# WEST VIRGINIA CODE: §22-11-22

**§22-11-22. Civil penalties and injunctive relief; administrative penalties.**

(a) Any person who violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 *et seq*., or §22-11B-1 *et seq*. of this code is subject to a civil penalty not to exceed $25,000 a day of such violation and any person who violates any provision of this article, §22-11A-1 *et seq*., or §22-11B-1 *et seq*. of this code or of any rule or who violates any standard or order promulgated or made and entered under the provisions of this article, §22-11A-1 *et seq*., §22-11B-1 *et seq*. of this code or §22B-1-1 *et seq*. of this code is subject to a civil penalty not to exceed $25,000 a day of such violation. Any such civil penalty may be imposed and collected only by a civil action instituted by the director in the circuit court of the county in which the violation occurred or is occurring or of the county in which the waters thereof are polluted as the result of such violation.

Upon application by the director, the circuit courts of the state or the judges thereof in vacation may by injunction compel compliance with and enjoin violations of the provisions of this article, §22-11A-1 *et seq*., and §22-11B-1 *et seq*. of this code, the rules of the board or director, effluent limitations, the terms and conditions of any permit granted under the provisions of this article, or §22-11A-1 *et seq*., and §22-11B-1 *et seq*. of this code or any order of the director or board, and the venue of any such actions shall be the county in which the violations or noncompliance exists or is taking place or in any county in which the waters thereof are polluted as the result of such violation or noncompliance. The court or the judge thereof in vacation may issue a temporary or preliminary injunction in any case pending a decision on the merits of any injunction application filed. Any other section of this code to the contrary notwithstanding, the state is not required to furnish bond as a prerequisite to obtaining injunctive relief under this article, or §22-11A-1 *et seq*., and §22-11B-1 *et seq*. of this code. An application for an injunction under the provisions of this section may be filed and injunctive relief granted notwithstanding that all of the administrative remedies provided for in this article have not been pursued or invoked against the person or persons against whom such relief is sought and notwithstanding that the person or persons against whom such relief is sought have not been prosecuted or convicted under the provisions of this article.

The judgment of the circuit court upon any application filed or in any civil action instituted under the provisions of this section is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner provided by law for appeals from circuit courts in other civil cases, except that the petition seeking review in any injunctive proceeding must be filed with said Supreme Court of Appeals within 90 days from the date of entry of the judgment of the circuit court.

Legal counsel and services for the chief, director, or the board in all civil penalty and injunction proceedings in the circuit court and in the Supreme Court of Appeals of this state shall be provided by the Attorney General or his or her assistants and by the prosecuting

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attorneys of the several counties as well, all without additional compensation, or the chief, director, or the board, with the written approval of the Attorney General, may employ counsel to represent him or her or it in a particular proceeding.

(b) In addition to the powers and authority granted to the director by this chapter to enter into consent agreements, settlements and otherwise enforce this chapter, the director shall propose, for legislative promulgation, rules in accordance with §29A-3-1 *et seq*. of this code to establish a mechanism for the administrative resolution of violations set forth in this section through consent order or agreement as an alternative to instituting a civil action.

WV Legislature