**Section 1850.16 Denial, Issuance of Notice of Infraction, Suspension, Revocation, and other Administrative Actions**

a) The Department shall deny an application for, or revoke or suspend a certificate under the provisions of this Section if the Department finds that the applicant or certificant is, or was at the time of application or issuance, a person convicted of a felony under the laws of this or any other jurisdiction within the prior five years, or who has been a patient in a mental institution within the prior five years. The Department, when determining whether to revoke or suspend and when determining the length of a suspension, shall in addition to other factors, consider the nature of the felony of which the applicant was convicted, or the condition for which the applicant was confined to a mental institution, as well as the length of time since the conviction or confinement.

b) Notice of Infraction

1) The Department shall, when in the best interest of protecting public safety and public and private property, issue to the blaster a written notice of infraction, requiring remedial action, when, on the basis of any inspection, the Department determines that the blaster has committed any of the following infractions:

A) Noncompliance with Section 3.13 of the State Act [225 ILCS 720/3.13], 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.68, 1817.61 to 1817.68, this Part, 62 Ill. Adm. Code 220.130, the Illinois Explosives Act [225 ILCS 210], 30 CFR 816.61 to 816.68, 48 Fed. Reg. 9806-9807, 9492, 9809, 44780 (1983), 30 CFR 817.61 to 817.68, 48 Fed. Reg. 9809-9811, 9492, 44781 (1983), 30 CFR 850, 48 Fed. Reg. 9492 (1983), 30 CFR 56.6000-56.6250, 50 Fed. Reg. 5040 (1985), 30 CFR 57.6000-57.6250, 50 Fed. Reg. 4082 (1985), 36 Fed. Reg. 9634 (1971) or 43 Fed. Reg. 12320 (1978).

B) Providing false information or a misrepresentation to obtain certification.

C) Unlawful use in the workplace of or current addiction to alcohol, narcotics, or other dangerous drugs.

D) Noncompliance with any lawful order issued under the authority of the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.), Section 3.13 of the State Act, 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.68, 1817.61 to 1817.68, 1840.2, 1840.12, or this Part.

2) The maximum time allowed to abate the infraction by completing the remedial action shall be stated in the notice and shall include consideration of the nature of the infraction, as well as the availability of resources to complete the abatement. Remedial action may include, but need not be limited to, a requirement to receive additional training or undergo reexamination to demonstrate competence. A copy of such notice shall be forwarded to the blaster's employer. Any such notice may be terminated when the remedial action has been completed, modified to correct deficiencies or errors or make other changes in the notice or to change the required abatement date, or vacated if the infraction did not occur or occurred as the result of sabotage by persons other than the blaster.

3) The blaster may file a request for review with the Department, and if desired, a hearing within 30 days after the receipt of the notice of infraction. If a hearing is requested, the hearing shall be conducted in accordance with 62 Ill. Adm. Code 1847.4(e) and (g) through (p) and shall be held at one of the Department's offices. The Department shall give at least five days notice of the date, time and location of the hearing to the blaster, his or her employer, the Director, Office of Surface Mining, and any person who filed a report which led to the notice that was issued.

4) The filing of a request for hearing shall not act as a stay of the remedial actions required as part of the notice of infraction.

c) Notice to Show Cause

1) The Department, upon a finding of a willful commission of an infraction by the blaster, shall issue to the blaster a written notice to show cause why his certification should not be suspended or revoked for a specified period (not to exceed the term of the certificate).

2) The blaster shall have 21 days from the receipt date of the notice or other time period necessary for adequate response as may be set out in the notice, in which to file an answer and request a hearing. If the blaster files an answer to the show cause order and requests a hearing, a public hearing shall be provided and conducted in accordance with 62 Ill. Adm. Code 1847.4(e) and (g) through (p). The Department shall give 30 days written notice of the date, time and location of the hearing to the Director, Office of Surface Mining, the blaster, and the blaster's employer, and any person who filed a report which led to the order that was issued.

3) If the Department determines that the infraction resulting from the willful act on the part of the blaster creates an imminent danger to the health or safety of the public or imminent damage to public or private property, the Department shall immediately issue a temporary suspension of the blaster's certificate. The temporary suspension shall be in writing, and shall, with reasonable specificity, set forth the nature of the infraction and the imminent danger or damage incurred or about to be incurred. Such suspension shall be subject to a hearing to be provided not less than 15 days after the blaster's receipt of the temporary suspension. The hearing shall determine whether the suspension shall be continued, terminated or whether the certificate shall be revoked. Temporary suspension issued under the authority of this Subsection shall not exceed 15 days. The hearing shall be conducted in accordance with 62 Ill. Adm. Code 1847.4(e) and (g) through (p) and shall be held at one of the Department's offices.

4) Upon written notice of revocation, including the findings upon which the notice is based, the blaster shall without delay surrender the revoked certificate to the Department.

(Source: Amended at 22 Ill. Reg. 20290, effective November 5, 1998)