

2023 Kansas Statutes

82a-1216. Civil penalties and orders; appeals; disposition of penalties. (a) Any person who violates any provision of the Kansas groundwater exploration and protection act, any rules and regulations adopted thereunder or any order issued by the secretary thereunder shall incur in addition to other penalties provided by law, a civil penalty not to exceed \$5,000 for each violation. In the case of a continuing violation every day such violation continues shall be deemed a separate violation.

(b) The secretary of the department of health and environment or the director of the division of environment, if designated by the secretary, upon a finding that a person has violated any provision of the Kansas groundwater exploration and protection act, or any order issued or rule and regulation adopted thereunder, may: (1) Issue a written order requiring that necessary remedial or preventive action be taken within a reasonable time period; (2) assess a civil penalty for each violation within the limits provided in this section which shall constitute an actual and substantial economic deterrent to the violation for which assessed; or (3) both issue such order and assess such penalty. The order shall specify the provisions of the act or rules and regulations alleged to be violated and the facts constituting each violation. Such order shall include the right to a hearing. Any such order shall become final unless, within 15 days after service of the order, the person named therein shall request in writing a hearing by the secretary. If a hearing is requested, the secretary shall notify the alleged violator or violators of the date, place and time of the hearing.

(c) No civil penalty shall be imposed under this section except after notification by issuance and service of the written order and hearing, if a hearing is requested, in accordance with the provisions of the Kansas administrative procedure act.

(d) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(e) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(f) Nothing in this act shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

History: L. 1989, ch. 311, § 2; L. 2001, ch. 5, § 475; L. 2010, ch. 17, § 217; July 1.