

Kansas Administrative Regulations

Kansas Department of Agriculture

Article 16.—Meat and Meat Products Inspection

4-16-305. Adjusting the amount of the civil penalty.

(a) Each respondent shall present all evidence on the issue of adjustment of the civil penalty at the settlement conference. This evidence may include mitigating factors or new evidence not previously known to the secretary when the order was issued.

(b) Upon presentation by the respondent of new evidence establishing facts and circumstances that were unknown to the secretary or to the secretary's duly authorized agent when the order was issued and that relate to the gravity of the violation, an adjusted civil penalty may be assessed. If these additional facts establish that a respondent did not commit a violation, the order shall be amended or vacated.

(c) The burden shall be on the respondent to present evidence of any mitigating factors to support any requested reduction in the amount of the civil penalty. The amount of the civil penalty may be reduced if the reduction serves the public interest.

(d) The amount of a civil penalty shall not be reduced to less than \$100 per offense.

(1) Whether or not a civil penalty is reduced shall be within the sole discretion of the secretary or the secretary's duly authorized representative.

(2) Reductions shall not occur unless evidence of mitigating factors has been presented by a respondent.

(Authorized by K.S.A. 2007 Supp. 65-6a44; implementing K.S.A. 2007 Supp. 65-6a56; effective July 1, 1992; amended Dec. 12, 1994; amended July 18, 2008.)

***** Authenticated Kansas Administrative Regulation *****