**Section 1773.20 Improvidently Issued Permits: General Procedures**

a) Permit review.

If the Department receives information indicating that it improvidently issued a surface coal mining and reclamation permit, the Department shall review the circumstances under which the permit was issued using a criteria in subsection (b) below. Where the Department finds that the permit was improvidently issued, it shall undertake the remedial measures set forth in subsection (c) below.

b) Review criteria.

The Department shall find that a surface coal mining and reclamation permit was improvidently issued if:

1) Under the violations review criteria of the regulatory program at the time the permit was issued:

A) The Department should not have issued the permit because of an unabated violation or a delinquent penalty or fee; or

B) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

2) The violation, penalty or fee:

A) Remains unabated or delinquent; and

B) Is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; and

C) Where the permittee was linked to the violation, penalty or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued, an ownership or control link between the permittee and the person responsible for the violation, penalty or fee still exists, or where the link has been severed, the permittee continues to be responsible for the violation, penalty or fee.

3) The provisions of Section 1773.25 shall apply when the Department determines:

A) Whether a violation, penalty or fee existed at the time that it was cited, remains unabated or delinquent, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal; and

B) Whether any ownership or control link between the permittee and the person responsible for the violation, penalty or fee existed, still exists, or has been severed.

c) Remedial measures.

If the Department finds, under subsection (b) above, that because of an unabated violation or a delinquent penalty or fee a permit was improvidently issued, the Department shall undertake one or more of the following remedial measures:

1) Implement, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee;

2) Impose on the permit a condition requiring that in the specified period of time the permittee or other person responsible abate the violation or pay the penalty or fee;

3) Suspend the permit until the violation is abated or the penalty or fee is paid; or

4) Rescind the permit. If the Department decides to suspend the permit, it shall give at least 30 days written notice to the permittee. If the Department decides to rescind the permit, it shall issue a notice in accordance with Section 1773.21. In either case, the permittee shall be given the opportunity to request review of the notice under 62 Ill. Adm. Code 1847.3. The Department's decision shall remain in effect during the pendency of the review, unless temporary relief is granted under 62 Ill. Adm. Code 1847.3(k).

(Source: Amended at 20 Ill. Reg. 2090, effective January 19, 1996)