**Section 200.930 Office of Mines and Minerals Director's Decision**

a) After the 14 day requirement in Section 200.925(d) has elapsed, the Director, or a designee, shall review the notice of violation and any response from the alleged violator and shall affirm, modify or vacate the notice of violation in writing.

b) Modification of the notice of violation by the Director may include:

1) any different or additional remedial actions necessary to abate the violation and the time within which the violation must be abated;

2) the assessment of civil penalties;

3) probationary or permanent modification or conditions on the explosives license, temporary explosives license or storage certificate;

4) the time set for abatement or for accomplishment of an interim step, which may be extended due to the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the person, if the failure to meet the time previously set was not caused by lack of diligence on the part of the person to whom it was issued; and

5) other disciplinary action, including suspension or revocation of the explosives license, temporary explosives license or storage certificate; and

6) termination of the violation (when all abatement action required by the Department has been completed).

c) Inability to Comply

1) No notice of violation issued under this Part may be vacated because of an inability to comply.

2) Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of civil penalty under subsection (d).

d) The Director's Decision shall be served personally or mailed by certified mail, return receipt requested, to the violator's last known address within 60 days after the issuance of the notice of violation. The Director's Decision affirming, vacating or modifying the notice of violation shall be considered served when either served personally on the violator or received by certified mail, return receipt requested, to the person at his or her last known address. The Director's Decision shall include:

1) the specific grounds upon which the Director's Decision is based;

2) the action the Department intends to take, including the amount of any fine the Department intends to impose;

3) a statement that the recipient may request a hearing to contest the Department's action by filing a written request for hearing within 30 days after the decision is mailed. Filing of the request for hearing shall be deemed complete upon its receipt by the Department, as evidenced by the date upon which the Department's mail receipt stamp appears on the request for hearing;

4) a statement that the person named in the notice has the right to request a hearing to contest the facts of the violations alleged by the Department within 30 days from the date he or she received the Director's Decision, and a statement that recipient's failure to make a written request for hearing within 30 days after the date the Director's Decision is mailed/personally served personally will constitute a waiver of the recipient's rights to contest the action and will result in the Director's Decision becoming a final administrative decision affirming the Department's action, which shall be conclusively presumed to be correct.

e) A Director's Decision not contested within 30 days after service shall become a final administrative decision of the Department under Section 5008 of the Act. The filing of a request for hearing shall not operate as a stay of the Director's Decision.

f) If the Director's Decision includes the assessment of a fine, and the person named in the Director's Decision does not request a hearing in accordance with subsection (e), the amount assessed shall be paid to the Department in full within 30 days after service of the Director's Decision. If a hearing is requested, any civil penalty assessment shall be paid within 30 days after the final administrative or judicial decision.

g) All administrative fines assessed and paid to the Department shall be deposited in the Explosives Regulatory Fund.

(Source: Added at 37 Ill. Reg. 14090, effective August 26, 2013)