**Section 1843.15 Informal Public Hearing**

a) Except as provided in subsections (b) and (c), a notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, shall expire within thirty (30) days after it is served unless an informal public hearing, if not waived, has been held within that time. The informal public hearing shall be held at or reasonably close to the mine site so that it may be viewed during the hearing or at any other location acceptable to the Department and the person to whom the notice or order was issued. Expiration of a notice or order shall not affect the Department's right to assess civil penalties with respect to the period of time during which the notice or order was in effect, pursuant to 62 Ill. Adm. Code 1845. For the purposes of Section 1843.15 only, "mining" includes:

1) Extracting coal from the earth or from coal waste piles and transporting it within or from the permit area, and

2) The processing, cleaning, concentrating, preparing or loading of coal where such operations occur at a place other than at a mine site.

b) A notice of violation or cessation order shall not expire as provided in subsection (a) above, if the condition, practice or violation in question has not been abated, if the informal public hearing has been waived, or if, with the consent of the person to whom the notice or order was issued, the informal public hearing is held later than thirty (30) days after the notice or order was served. For purposes of this subsection:

1) The informal public hearing will be deemed waived if the person to whom the notice or order was issued:

A) Is informed, by written notice served in the manner provided in subsection (b)(2) below, that he or she will be deemed to have waived an informal public hearing unless he or she requests one within thirty (30) days after service of the notice; and

B) Fails to request an informal public hearing within that time.

2) The written notice referred to in subsection (b)(1)(A) above shall be delivered to such person by an authorized representative or sent by certified mail to such person no later than five (5) days after the notice or order is served on such person.

3) The person to whom the notice or order is issued shall be deemed to have consented to an extension of the time for holding the informal public hearing if his or her request is received on or after the twenty-first (21st) day after service of the notice or order. The extension of time shall be equal to the number of days elapsed after the twenty-first (21st) day.

c) The Department shall give as much advance notice as is practicable of the time, place, and subject matter of the informal public hearing to:

1) The person to whom the notice or order was issued; and

2) Any person who filed a report which led to that notice or order.

d) The Department shall also post notice of the hearing at the Department's office closest to the mine site, and publish it, where practicable, in a newspaper of general circulation in the area of the mine.

e) An informal public hearing shall be conducted by a representative of the Department, who may accept oral or written arguments and any other relevant information from any person attending.

f) Within five (5) days after the close of the informal public hearing, the Department shall affirm, modify, or vacate the notice or order in writing. The decision shall be sent to:

1) The person to whom the notice or order was issued; and

2) Any person who filed a report which led to the notice or order.

g) The granting or waiver of an informal public hearing shall not affect the right of any person to formal review under Sections 8.04(b), 8.06(d), or 8.07 of the State Act. At such formal review proceedings, no evidence as to statements made or evidence produced at an informal public hearing shall be introduced as evidence or to impeach a witness.

h) The person conducting the hearing for the Department shall determine whether or not the mine site should be viewed during the hearing. In making this determination the only consideration shall be whether a review of the mine site will assist the person conducting the hearing in reviewing the appropriateness of the enforcement action or the required remedial action.

(Source: Amended at 17 Ill. Reg. 11095, effective July 1, 1993)