**Section 245.1130 Director's Decision Hearings**

a) A permittee shall have 30 days from the date of receiving the Director's Decision to submit a written request for hearing to contest the Director's Decision. The written request for hearing shall provide the basis for contesting the Director's Decision and be accompanied by any documents evidencing the basis for contesting the Director's Decision. A permittee seeking to contest any Director's Decision in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashier's check or money order, together with a timely written request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount, or applicable portion thereof, shall be ordered refunded to the permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be delivered to the Department's Office of Oil and Gas Resource Management located in Springfield, Illinois or mailed to the Department at Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management, One Natural Resources Way, Springfield IL 62702.

b) Upon receipt of a request for hearing submitted in accordance with all requirements of subsection (a), the Department shall provide an opportunity for a formal hearing upon not less than 5 days' written notice mailed to the permittee or person submitting the hearing request. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.

c) The hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall have all powers necessary to conduct the hearing, including, but not limited to, *the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that he or she considers relevant or material* (Section 1-60(e) of the Act).

d) The hearing shall be conducted in accordance with the following procedures:

1) Pre-Hearing Conference

A) A pre-hearing conference shall be scheduled within 60 days after the request for hearing:

i) to define the factual and legal issues to be litigated at the administrative hearing;

ii) to determine the timing and scope of discovery available to the parties;

iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each witness;

iv) to schedule a date for the administrative hearing; and

v) to arrive at an equitable settlement of the hearing request, if possible.

B) Pre-hearing conferences under this Section may be conducted via telephone conference if that procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at the Department's offices located in Springfield, Illinois, or a place designated by the Hearing Officer.

2) Stays of Suspension or Revocation. *The order of suspension or revocation of a permit* based on Section 245.1000(f) *may be stayed*, at any time, by the Hearing Officer, *if requested by the permittee by appropriate motion and evidence is submitted demonstrating that there is no significant threat to the public health,* public safety, property, *aquatic life, wildlife, or the environment if the operation is allowed to continue* (Section 1-60(d) of the Act). The Hearing Officer shall issue an order granting or denying a motion to stay within 5 business days after it is heard.

3) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Hearing Officer shall issue an order granting or denying motions filed within 15 days after service or, if applicable, after hearing. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the matter being contested.

4) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or administrative penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the Hearing Officer and shall constitute the Department's final administrative decision as to the matter being contested.

5) All hearings, under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].

6) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the notice of violation at issue. The amount of any administrative penalty assessed shall be presumed to be proper; however, the permittee may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The permittee shall have the right to challenge the Hearing Officer if the person or permittee believes the Hearing Officer is prejudiced against him or her or has a conflict of interest. If the Hearing Officer disqualifies himself or herself, the Director shall designate a new Hearing Officer. The Hearing Officer shall conduct the hearing and hear the evidence. The Hearing Officer, at the conclusion of the hearing, shall have 30 days to issue recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.

7) The Director or the Director's designee shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. Within 15 days after receiving the Hearing Officer's recommendations, the Department shall issue a final administrative decision.

e) All Department final administrative decisions set forth in this Section are subject to judicial review under the Administrative Review Law and the rules adopted under that Law.

f) *The costs* associated with *the administrative hearing shall be borne by the permittee* (Section 1-60(f) of the Act), except that all parties shall be responsible for their own attorneys' fees.