

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Oil and Gas Act is amended by changing Section 8a and by adding Section 8d as follows:

(225 ILCS 725/8a) (from Ch. 96 1/2, par. 5413)

Sec. 8a. When an inspector or other authorized employee or agent of the Department determines that any permittee, or any person engaged in conduct or activities required to be permitted under this Act, is in violation of any requirement of this Act or the rules adopted hereunder or any permit condition, or has falsified or otherwise misstated any information on or relative to any application, permit, required record, or other document required to be submitted to the Department by this Act or any rules or procedures adopted under this Act ~~the permit application~~, a notice of violation shall be completed and delivered to the Director or his designee.

The notice shall contain:

1. the nature of the violation;
2. the action needed to abate the violation, including any appropriate remedial measures to prevent future violation such as replacement, repair, testing and reworking a well and any appurtenances and equipment;

3. the time within which the violation is to be abated;
and

4. any factors known to the person completing the notice of violation in aggravation or mitigation and the existence of any factors indicating that the permit should be conditioned or modified.

Upon receipt of a notice of violation, the Director shall conduct his investigation and may affirm, vacate or modify the notice of violation. In determining whether to take actions in addition to remedial action necessary to abate a violation, the Director shall consider the person's or permittee's history of previous violations including violations at other locations and under other permits, the seriousness of the violation including any irreparable harm to the environment or damage to property, the degree of culpability of the person or permittee and the existence of any additional conditions or factors in aggravation or mitigation including information provided by the person or permittee.

The Director shall serve the person or permittee with his decision at the conclusion of the investigation. Modification of the notice of violation may include:

1. any different or additional remedial action required to abate the violation and the time within which the violation must be abated;

2. the assessment of civil penalties not to exceed \$5,000 for each and every falsification or misstatement of

information and \$1,000 a day for each and every act of violation not including a falsification or misstatement of information;

3. probationary or permanent modification or conditions on the permit which may include special monitoring or reporting requirements; and

4. revocation of the permit.

The Director's decision shall provide that the person or permittee has the right to request a hearing.

The Director's decision affirming, vacating or modifying the notice of violation shall be considered served when mailed by first class mail to the person or permittee at his last known address.

A person or permittee shall have 30 days from the date of service of the Director's decision to request a hearing. If the Director's decision includes the assessment of a civil penalty, the person or permittee charged with the penalty shall pay the penalty in full or, if the person or permittee wishes to contest either the amount of the penalty or the fact of the violation, submit the assessed amount, with the request for a hearing, to be held in escrow. The filing of a request for a hearing shall not operate as a stay of the Director's decision. All civil penalties finally assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund.

Any person who willfully or knowingly authorized, ordered,

or carried out any violation cited in the Director's decision shall be subject to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section.

Upon receipt of a request, the Department shall provide an opportunity for a formal hearing upon not less than 5 days notice. The hearing shall be conducted by the Director or anyone designated by him for such purpose, and shall be located and conducted in accordance with the rules of the Department. Failure of the person or permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty, shall constitute a waiver of all legal rights to contest the Director's decision, including the amount of any civil penalty. Within 30 days of the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative order.

If, at the expiration of the period of time originally fixed in the Director's decision or in any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violation. Such cessation order shall be served in the manner and within the time prescribed in Section 19.1 of this Act.

Pending the holding of any hearing or entry of a final administrative order under this Section, the person or permittee to whom the cessation order was issued may file a

written request for temporary relief subject to the same terms and conditions as are provided for in Section 19.1 of this Act.

If the Department finds that a person or permittee has failed to comply with a final administrative order, the Department may immediately order the cessation of operations or the portions thereof relevant to the final administrative order. Such cessation order shall be served in the manner and within the time prescribed in Section 19.1 of this Act. The Department shall commence a hearing within 5 days after issuance of a cessation order and shall conclude such hearing without appreciable delay. At the hearing the Department shall have the burden of proving that the person or permittee has not complied with the final administrative order. A cessation order issued under this paragraph shall continue in effect until modified, vacated, or terminated by the Department.

The Department shall refuse to issue a permit or permits, and shall revoke any permit or permits previously issued if:

(1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;

(2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;

(3) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department; or

(4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department.

(Source: P.A. 89-243, eff. 8-4-95.)

(225 ILCS 725/8d new)

Sec. 8d. Falsification or misstatement of information. No person shall falsify or otherwise misstate any information on or relative to any application, permit, required record, or other document required to be submitted to the Department by this Act or any rules or procedures adopted under this Act.