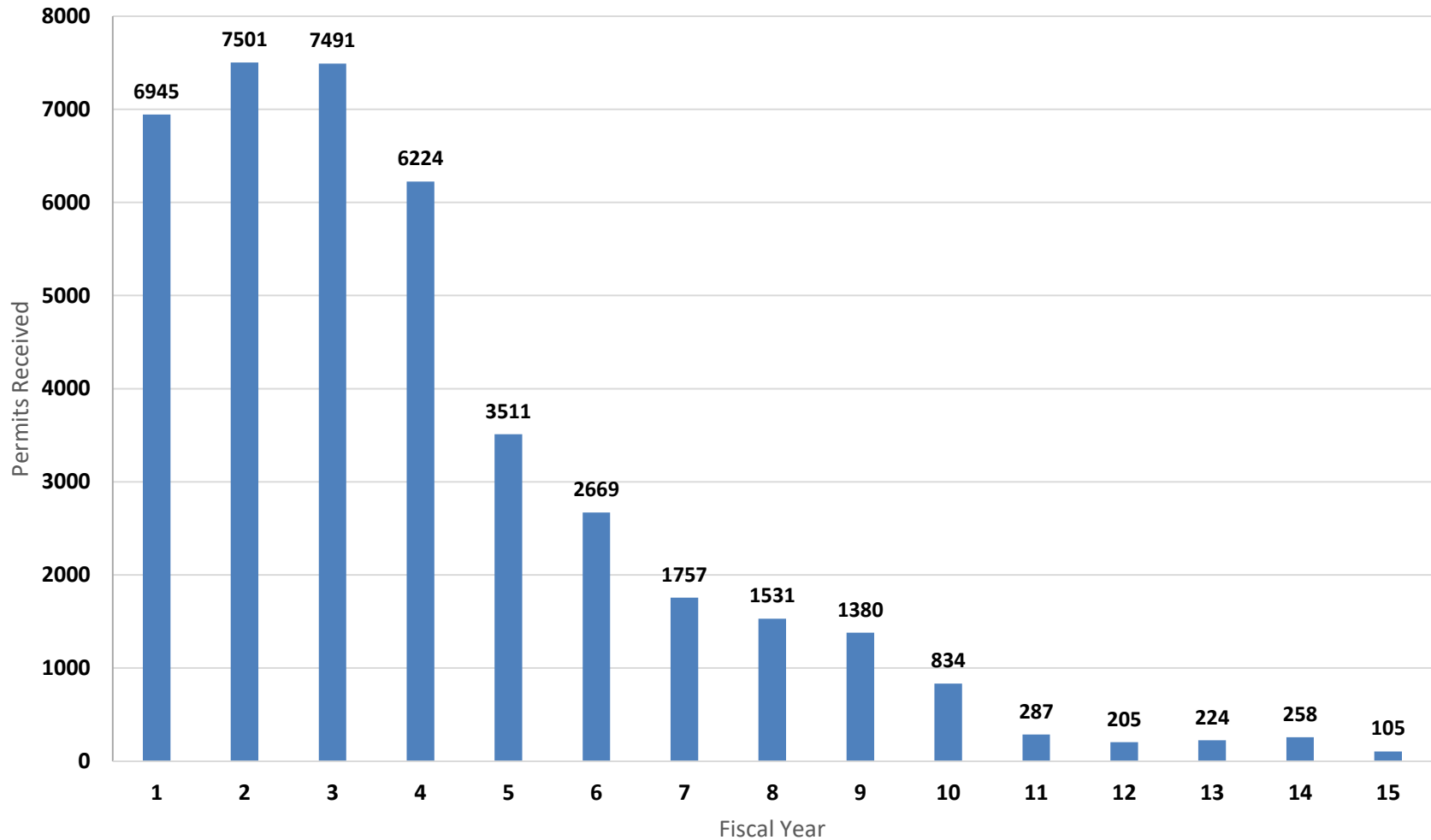
However, the Program's workload has continued to increase

To address prior well permit application projections & comply with 25 Pa. Code Sections 78.19(e) and 78a.19(b), the Department prepared the *3-year Regulatory Fee and Program Cost Analysis Report*

# Unconventional Well Permit Applications



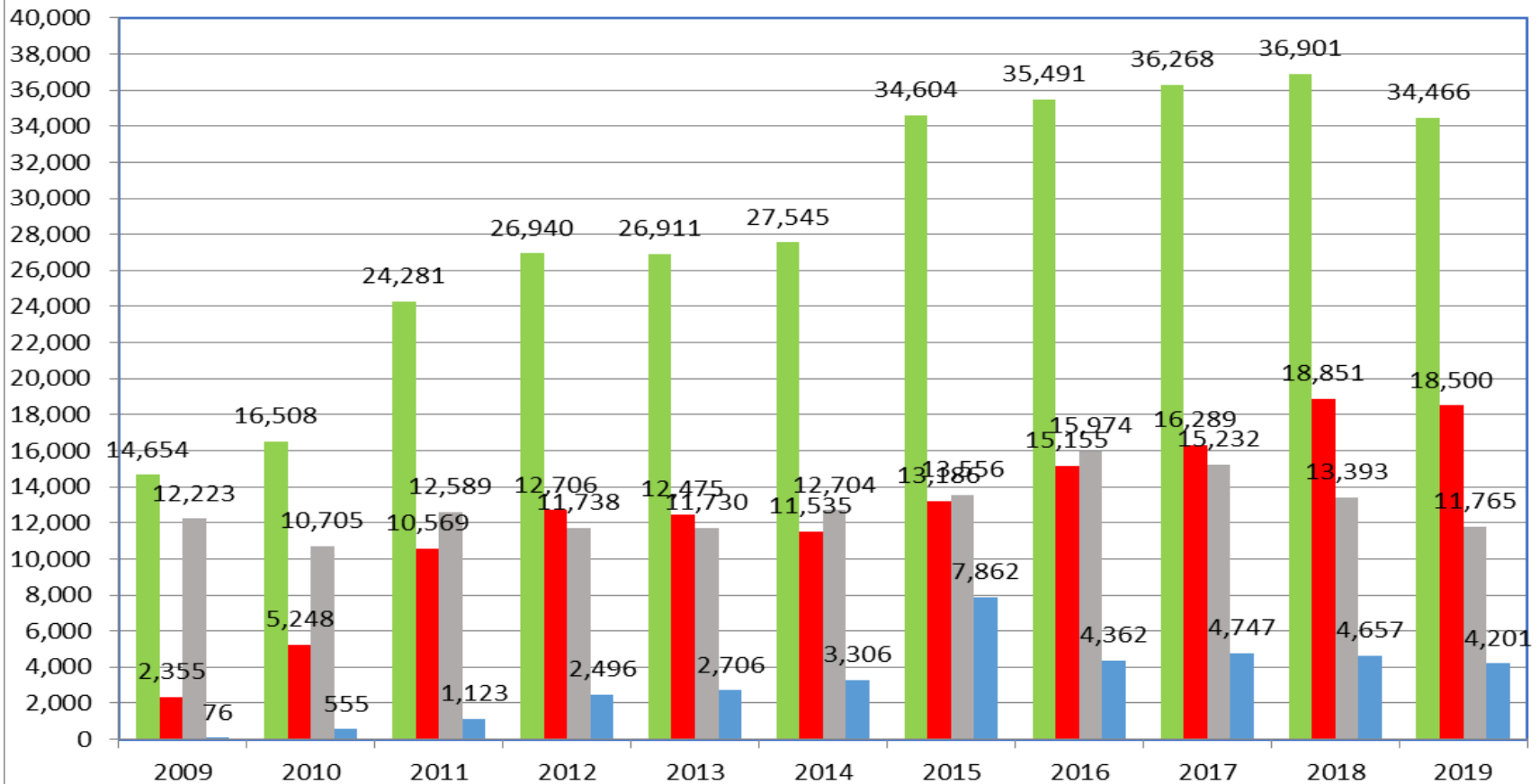
# Conventional Well Permit Applications



# Inspections

## Compliance Inspections 2009 - 2019

■ Total Inspections ■ Unconventional Inspections ■ Conventional Inspections ■ Administrative/Well Site Inspections

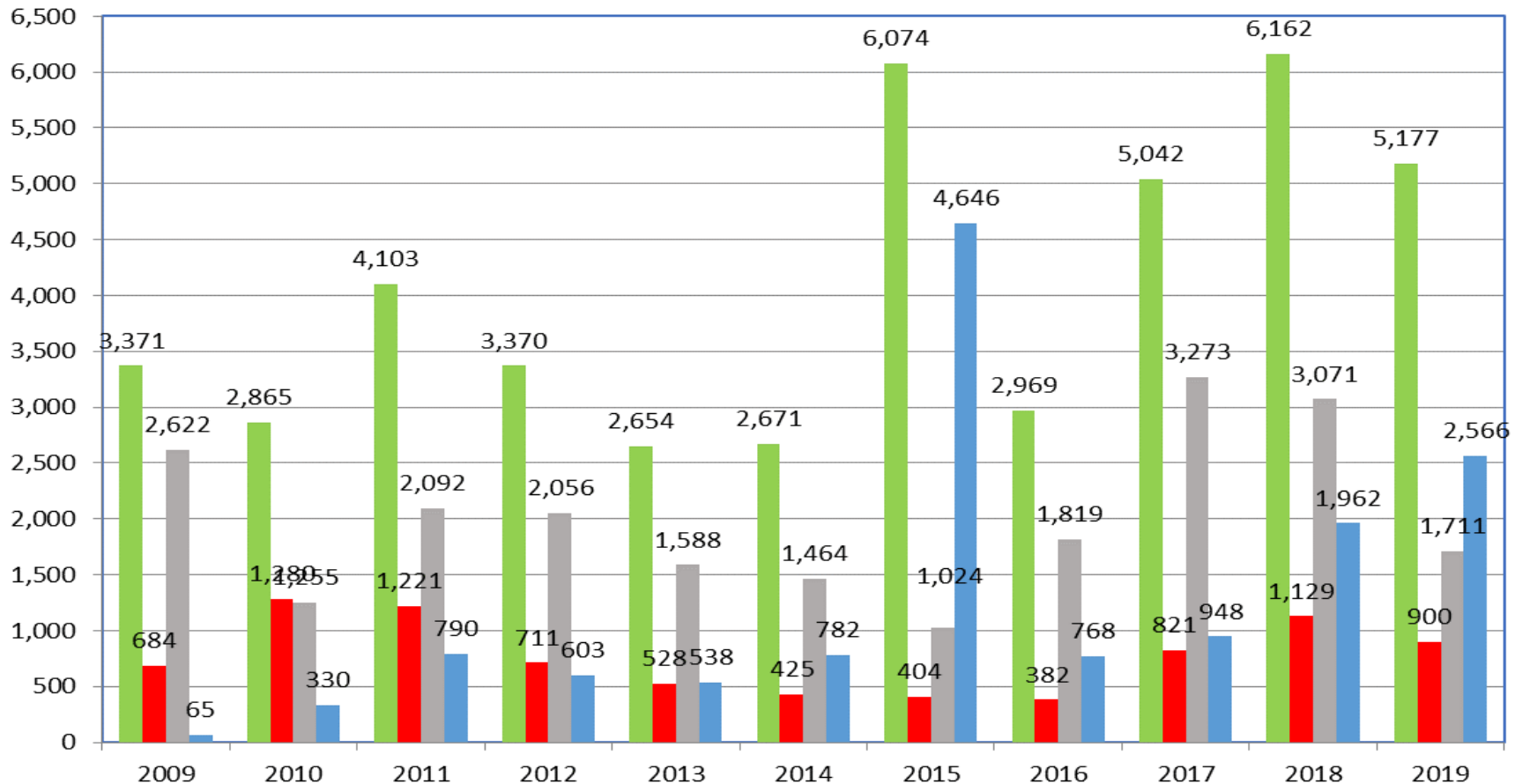




# Enforcement

## Compliance Violations 2009 - 2019

■ Total Violations ■ Unconventional Violations ■ Conventional Violations ■ Administrative/WellSite Violations



# Background (Continued)

Based on the *3-year Regulatory Fee and Program Cost Analysis Report's* analysis of unconventional well permit application trends for FYs 2014-2015, 2015-2016 and 2016-2017, the Program projects:

- 2,000 unconventional well permit applications per year
- Costs to fund the Program at a reduced complement of 190 and with reduced operating expenses = \$25 million

Expense	Cost (in dollars)
Staff (190 positions)	20,140,000
Operating Expenses (FY 2018-2019)	4,519,000
<b>TOTAL Cost</b>	<b>24,659,000</b>

# Purpose

To sustain the Program at current staff levels and operating costs.

- Increase the unconventional well permit application fee from \$5,000 for nonvertical unconventional wells and \$4,200 for vertical unconventional wells to \$12,500 for all unconventional wells.

## Proposed Unconventional Well Permit Application Fees Rulemaking

5/16/18 – Board adopted proposed rulemaking

7/14/18– Proposed rulemaking published in *PA Bulletin*

7/14/18 to 8/13/18 – Public comment period

# Public Outreach

The Department consulted with the Oil and Gas Technical Advisory Board (TAB) in the development of the proposed rulemaking & presented the final-form rulemaking to TAB on September 19, 2019

The Department discussed the proposed unconventional well permit application fee increase at with the regulated community at several meetings with oil and gas operators.

# Comments on the Proposed Rulemaking

51 comments were received from 13 commenters and the Independent Regulatory Review Commission (IRRC)

Comment topics included:

- Consider alternate sources of funding (i.e. General Fund, Chapters 102 and 105 permit fees)
- Clarify benefits of well permit increase
- Justify reasonableness related to costs by industry sector
- Concerns relating to impacts to small businesses and PA's competitiveness
- Fees will not result in faster permit reviews

# Summary of Final Rulemaking

There are no major changes from the Proposed Rulemaking:

- Unconventional well permit application fee of \$12,500
- Unconventional well permit application projection of 2,000 applications per year
- Projected costs with 190 employees and current operating costs of \$25 million

# Annex A

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## **Subchapter B. PERMITS, TRANSFERS AND OBJECTIONS PERMITS AND TRANSFERS**

### **§ 78a.19. Permit application fee schedule.**

(a) An applicant for an unconventional well shall pay a permit application fee **[according to the following:] of \$12,500.**

**[(1) \$4,200 for a vertical unconventional well.**

**(2) \$5,000 for a nonvertical unconventional well.]**

(b) At least every 3 years, the Department will provide the EQB with an evaluation of the fees in this chapter and recommend regulatory changes to the EQB to address any disparity between the program income generated by the fees and the Department's cost of administering the program with the objective of ensuring fees meet all program costs and programs are self-sustaining.



## Clarifications in Final Rulemaking Documents

Clarification that this fee increase is to sustain program at current staff levels and operating costs.

Clarification that conventional well permit application fees and \$6 million Act 13 Impact Fees are part of the Oil and Gas Program's overall budget.

Clarification that these other revenue sources are needed to provide a funding buffer.

Explanation of funding buffer as needed in the event well permit projection falls short or to restore and add needed staff and program enhancements.

## Clarifications to Final Rulemaking Documents (Continued)

Discussion of variability of unconventional well permit applications.

Clarification of needed staff – 49 positions.

Clarification of needed additional operating costs.

## Clarifications to Final Rulemaking Documents (Continued)

Explanation of consideration of conventional well industry costs and fees.

- Conventional well drilling is in decline
- Conventional well permit application fee = 0.5% of annual operating budget
- Conventional well permit fee is between 0.15% and 0.3% of the cost to drill a conventional well
- Assuming conventional industry may account for 40% of program costs – proportional cost = \$10 million
- If fee based on proportional costs by industry section, the conventional well permit application fee would increase from average of \$365 to \$42,000

# Actual Revenue – Without Increase

Expense	Cost (in dollars)
Unconventional Permit Fees (2,000 permit x \$5,000)	10,000,000
Conventional Permit Fees (FY 2018-2019)	77,000
Act 13 Impact Fee	6,000,000
<b>TOTAL Revenue</b>	<b>16,077,000</b>

# Projected Revenue – With Increase

Expense	Cost (in dollars)
Unconventional Permit Fees (2,000 permit x \$12,500)	25,000,000
Conventional Permit Fees (FY 2018-2019)	77,000
Act 13 Impact Fee	6,000,000
<b>TOTAL Revenue</b>	<b>31,077,000</b>

# ▶ Projected Revenue – With Fee Increase (1,600 permits)

Expense	Cost (in dollars)
Unconventional Permit Fees (1,600 permit x \$12,500)	20,000,000
Conventional Permit Fees (FY 2018-2019)	77,000
Impact Fee	6,000,000
<b>TOTAL Revenue</b>	<b>26,077,000</b>

# Summary and Recommendation

Current fees are inadequate to cover the costs of the Oil and Gas Program at current staff levels and operating costs.

The Department recommends that the Board adopt this final-form rulemaking.



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