



On approval of the Regulation and Reglament of the appeal commission for consideration of complaints to the act of the inspection results

Invalidated Unofficial translation

Order № 116 of the Minister of Energy of the Republic of Kazakhstan dated April 12, 2019. Registered in the Ministry of Justice of the Republic of Kazakhstan on April 18, 2019 № 18546. Abolished by the order of the Acting Minister of Ecology, Geology and Natural Resources of the Republic of Kazakhstan dated October 12, 2022 No. 656

Unofficial translation

Footnote. Abolished by the order of the Acting Minister of Ecology, Geology and Natural Resources of the Republic of Kazakhstan dated October 12, 2022 No. 656 (effective after the expiration of ten calendar days after the date of its first official publication).

In accordance with sub-paragraph 38-10) of Article 17 of the Environmental code of the Republic of Kazakhstan dated January 9, 2007, I ORDER:

1. To approve the attached documents:

1) Regulation on the appeal commission for consideration of complaints to the act of the inspection results in accordance with Appendix 1 to this order;

2) Reglament of the appeal commission for consideration of complaints to the act of the inspection results according to Appendix 2 to this order.

2. The Committee for environmental regulation and control of the Ministry of Energy of the Republic of Kazakhstan in the manner established by the legislation of the Republic of Kazakhstan shall ensure:

1) state registration of this order in the Ministry of Justice of the Republic of Kazakhstan;

2) within ten calendar days from the date of state registration of this order, sending it in the Kazakh and Russian languages to the Republican state enterprise on the right of economic management "Institute of legislation and legal information of the Republic of Kazakhstan" of the Ministry of Justice of the Republic of Kazakhstan for official publication and inclusion to the Standard control bank of regulatory legal acts of the Republic of Kazakhstan;

3) placement of this order on the Internet resource of the Ministry of Energy of the Republic of Kazakhstan;

4) submission of information on implementation of measures provided by subparagraphs 1), 2) and 3) of this paragraph to the legal Department of the Ministry of

Energy of the Republic of Kazakhstan within ten working days after the state registration of this order in Ministry of Justice of the Republic of Kazakhstan.

3. Control over execution of this order shall be assigned to the supervising Vice-Minister of Energy of the Republic of Kazakhstan.

4. This order shall be enforced upon expiry of ten calendar days after its first official publication.

Appendix 1
to the order of the
Minister of Energy
of the Republic of Kazakhstan
№116 dated April 12, 2019

Regulation on the appeal commission for consideration of complaints to the act on the inspection results

Chapter 1. General provisions

1. This Regulation on the appeal commission for consideration of complaints to the act on the results (hereinafter – Regulation) is developed in accordance with subparagraph 38-10) of Article 17 of the Environmental code of the Republic of Kazakhstan dated 9 January 2007 (hereinafter – the Environmental code) and shall determine the procedure of carrying out an activity of the appeal commission for consideration of complaints to act on the inspection results (hereinafter – the Commission).

2. The Commission is a consultative-advisory body under the department of the authorized body in the field of environmental protection.

3. The Commission is guided by the Constitution, laws of the Republic of Kazakhstan, acts of the President and Government of the Republic of Kazakhstan and other legal acts, as well as this Regulation.

Chapter 2. Functions of the Commission

4. The functions of the Commission shall be:

- 1) consideration of complaints to the act on the inspection results;
- 2) making recommendations based on the results of consideration of complaints on the inspection results and sending them to the official (s) carrying out state environmental control.

Chapter 3. Rights of the Commission

5. The Commission within its competence shall have the right to:

- 1) make recommendations on presence (absence) of comments to the results of the inspection to the official (s) carrying out state environmental control;

2) receive data and (or) information relating to the natural user, who filed a petition for consideration of a complaint against the act on the inspection results (hereinafter-the applicant), including constituting commercial and other secrets protected by the law, as well as confidential information;

Information, constituting commercial, official, or other secret protected by the law, received by the members of the Commission upon carrying out their functions, is not subject to disclosure.

3) exercise other rights necessary for implementation of the functions assigned to the Commission.

Chapter 4. Activity of the Commission

6. The Commission is headed by the Chairman of the Commission. The Chairman of the Commission is an official of the authorized body in the field of environmental protection. During the absence of the Chairman of the Commission, his/her functions are performed by his/her Deputy.

7. The composition of the Commission is permanent, consists of seven members and is approved by the authorized body in the field of environmental protection in accordance with sub-paragraph 38-10) of Article 17 of the Environmental code.

The Commission must include representatives of the authorized body in the field of environmental protection, the National chamber of entrepreneurs of the Republic of Kazakhstan.

8. Meetings of the Commission are considered competent if they are attended by at least half of the total number of members of the Commission and subject to mandatory participation of members of the Commission – representatives of the authorized body in the field of environmental protection, the National chamber of entrepreneurs of the Republic of Kazakhstan.

Experts from state bodies, non-governmental organizations, public associations, and associations (unions) may be invited to participate in the Commission session.

9. Absence of one of the members of the Commission does not prevent consideration of the complaint at the Commission meeting, except for representatives of the authorized body in the field of environmental protection and the National chamber of entrepreneurs of the Republic of Kazakhstan, whose absence is the basis for postponing the Commission meeting.

10. The Secretary of the Commission is not a member of the Commission.

Reglament of the appeal commission for consideration of complaints to the act on the inspection results

1. The appeal commission for consideration of complaints to the act on the inspection results (hereinafter – the Commission) shall carry out its activity in accordance with the Environmental code of the Republic of Kazakhstan dated 9 January 2007, the Entrepreneurial code of the Republic of Kazakhstan dated 25 October 2015, the Regulation on the appeal commission for consideration of complaints to the act on the inspection results and this Reglament of the appeal commission for consideration of complaints to the act on the inspection (hereinafter – Reglament).

2. A complaint to the act on the inspection results (hereinafter- a complaint) received by the authorized body in the field of environmental protection shall be sent to the working body of the Commission.

The working body of the Commission is the department of the authorized body in the field of environmental protection (hereinafter-the working body).

3. A meeting of the Commission is held every Wednesday of the month, as the complaint is received.

If the day of the meeting falls on a public holiday, the meeting shall be postponed to the next working day following it.

If necessary, the Chairman of the Commission shall postpone the date of the meeting.

In this case, the working body notifies the members of the Commission about the postponement of the meeting date.

4. The complaint shall be considered by the Commission within the scope of the issues being appealed.

5. The working body within 2 (two) working days from the date of receipt of the complaint sends to the Commission members the copies of:

a complaint;

an act on the inspection results.

The specified copies of documents shall be sent to the e-mail addresses of the Commission members:

the employees of state bodies- to the unified e-mail system on the Intranet-portal of state bodies;

non-employees of state bodies – submitted by them to the working body.

If the applicant attaches additional materials to the complaint after mailing, the working body shall send such materials to the e-mail addresses of the Commission members.

6. The sent complaint materials shall be considered by the members of the Commission within 5 (five) working days from the date of receipt of the complaint materials from the working body.

7. At the request of the Commission members, the working body shall submit to such members of the Commission the data and (or) information necessary for consideration of the complaint concerning the applicant, including constituting commercial and other secrets protected by the law, as well as confidential information.

8. At the initiative of the Commission members, the working body sends a request to the territorial body of the authorized body in the field of environmental protection, as well as to the applicant for submission in the written form of an explanation and (or) position on the issues raised.

The response to the request shall be submitted within 2 (two) working days.

Failure to respond to the request does not prevent consideration of the complaint.

9. In agreement with the Chairman of the Commission, the working body forms the agenda for the next meeting of the Commission.

10. If there are questions, requiring additional explanations, the following ones can be invited to the Commission meeting:

state environmental inspector (s) who carried out the inspection, the results of which are being appealed;

representatives of state bodies on the issues within the competence of such bodies;

other specialists who are not interested in the outcome of the complaint, to get advice and research issues that require special knowledge and skills.

11. The decision of the Commission on the issues of the complaint shall be taken by an open voting by a simple majority of votes, presenting at the meeting.

Voting is carried out by filling in the voting sheet of members of the appeal Commission for consideration of complaints to the act on the inspection results at the meeting in accordance with Appendix 1 to this Reglament.

In case of equality of votes, the decision for which the Chairman of the Commission voted is considered accepted.

12. The Commission makes a decision based on the results of consideration of the issues being appealed.

Decisions taken by the Commission based on the results of consideration of the complaint shall be of a recommendatory nature.

13. Decisions taken by the Commission based on the results of consideration of complaints, shall be reflected in the minutes of the meeting of the appeal Commission for consideration of complaints to the act on the inspection results (hereinafter – the Protocol) in the form according to Appendix 2 to this Reglament with attachment of necessary documents.

14. A copy of the Protocol in the written form shall be sent to the applicant, as well as to the official (s) who drew up the act on the inspection results within one working day from the date of taking the decision.

15. The Protocol shall be kept by the secretary of the Commission.

16. The Protocol shall indicate:

place and date of the meeting;

listing of the presented members of the Commission, invited persons (if any), representatives of the working body;

name/surname, first name, patronymic (if any) of the applicant, individual identification number/business identification number;

number and date of the appealed act on the inspection results;

surname, first name, patronymic (if any) of the state environmental inspector who drew up the appealed act on the inspection results;

decision taken.

17. The draft Protocol is agreed by the members of the Commission who participated in its meeting.

18. The Protocol is signed by the Chairman of the Commission, the secretary of the Commission.

19. The working body of the Commission is responsible for recording and storing the Commission's protocols and materials.

20. If two or more complaints are considered at the meeting of the Commission, a separate Protocol shall be drawn up for each complaint.

21. The Protocol and voting lists are attached to the materials of the relevant complaint.

22. If, based on the results of the meeting of the Commission, a decision was made to postpone consideration of a complaint included in the agenda for subsequent meetings of the Commission, the voting lists and minutes on this complaint shall not be filled in.

23. In cases of the applicant's appeal to the court in accordance with the procedure provided for by the laws of the Republic of Kazakhstan, the Commission shall suspend consideration of the complaint until a decision is made by the court.

24. If a repeated complaint is received, which was previously appealed and a decision was made on it, the Commission leaves such a complaint without consideration, as well as without submitting it to a meeting of the Commission.

25. If the complaint is withdrawn by the applicant during consideration by the members of the Commission, the Commission leaves such a complaint without consideration, with a written notification to the members of the Commission.

26. Interference into the activities of the Commission in carrying out its powers on consideration of a complaint and making any impact on the members of the Commission shall not be allowed.

27. The Commission annually, until April 1 of the year following the reporting year, summarizes the results of the complaints consideration develops recommendations for improving the legislation of the Republic of Kazakhstan, which shall be sent to the authorized body in the field of environmental protection.

Appendix 1
to the Reglament
of the appeal commission
for consideration of
complaints to the act on the
inspection results
Form

VOTING LIST
of members of the appeal Commission for consideration
of complaints to the act on the inspection results

Surname, name, patronymic (if any), position _____

_____ On the complaint _____

_____ Individual identification number/
business identification number _____

_____ Date _____

№ of the question	Content of the question	Decision of the Commission member		
		To satisfy the complaint	To satisfy partially (to indicate the supported items)	To leave the complaint without satisfaction

Note: it is filled in directly at the meeting of the Commission and passed to the employees of the working body for recording the results of voting.

The columns "To satisfy the complaint", "To satisfy partially", and "To leave the complaint without satisfaction" are signed based on the decision made.

Appendix 2
to the Reglament of the appeal
commission for consideration of
complaints to the act on the
inspection results
Form

**PROTOCOL № _____ of the meeting of the appeal Commission consideration
of complaints to the act on the inspection results**

(place) (date)

Chairman of the Commission: (indicated)

Members of the Commission: (listed)

Secretary of the Commission: (indicated)

PRESENTED:

Invited persons (if any): (listed)

Representatives of the working body: (listed)

Complaint _____

(indicated: surname, name, patronymic (if any) of an individual/name of the legal entity that filed the complaint,

individual identification number/business-

identification number, number and date of the appealed act on the inspection results and surname, name, first and patronymic (if any) of

the environmental inspector who drew up the appealed act on

the inspection results)

DECISION: _____

(taken decision is indicated)

Chairman of the Commission: _____

(signature) (surname, name, patronymic (if any))

Secretary of the Commission: _____

(signature) (surname, name, patronymic (if any))