

**Sec. 22a-174-12. Violations and enforcement**

(a) No person shall violate or cause the violation of any applicable regulation.

**(b) Remedies for violations.**

(1) The Commissioner shall designate employees of DEP to be known as enforcement personnel, who shall, acting with or without complaints, conduct investigations and ascertain whether the Commissioner's regulations are being complied with.

(2) Whenever the enforcement personnel determine that any regulation promulgated by the Commissioner has been violated or there has been a failure to comply therewith, they shall make and serve upon the person or persons responsible for the violations or failure a written order specifying the nature of the violation or failure and affording a reasonable period of time for its correction or remedying.

(3) Prior to the issuance of such order, the enforcement personnel shall make reasonable effort in the light of all circumstances to correct the violation or failure of compliance by conference, conciliation and persuasion, as required by statute.

(4) Unless the person or persons against whom an order has been served files a written answer thereto with the Commissioner, within thirty (30) days after the date of service of the order, and requests a hearing thereon, such order shall become final and effective. The answer shall contain a clear and concise statement of the reason or reasons, if any, that the order is claimed to be invalid or insufficient and/or the manner in which the persons filing the answer deem themselves aggrieved by the order. Upon receipt of the answer and request for a hearing, the Commissioner shall schedule the hearing as soon thereafter as is practical before himself or a designated hearing officer to act in his place and stead. The person designated to act as hearing officer shall not have participated in any way in the investigation or other preliminary proceedings preceding the issuance of the order specifying the violation. The hearing shall be open to the public and shall be conducted in the manner provided by statute, to wit: Testimony shall be under oath and recorded stenographically or by a sound-recording device, but strict rules of evidence of courts of law shall not be binding on the hearing officer. True copies of the transcript and of any other record made by or at such hearing shall be furnished a party or any other person requesting them at his own expense. During the course of a hearing, the hearing officer may take appropriate measures to preserve the confidentiality of trade secrets.

(5) Any person who receives a notice that a permit has been denied, revoked or modified, or only conditionally approved may deem the notice a written order of violation under subsection (b) (2) and file a written answer and request for a hearing under subsection (b) (4).

(6) At the conclusion of a hearing held under subsection (b) (4) or (b) (5) and after reviewing the hearing record and the recommendation and report of the hearing officer, if any, the Commissioner shall determine whether the person or persons against whom such order has been issued is violating any regulation of the Commissioner, or has failed to comply with a proper requirement, order, notice, ruling or directive duly issued, or has improperly had a permit denied, revoked, or modified, or conditionally approved, and he shall affirm, modify, reverse or revoke the order, notice or other action complained of as he shall in his discretion determine, and shall so notify such person or persons by certified mail. Any information as to secret processes or methods shall be kept confidential.

(c) Any person who violates an order of the Commissioner shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per week commencing the 10th day after expiration of the time fixed for the taking of preventative or corrective measures, although the Commissioner in his discretion may waive such accrual in whole or in part. The penalty may be collected in a civil action in the manner provided by statute. In addition, the Commissioner may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violations of an order.

(d) (1) **Emergencies.** Notwithstanding any other provision of these regulations, if the Commissioner determines that an air pollution emergency exists caused by adverse meteorological conditions, such as an inversion or a stagnant high pressure system, which requires immediate action to protect public health or safety, he may order any person emitting or responsible for the emission of air pollutants or contaminants creating or contributing to the emergency, to reduce or discontinue such actions immediately. Upon the issuance of such order, the Commissioner shall fix a place and time, not later than forty-eight hours thereafter, for a hearing to be held before him or a hearing officer designated by him. Not more than twenty-four hours after the conclusion of such hearing, and without adjournment thereof, the Commissioner shall affirm, modify or set aside his order. Nothing contained in this regulation shall be deemed a waiver of the Commissioner's powers to seek immediate injunctive relief in the courts against a person responsible for emission of pollutants in an emergency.

(d) (2) Any person who violates an order issued during and/or related to an air pollution emergency shall be liable for a civil penalty of five thousand dollars (\$5,000) per week commencing with the date of notice to such person of issuance of the order.

(e) **Criminal liability.** Any person who files any statement, record or report with the Commissioner containing false or misleading information or other claims shall be subject to criminal prosecution for a Class A misdemeanor punishable by imprisonment for a period of up to one year and a fine of up to one thousand dollars (\$1,000) for each violation.

(f) **Progress report requirements.**

(f) (1) Requirement, time, form. Any person against whom a final order has been issued shall submit progress reports as required and prescribed by the terms of the order. Such progress reports shall be submitted in such a form as the Commissioner prescribes.

(f) (2) Contents. Progress reports shall contain a separate declaration for each required step of an order's compliance timetable, stating either that compliance with the step is on schedule, or that compliance with the step is off-schedule. Progress reports declaring that compliance is proceeding on-schedule shall contain a concise but comprehensive description of (1) the action completed on each and every step required by the order during the time period covered by the report, and (2) the date or dates on which compliance with such step or steps was completed. Progress reports declaring that compliance is proceeding off-schedule shall contain a concise but comprehensive description of (1) the specific reasons for the tardiness, (2) the current state of completion, and (3) the special action which will be taken to return "on-schedule" by the date of the next progress report. Progress reports shall contain such other information as the Commissioner may require by the terms of a final order.

(f) (3) Proof of compliance. Progress reports shall include the name and address of any

vendor whose goods were ordered for compliance purposes since the prior progress report. Where the terms of an order reported upon require the purchase of any material, service or equipment, progress reports shall include copies of the purchase order or orders. The Commissioner may require such other proof as he deems necessary to determine the progress and degree of compliance.

(f) (4) Verification of contracted work. Progress reports shall include the name and address of any consultants, subcontractors, or other agents employed under the terms of the order since the prior progress report together with a concise but comprehensive description of the actions they are to take to assist in compliance with the orders. Whenever any vendor, consultant, subcontractor or other agent is undertaking any activity regarding any step in the order, the progress report shall include a verification by the person under order that the vendor, consultant, subcontractor, or other agent is proceeding on-schedule.

(f) (5) Liability. Any person required to submit progress reports shall be liable for failure to meet any of the requirements of this section notwithstanding any delegation of responsibility to an agent to complete and submit reports. Any person who files a progress report containing false or misleading information or other claims shall be subject to criminal prosecution pursuant to section 53a-157 of the General Statutes.

(Effective August 1, 1983)