**Section 172.140** **Procedures for Administrative Citations and Administrative Citation Appeals**

Except as otherwise may be required under the Illinois Administrative Procedures Act [5 ILCS 100], this Section provides the procedures for administrative citations and administrative citation appeals under Section 73 of the Petroleum Equipment Contractors Licensing Act [225 ILCS 729/73].

a) Enforcement action that results in the issuance of an administrative citation shall begin with the issuance of a CNOV by OSFM. A copy of the CNOV shall be left with any licensed contractor's certified employee, officer, managing member, or other agent of the contractor at the UST facility or other location where the contractor is working at the time of inspection or may be mailed or served by other legal process.

b) Issuance of an Administrative Citation

1) The OSFM may issue an administrative citation pursuant to Section 73 of the Petroleum Equipment Contractors Licensing Act [225 ILCS 729/73] and serve the administrative citation by personal service or certified mail to the licensee at the licensee's last known address as listed with the OSFM. *The citation shall be issued to the licensee and shall contain the licensee's name and address, the licensee's license number, a brief factual statement, the Sections of the law or rules allegedly violated, and the penalty imposed* in accordance with Section 172.120*. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to request a hearing to appeal the citation. If the licensee does not file a written appeal of the citation with the Office of the State Fire Marshal within 15 days after the citation is served, then the citation shall become a final order imposing a monetary penalty*. A written appeal will be deemed to be timely if it is postmarked no later than the time period allowed. Failure to timely satisfy the penalty assessed may result in a censure or suspension or other disciplinary action on the license for the violations noted. (See also 225 ILCS 729/80(a)(3))

2) Payment of the administrative citation penalty does not absolve the outstanding violations related to its licensing or other regulatory obligations. Administrative citations and penalties issued under this Section shall not limit the authority of the OSFM under other sections of law to issue orders, revoke permits, stop work on construction, or take any other appropriate enforcement action.

c) In the event of a timely written appeal, the OSFM shall conduct an administrative hearing governed by this Section and the Illinois Administrative Procedure Act [5 ILCS 100]. Notice of the time and place for any hearing shall be given to any party concerned at least 30 days prior to the hearing date. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney. A corporation, limited liability company, professional limited liability company, or partnership must appear by legal counsel, licensed to practice in the State of Illinois or appearing pro hac vice, who must file an appearance with the OSFM. Notice sent to the last known address by U.S. Mail, registered or certified, addressed to all parties or their agents appointed to receive service of process, or their attorneys when applicable, is sufficient.

1) The notice of hearing shall include the following:

A) The date, time, place and nature of the hearing.

B) A statement of the legal authority and jurisdiction under which the hearing is to be held.

C) A reference to the particular Sections of the substantive and procedural statutes and rules involved.

D) A short and plain statement of the matters asserted, the consequences of a failure to respond, and the case number or file number.

E) To the extent such information is available, the names, phone numbers, email addresses, and mailing addresses of the parties and designated agency contact, and if known, of any assigned hearing officer.

2) Document Exchange. At any pre-hearing conference, or if none, prior to the start of the hearing, the parties shall exchange a list of those witnesses who may testify at hearing and any exhibits or documents that may be identified at hearing.

3) Continuances. A hearing officer may, for good cause, grant a continuance at the request of a party or a continuance on the hearing officer's own motion.

4) Default. Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the OSFM shall constitute a default and the administrative citation appealed from shall become final. Appeals, petitions, motions or other requests for relief that are not prosecuted diligently may be dismissed for want of prosecution.

5) At the close of the evidence, or upon receiving the recommended decision of the hearing officer with findings of fact and conclusions of law, the OSFM shall enter an order to sustain, modify, or revoke the administrative citation. *Any appeal from such* OSFM final *order shall be to the circuit court of the county in which the violation took place and shall be governed by the Administrative Review Law* [735 ILCS 5/Art. III] [225 ILCS 729/73(a)].

6) Nothing in this Section shall prohibit the informal disposition of an administrative citation by stipulation, agreed settlement, or consent order. Informal disposition may proceed with clear and simple documentation without complete adherence to this Section.

(Source: Amended at 47 Ill. Reg. 6755, effective May 2, 2023)