

2023 Kansas Statutes

65-3445. Protection from hazards; orders and injunctions; judicial review. (a)

Notwithstanding any other provision of this act, upon receipt of information that the storage, transportation, treatment or disposal of any hazardous waste may present a substantial hazard to the health of persons or to the environment or for a threatened or actual violation of this act or any rules or regulations adopted pursuant thereto or any orders issued pursuant thereto or any permit conditions required thereby, the secretary may take such action as may be necessary to protect the health of persons or the environment. The action the secretary may take shall include, but not be limited to:

(1) Issuing an order directing the owner, generator, transporter or operator of the hazardous waste facility or site, or the custodian of the waste, which constitutes the hazard, to take such steps as are necessary to prevent the act or eliminate the practice which constitutes the hazard. The action may include, with respect to a facility or site, permanent or temporary cessation of operation.

(2) Commencing an action to enjoin acts or practices specified in subsection (a)(1) or requesting that the attorney general or appropriate district or county attorney commence an action to enjoin those acts or practices. Upon a showing by the secretary that a person has engaged in those acts or practices, a permanent or temporary injunction, restraining order or other order may be granted by any court of competent jurisdiction. An action for injunction under this subsection (a)(2) shall have precedence over other cases in respect to order of trial.

(3) Applying to the district court in the county in which an order of the secretary under subsection (a)(1) will take effect, in whole or in part, for an order of that court directing compliance with the order of the secretary. Failure to obey the court order shall be punishable as contempt of the court issuing the order. The application under this subsection (a)(3) for a court order shall have precedence over other cases in respect to order of trial.

(b) In any civil action brought pursuant to this section in which a temporary restraining order, preliminary injunction or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction or permanent injunction not be issued or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction or permanent injunction shall issue without such allegations and without such proof.

(c) Any order of the secretary pursuant to subsection (a)(1) is subject to hearing and review in accordance with K.S.A. 65-3440 and amendments thereto.

History: L. 1981, ch. 251, § 17; L. 1984, ch. 240, § 13; L. 1986, ch. 318, § 104; L. 1988, ch. 356, § 208; L. 2000, ch. 103, § 11; July 1.