

**6131.0230 REVOCATION OR MODIFICATION.**

Subpart 1. **Commencement of proceedings.** A proceeding to revoke or modify a permit to mine, to require a performance bond, or to assess a civil penalty shall be commenced by serving upon the permittee:

- A. a notice and order for hearing in the form and manner under part 1400.5600;
- B. a proposed order revoking or modifying the permit to mine, requiring a performance bond, or assessing a civil penalty; and
- C. a statement of the measures, if any, required to correct the situation and the time available therefor.

If conditions that provided the grounds for the action are corrected to the commissioner's satisfaction, within a period, established by the commissioner, of not less than 15 days after the notice, or as appropriate, approved measures are taken to ensure that the conditions do not recur, the proceedings shall be canceled.

Subp. 2. **Hearing prior to determination.** The commissioner shall hold a hearing prior to the determination to revoke or modify a permit to mine, require a performance bond, or assess a civil penalty if, within 15 days after commencement of the proceeding, any permittee serves an answer on the commissioner and all other parties. If an answer is served, the commissioner, without further notice, shall hold the hearing at the time and place specified in the order for hearing. No hearing shall be held less than 30 days after commencement of the proceeding.

An answer shall contain a written statement of the defenses to each violation alleged in the order for hearing, and a specific admission, denial, or explanation of each fact alleged in the order for hearing, or, if the permittee is without knowledge thereof, a statement to that effect.

Allegations of a complaint not answered shall be deemed to have been admitted.

If an answer contains an admission to an alleged fact, no hearing shall be held on that fact and the allegation shall prevail.

Failure of a permittee to serve an answer, pursuant to subpart 2, item A or to appear at the hearing constitutes a waiver of a hearing on the allegations of the order for hearing and the contents of the proposed order. The waiver authorizes the commissioner, without further notice to the permittee and without proceeding further with the hearing, to adopt the proposed order, or that much as is applicable if the proposed order is in the alternative or if there have been correction measures attempted. The order shall be the commissioner's final decision on the matter.

If the permittee appears at the hearing the commissioner, in reaching a final decision, shall not be bound by the proposed order.

**Statutory Authority:** *MS s 93.461*

**History:** *10 SR 277*

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