

1 AN ACT concerning regulation.

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

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

6 (225 ILCS 725/8a) (from Ch. 96 1/2, par. 5413)

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

18 The notice shall contain:

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

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

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

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

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

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

25                 2. the assessment of civil penalties not to exceed  
26                 \$5,000 for each and every falsification or misstatement of

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

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

7            4. revocation of the permit.

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

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

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

26        Any person who willfully or knowingly authorized, ordered,

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

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

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

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

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

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

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

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

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

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

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

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

6           (225 ILCS 725/8d new)

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