

73-22-5 Jurisdiction of division -- Hearings -- Subpoena power -- Restraining violations -- Actions for damages against violators unaffected.

- (1) The division has jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this chapter and may enact, issue, and enforce necessary rules and orders to carry out the requirements of this chapter.
- (2)
 - (a) Any affected person may apply for a hearing before the division, or the division may initiate proceedings upon any question relating to the administration of this chapter by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
 - (b) The Division of Water Rights shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
- (3) The division shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it.
- (4)
 - (a) If any person fails or refuses to comply with a subpoena issued by the division, or if any witness fails or refuses to testify about any matter regarding which the witness may be interrogated, the division may petition any district court in the state to issue an order compelling the person to:
 - (i) comply with the subpoena and attend before the division;
 - (ii) produce any records, books, and documents covered by the subpoena; or
 - (iii) to give testimony.
 - (b) The court may punish failure to comply with the order as contempt.
- (5)
 - (a) Whenever it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order made under this chapter, the division may file suit in the name of the state to restrain that person from continuing the violation or from carrying out the threat of violation.
 - (b) Venue for the action is in the district court in the county where any defendant resides or in the county where the violation is alleged to have occurred.
- (6)
 - (a) Nothing in this chapter, no suit by or against the division, and no violation charged or asserted against any person under this chapter, or any rule or order issued under it, shall impair, abridge, or delay any cause of action for damages that any person may have or assert against any person violating this chapter, or any rule or order issued under it.
 - (b) Any person so damaged by the violation may sue for and recover whatever damages that the person is otherwise entitled to receive.

Amended by Chapter 382, 2008 General Session