

1 (3) "emergency" means any release that poses an imminent risk to
2 public health or the environment;

3 (4) "person" means any individual, owner, operator, corporation,
4 limited liability company, partnership, association, municipality, interstate
5 agency, state agency or federal agency;

6 (5) "pollutant" means any substance that ~~leaches, contamination or~~
7 ~~alteration of~~ the natural physical, chemical or biological properties of any
8 waters or soils of the state ~~or is likely to create a nuisance or~~ render such
9 waters or soils harmful, detrimental or injurious to public health, or to the
10 plant, animal or aquatic life of the state or to other designated uses; and

11 (6) "release" means any threatened or real emission, discharge,
12 spillage, leakage, pumping, pouring, emptying, escape or dumping of a
13 pollutant into or onto the waters or soil of the state, except when done in
14 compliance with the conditions of a federal or state permit or in
15 accordance with the product label.

16 (b) For the purpose of preventing water and soil pollution
17 detrimental to public health or the environment, the secretary of health
18 and environment shall:

19 (1) Adapt rules and regulations that, in the secretary's judgment, are
20 necessary to respond to and report the release of a pollutant;

21 (2) designate a 24-hour statewide telephone number whereby the
22 notice of any release of a pollutant may be made;

23 (3) provide minimum reportable quantities;

24 (4) order a person responsible for the release of a pollutant to
25 perform a cleanup of the release; and

26 (5) take necessary action to perform a cleanup of a release if the
27 person responsible for the release cannot be identified within a reasonable
28 period of time.

29 (c) The secretary may:

30 (1) Provide technical guidance, oversight and assistance to other
31 state agencies, political subdivisions of the state and other persons for the
32 cleanup of and response to the release of a pollutant;

33 (2) take necessary action to perform a cleanup of a release of a
34 pollutant if a person responsible for the release fails to take reasonable
35 actions required by the secretary to perform a cleanup of the release; and

36 (3) perform a cleanup of a release of a pollutant if the release poses
37 an emergency;

38 (d) (1) Whenever a pollutant is released intentionally, accidentally or
39 inadvertently, the person responsible for the release shall be responsible
40 for the cleanup of the release.

41 (2) The person responsible for the release of any pollutant, regardless
42 of phase or physical state, shall give notice to the department of health
43 and environment when the release exceeds reportable quantities.

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"Pollutant" does not include any animal or crop waste or manure on an agricultural operation or in an agricultural facility or during normal agricultural activities

1 (3) The person responsible for the release shall be responsible for
 2 repayment of the cleanup costs incurred by the department upon
 3 reasonably detailed notice by the secretary or the secretary's designee. If
 4 the responsible party fails to submit payment for costs of the cleanup
 5 operations promptly after giving notice, repayment costs shall be
 6 recoverable in an action brought by the attorney general in the district
 7 court of the county where such costs were incurred.

8 (e) (1) Upon a finding that a person has violated any provision of this
 9 section or rules and regulations or orders adopted hereunder, the
 10 secretary may impose a penalty not to exceed ~~§10,000~~ \$5,000 in the case of a
 11 continuing violation, ~~each day such violation continues shall be deemed a~~
 12 ~~separate violation.~~ the maximum penalty shall not exceed \$15,000

13 (2) Any moneys recovered under this section shall be remitted to the
 14 state treasurer in accordance with K.S.A. 75-4215, and amendments
 15 thereto. Upon each such remittance, the state treasurer shall deposit the
 16 entire amount in the state treasury to the credit of the emergency response
 17 activities account in the natural resources damages trust fund established
 18 pursuant to K.S.A. 75-5672(f), and amendments thereto.

19 (3) No penalty shall be imposed except after notice of the violation
 20 and an opportunity for hearing upon the written order of the secretary
 21 issued to the person who committed the violation. The order shall state the
 22 violation, the penalty to be imposed and the right to request a hearing. The
 23 request for hearing shall be in writing, directed to the secretary and filed
 24 with the secretary within 15 calendar days after service of such order.
 25 Hearings under this subsection shall be conducted in accordance with the
 26 Kansas administrative procedure act.

27 Sec. 2. K.S.A. 65-171v is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
 29 publication in the statute book.