

ILLINOIS OIL AND GAS ADVISORY BOARD
10:00 a.m., Thursday, September 13, 2018
Illinois Oil and Gas Association Boardroom
824 IL-15, Mt. Vernon, IL 62864

MEETING AGENDA

1. Call to Order – Roll Call and Introductions
2. Approval of Minutes
3. Round Table Discussion –
 - A. Section 240.125 Notice
 - B. Section 240.140 Notice of Noncompliance
 - C. Section 240.150 Notice of Violation
 - D. Section 240.160 Director’s Decision
 - E. Section 240.185 Cessation of Operations Orders
 - F. Section 240.190 Temporary Relief Hearings
 - G. Section 240.311 Application for Freshwater Aquifer Exemption
 - H. Section 240.1805 Definitions
 - I. Section 240.1853 Annular Pressure Monitoring
 - J. Section 240.1880 Natural Gas Release Notification
 - K. Section 240.1885 Natural Gas Incident Notice to Department
 - L. Section 240.1890 Inspection Fees for Underground Natural Gas Storage Fields Within Footprint of Sole Source Aquifer
 - M. Deepening Discussion
4. New Business
5. Public Participation
6. Next Meeting – November 8, 2018
7. Adjourn

Section 240.125 Notice

- a) Except for notices of noncompliance issued under Section 240.140 and Director's decisions issued under Section 240.160, wWhenever the Department is required by the Act or this Part to serve notice upon a permittee, the Department shall give written notice to that person, personally or by certified mail with return receipt requested, sent to the address submitted by permittee as set forth in Section 240.1710. *Permittees shall sign certified mail returned receipts for all mail received from the Department.* (Section 9.1(b) of the Act)
- b) Notice by Publication
- 1) *If notice sent by certified mail is returned unsigned or undelivered, and upon due inquiry, the permittee cannot be found for personal delivery, the Department shall provide written notice of a hearing or other proceeding by a single publication of the notice in a newspaper published in the county where the well or wells at issue are located.* (Section 9.1(c) of the Act)
 - 2) *If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining county in this State having a circulation in the county where the well or wells are located.* (Section 9.1(c) of the Act)
 - 3) *The Department shall, within 10 days after the publication of the newspaper notice, send a copy of the notice, by certified mail with return receipt requested, to the address submitted by the permittee as set forth in Section 240.1710.* (Section 9.1(c) of the Act)
 - 4) *The certificate of an authorized representative of the Department that newspaper notice was published and that a copy of the newspaper notice has been sent to the permittee pursuant to subsection (b)(3) is evidence that the Department has properly provided notice to the permittee for the hearing or other proceeding.* (Section 9.1(c) of the Act)
 - 5) *Any notice required to be provided to a permittee under the Act or this Part shall include the identification of the well or wells at issue, the date, time, place and nature of the hearing or other proceeding, and the name and contact information of the Department where additional information can be obtained.* (Section 9.1(d) of the Act)

Section 240.140 ~~Violations Not Requiring Formal Action~~ Notice of Noncompliance

- a) When an inspector or other authorized employee or agent of the Department determines that any permittee ~~is in violation of~~ has not fully complied with any requirement of the Act or this Part or any permit condition, and the inspector or other authorized employee or agent also finds that the ~~noncompliance violation~~ was not caused by the permittee's deliberate action; that any action necessary to ~~abate the violation~~ return the permittee to compliance is able to be completed

within a specified date certain, as established by the Department representative, not to exceed 120 days from the date of the determination that the permittee is not in compliance~~in violation~~; and that the noncompliance~~violation~~ has not caused and cannot reasonably be expected to cause significant environmental harm or damage to property, the noncompliant conditions~~violation~~ shall be documented by the Department ~~noted~~ on a notice of noncompliance~~inspection report, compliance schedule or other written notification~~ without the need for the issuance of a notice of violation pursuant to Section 240.150. The notice of noncompliance~~written inspection report, compliance schedule or other written notification~~ shall indicate the nature and circumstances of the noncompliance~~violation~~, and the time within which and the means by which the amount of time granted to permittee and the abatement activities required to return the permittee to compliance violation is to be abated. A copy of the notice of noncompliance~~inspection report, compliance schedule or other written notification~~ shall be delivered to the permittee or his or her representative at the time it is prepared, and the original shall be forwarded to the Director. If the permittee is unable to abate the noncompliance in the time indicated in the notice, permittee may provide a written request for an extension to the District Office which issued the notice. All extension requests must be received by the District Office prior to the expiration of the initial deadline or any extensions. Upon reasonable cause, the time to abate may be extended by the Department but shall not exceed 120 days from the date the noncompliance was determined.

- b) If, following investigation, the Director determines that the abatement activities required under subsection (a) are~~was~~ not completed as specified in the inspection report, compliance schedule or other written notification~~notice of noncompliance~~, the inspector or other authorized employee or agent of the Department ~~Director~~ shall issue a notice of violation in accordance with Section 240.150 and/or a cessation order in accordance with Sections 240.185 ~~and 240.186~~.
- c) The provisions of this Section shall not apply to the following instances of noncompliance~~violations~~:
- 1) Drilling or operating, without a permit or completed permit transfer from the Department, a well required to be permitted under the Act;
 - 2) Operating an annular or casing injection/disposal well or a well with pressure on the annulus;
 - 3) Failure to maintain required performance bond or pay annual well fees for wells under permit;
 - 4) Failure to renew Temporary Abandonment status on a well or secure approved Temporary Abandonment status following a denial of Temporary Abandonment status on a well;

- 5) Failure to establish mechanical integrity on a Class II well or repair a Class II well following failure of mechanical integrity;
- 6) Operating a well that has been placed in the Plugging and Restoration Program;
- 7) Failure to provide emergency response for a crude oil or saltwater spill;
- 8) Improper discharge or disposal of produced fluids;
- 9) Operating a well in violation of spacing requirements or permit conditions; and
- 10) Failure to restore a well site after plugging.

Section 240.150 Notice of Violation

- a) *When an inspector or other authorized employee or agent of the Department determines that any permittee, or any person engaged in conduct or activities required to be permitted under the Act is in violation of any requirement of the Act or this Part or any permit condition, or has falsified or otherwise misstated any information on or relative to the permit application, a notice of violation shall be completed and delivered to the Director.* (Section 8^a of the Act); ~~except as provided by Section 240.140. A person cannot be held liable under Section 240.160(d) in the absence of notice of the issuance of the underlying notice of violation. If the inspector or other authorized employee or agent of the Department observes conditions that require immediate attention, the inspector shall make reasonable efforts to locate the person or permittee and notify them of the conditions or issue a cessation order pursuant to Section 240.185.~~
- b) The notice of violation shall contain:
 - 1) A statement regarding *the nature of the violation*, including a citation to the specific Section of the Department's rules or Section of the Act alleged to have been violated;
 - 2) *The action needed to abate the violation, including any appropriate remedial measures to prevent future violations, such as replacement, repair, testing, and reworking a well and any appurtenances and equipment;*
 - 3) *The time within which the violation is to be abated* ~~(Section 8 of the Act);~~
 - 4) *Any factors known to the person completing the notice of violation in aggravation or mitigation of the violation and the existence of any factors*

and

indicating that the permit should be conditioned or modified (Section 8 of the Act).

- c) Aggravating factors may include, but are not limited to documented evidence that:
- 1) violation resulted from permittee or person's deliberate conduct;
 - 2) permittee or person failed to make reasonable efforts to maintain equipment;
 - 3) violation resulted in threatened or actual damage to soil and/or the land surface, vegetation or crops, surface water, groundwater, livestock or wildlife;
 - 4) violation created a hazard to the safety of any person, including the emission of hydrogen sulfide gas;
 - 5) Permittee or person failed to comply with notice of noncompliance related to violation;
 - 6) permittee or person received warning of potential adverse conditions, resulting in violation, prior to violation occurring;
 - 7) permittee or person failed to provide reasonable response to conditions creating the violations.

~~The Director shall mail a copy of the notice of violation to the person or permittee charged with the violation.~~

- d) Mitigating factors may include, but are not limited to documented evidence that:
- 1) person or permittee provided proactive response to conditions creating the violation;
 - 2) violation did not result in threatened or actual damage to soil and/or the land surface, vegetation or crops, surface water, groundwater, livestock or wildlife;
 - 3) violation was caused by circumstances outside of control of the person or permittee;
 - 4) person or permittee voluntarily reported violation to the Department;~~The person or permittee charged with the violation may provide the Department, in writing, any information in mitigation of the violation within 14 days after the mailing of the notice of violation. The written information may include a proposed alternative to the Department's suggested action needed to abate the violation.~~

Section 240.160 Director's Decision

a) *Upon receipt of a notice of violation, the Director shall conduct an investigation and may affirm, vacate or modify the notice of violation. In determining whether to take action in addition to remedial action necessary to abate a violation, the Director shall consider:*

1) *the person's or permittee's history of previous violations, including violations at other locations and under other permits.*

A) ~~A)~~—A violation for which no penalty has been assessed shall not be counted if the ~~notice or order~~ Director's Decision associated with the violation is the subject of pending administrative review by the Department under Section 240.180 or if the time to request a review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative ~~decision order~~ or a final judicial decision affirming the Department's ~~order decision~~, if administrative review of the Department's final administrative order is sought.

B) A violation for which a penalty has been assessed, shall not be counted if the Director's Decision associated with the violation is the subject of pending administrative review by the Department under Section 240.180 or if the time to request a review has not expired, and thereafter it shall be counted for only five years after the date of the Department's final administrative order or a final judicial decision affirming the Department's order, if administrative review of the Department's final administrative order is sought.

A) —

B) —

C) ~~B)~~—No violation for which the notice ~~or order~~ of violation has been vacated shall be counted;

2) *the seriousness of the violation, including any irreparable harm to the environment or damage to property;*

3) *the degree of culpability of the person or permittee; and*

4) *the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the person or permittee (Section 8a of the Act).*

- b) *Modification of the notice of violation may include:*
- 1) *any different or additional remedial actions required to abate the violation, not listed in the original notice of violation as set forth in Section 240.150(b)(2), and the time within which the violation must be abated;*
 - 2) *the assessment of civil penalties not to exceed \$5,000 for each and every falsification or material misrepresentation and \$1,000 a day, from the date the permittee knew or should have known of the existence of facts or conditions that resulted in the violations and for as long as the violation continues, for each and every act of violation not subject to the separate \$5,000 penalty for falsification and material misrepresentation (~~Section 8a of the Act~~);*
 - 3) *probationary or permanent modification or conditions on the permit, which may include special monitoring or reporting requirements; and*
 - 4) *revocation of the permit. (Section 8a of the Act)*
- c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a). Except for violations listed in subsection 240.160(d) below, the Director may not assess a civil penalty if the violation is abated within the time frame originally set by the Department or any extensions granted by the Department. If a violation is not abated within that timeframe, or if the violation is listed in subsection 240.160(d), if a penalty is assessed by and the Department assesses a penalty, the penalty shall be computed as follows, but shall not exceed \$5,000 for each and every falsification or material misrepresentation and \$1,000 per day, from the date the permittee knew or should have known of the existence of facts or conditions that resulted in the violations and for as long as the violation continues, for each and every act of violation not subject to the \$5,000 penalty for falsification and material misrepresentation (Section 8a of the Act):
- d) The Department shall have the discretion to assess a civil penalty for the following violations, even if the violation is abated within the timeframe granted by the Department:
- 1) drilling, deepening, converting or operating, without a permit or completed permit transfer from the Department, a well required to be permitted under the Act;
 - 2) failure to prohibit waste as defined in the Act;
 - 3) operating an annular or casing injection/disposal well or a well with pressure on the annulus;

- 4) failure to maintain required performance bond for wells under permit or operating wells without paying annual well fees;
- 5) failure to replay all expended funds from the Plugging and Restoration Fund prior to operating any other existing wells under permit;
- 6) failure to secure approved Temporary Abandonment status or plug a well following a denial of Temporary Abandonment status;
- 7) failure to establish mechanical integrity on a Class II UIC well or to plug or repair a Class II UIC well following failure of mechanical integrity;
- 8) failure to shut in a Class II UIC well that fails an internal mechanical integrity test or on which an internal mechanical integrity test has not been performed;
- 9) operating a Class II injection or disposal well in excess of the permitted maximum injection pressure or rate;
- 10) failure to confine injection fluid to the permitted formation;
- 11) failure to abate a notice of noncompliance, issued under Section 240.140 within time granted by the Department;
- 12) operating a well that has been placed in the Plugging and Restoration Program;
- 13) failure to notify the Department of a reportable crude oil or produced water spill or natural gas release;
- 14) failure to provide emergency response for a crude oil or produced water spill or natural gas release;
- 15) failure to remediate a crude oil or saltwater spill;
- 16) improper discharge or disposal of produced fluids or liquid oilfield wastes;
- 17) operating a liquid oilfield waste transportation system or vehicle without a permit;
- 18) using the services of an unpermitted liquid oilfield waste transporter;
- 19) failure to contain gas to a permitted storage formation;
- 20) operating a well in violation of spacing requirements or permit conditions;

- 21) failure to plug an uncased well;
- 22) failure to restore a well site after plugging;
- 23) failure to maintain a well, flowline or other equipment in a leak-free condition;
- 24) falsification or material misrepresentation in violation of Section 240.135; and
- 25) any willful or knowing violation.

- 1) ~~Administrative violations, including, but not limited to, the failure to file the reporting, permitting and bond transfer forms required by the Department, shall be assessed on a permittee specific basis. The Department may assess a penalty for an administrative violation as follows:
 - A) ~~No previous violation of the same rule: \$50.~~
 - B) ~~One previous violation of the same rule: \$100.~~
 - C) ~~Two previous violations of the same rule: \$150.~~
 - D) ~~Three previous violations of the same rule: \$200.~~
 - E) ~~Four or more previous violations of the same rule: \$500.~~~~
- 2) ~~Operating violations, including, but not limited to, operating a well required to be permitted under the Act without first obtaining a proper permit from the Department, operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority, operating a well in violation of Department spacing requirements, pressure on the annulus, failure to maintain the well and flow line in a leak free condition, failure to configure the wellhead for the inspection of the annulus, failure to comply with specified permit conditions, failure to report a spill, failure to maintain containment dikes, failure to maintain required performance bond in force for the wells under permit, failure to pay annual well fees or failure to notify the Department before setting surface casing, setting tubing and packer, or plugging a well, shall be assessed on a permittee specific basis. The Department may assess a penalty for an operating violation by considering elements of subsections (c)(2)(A), (B) and (C) as follows:~~

A) ~~History of Violations:~~

- ~~i) No previous violation of the same rule: \$100.~~
- ~~ii) One previous violation of the same rule: \$250.~~
- ~~iii) Two previous violations of the same rule: \$500.~~
- ~~iv) Three previous violations of the same rule: \$750.~~
- ~~v) Four previous violations of the same rule: \$1,000.~~
- ~~vi) Five or more previous violations of the same rule: \$2,500.~~

B) ~~Seriousness:~~

- ~~i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$100; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$250; or, if the violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$1,000.~~
- ~~ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$2,000.~~

C) ~~Permittee's Actions:~~

- ~~i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$500.~~
- ~~ii) If the violation occurred as a result of the permittee's lack of reasonable care: add \$250; or, if the violation occurred as a result of the permittee's deliberate conduct, including lack of reasonable maintenance of equipment: add \$500.~~

- ~~3) Specified violations, including operating an annular or casing injection/disposal well; operating wells by a permittee for whom wells have been placed into, or funds have been expended from, the PRF; failure to provide emergency response or remediate a crude oil or produced water~~

~~spill; or the improper disposal or discharge of produced fluids shall result in a penalty. The Department may assess a penalty for specified violations by considering elements of subsections (c)(3)(A), (B) and (C) as follows:~~

~~A) History of Violations:~~

~~One or more previous violations of the same rule in accordance with subsection (a)(1)(A): \$500 per violation.~~

~~B) Seriousness:~~

~~i) If the violation caused environmental damage to surface water, ground water or wildlife: add \$1,000.~~

~~ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$2,000.~~

~~C) Permittee's Action:~~

~~If the violation occurred as a result of the permittee's lack of reasonable care: add \$500; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$1000.~~

~~4) Falsification and material misrepresentation violations, including but not limited to falsifying or misstating information on a permit application, spill report, annual verification report, annual Class II UIC well status report, or any other application, permit or required record, or other document required to be submitted to the Department by the Act or any rules or procedures adopted under the Act. The Department may assess a penalty for a falsification or material misrepresentation violation by considering the following elements:~~

~~A) If the violation occurred as a result of a gross negligent misrepresentation of material fact in which the misrepresentation would impair the Department's ability to assess and evaluate the person's compliance with the Act and this Part: add \$1,000.~~

~~B) If the violation occurred as a result of a purposeful falsification or material misrepresentation to the Department: add \$2,500.~~

~~C) If the violation occurred as the result of a purposeful falsification or material misrepresentation to the Department and created a situation that resulted in a threat of or actual damage to the public's health, safety or welfare, or the threat of or actual damage to the environment: add \$5,000.~~

ed) *Any person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same*

actions, including civil penalties, which may be imposed on the person or permittee under this Section. (Section 8a of the Act)

~~f~~e) The Director shall serve the person or permittee with his or her decision at the conclusion of the investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. ~~The Director's decision affirming, vacating or modifying the notice of violation shall be served in accordance with Section 8a of the Act.~~ The Director's decision affirming, vacating or modifying the notice of violation shall be considered served when mailed by first class mail to the person or permittee at his last known address. (Section 8a of the Act)

~~f~~g) A Director's decision not appealed in accordance with Section 240.180 within 30 days after service shall serve as the Department's final administrative order pursuant to Section 8a and become a final administrative decision of the Department, pursuant to Section 10 of the Act. *The filing of a request for hearing under Section 240.180 shall not operate as a stay of the Director's decision. (Section 8a of the Act)*

~~h~~g) The permittee or person subject to the Director's decision may, within 30 days from the date of service of the Director's decision, submit to the Department, in writing, any mitigating factors that permittee believes to be relevant to the violation cited in the Director's decision. Within 30 days from the date of service of the Director's decision, the permittee or person subject to the Director's Decision may also request to enter into a settlement agreement with the Department.

~~h~~h) Upon further investigation, or after receiving additional information from the permittee or person as allowed for under subsection (h), the Director may enter into a settlement agreement, issue an amended Director's decision, or issue a replacement Director's decision.

1) ~~The Department may enter into a~~ The Department may enter into a settlement agreement with the permittee or person subject to the Director's decision in order to ~~shall be issued to:~~

A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the Director's decision; or

B) reduce the civil penalty assessed in the Director's decision; ~~or~~

C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement; ~~or~~ or

- D) modify any probationary or permanent modifications or conditions on the permit ordered in the Director's decision.
- 2) An amended Director's decision shall be issued to:
 - A) ~~extend~~modify the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's decision; or
 - B) modify~~reduce~~ the civil penalty assessed in the Director's decision.
 - 3) A replacement Director's decision shall be issued to correct an administrative error contained in the Director's decision ~~or the Notice of Violation.~~
 - 4) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's decision unless the period to appeal the original Director's decision has not expired or the amended or replacement Director's decision alleges new facts or violations not contained in the original Director's decision.
- ji) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the Director's decision.
 - kj) *All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund. (Section 8a of the Act)*

(Source: Amended at ~~40 Ill. Reg. 7051~~, effective ~~April 22, 2016~~)

Section 240.180 Enforcement Hearings ~~and Enforcement Cessation Orders~~

- a) *A person or permittee shall have 30 days from the date of service of the Director's decision to request a hearing. (Section 8a of the Act) A person or 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 cashiers check or money order, together with a timely request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount shall be refunded to the person or permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Department's office located in Springfield, Illinois.*
- b) *Upon receipt of a request for hearing submitted in accordance with 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. (Section 8a of the Act) The hearing shall be conducted by a Hearing Officer designated by the Director and shall be conducted in accordance with the following procedures:

- 1) Pre-Hearing Conference
 - A) A pre-hearing conference shall be scheduled within 30 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 place designated by the Hearing Officer.
 - C) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Department's Hearing Officer shall render an order granting or denying motions filed within 15 days after service. 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.
- 2) 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 civil 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 as to matter being contested.

- 3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. ~~All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield to the production and/or injection/disposal well identified in the Director's decision being contested if facilities are available and convenient satisfactory to the Department.~~
- 4) All hearings conducted pursuant to this Section are open to the public and are held in compliance with the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.). The hearings will be held at locations ordered by the Hearing Officer. The Hearing Officer will select hearing locations that comply with any geographic requirements imposed by applicable law and, to the extent feasible, promote the convenience of the parties and the conservation of the Department's resources. All hearings are subject to cancellation without notice. Interested persons may contact the Department or the Hearing Officer for information about the hearing. Parties, participants and members of the public must conduct themselves with decorum at the hearing.
- 5) Upon the motion of any party, the Hearing Officer may order that a hearing be held by telephone conference, video conference or other electronic means. In deciding whether a hearing should be held by telephone conference, video conference or other electronic means, factors that the Hearing Officer shall consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness.
- 64) 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 civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or 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, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.
- 75) The Director 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 30 days after the close of the hearing record or expiration after the time to request a hearing, the Department shall issue a final administrative ~~decision~~ order.* (section 8a of the Act)

- c) *Failure of the person or permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty, shall constitute a waiver of all legal rights to contest the Director's decision, including the amount of any civil penalty.* (Section 8a of the Act)
- d) *If, at the expiration of the period of time originally fixed in the Director's decision or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violations pursuant to Section 240.185.* (Section 8(a) of the Act)
- ~~e) *Notice of the cessation order shall be served in accordance with Section 240.185(e). The notice shall contain a scheduled hearing date that shall be within 30 days after the issuance of the cessation order to determine whether the person or permittee has complied with any final administrative order upon which the cessation order is based. The hearing shall be conducted by a Hearing Officer, designate by the Director, and held in the Department office in Springfield, Illinois.*~~
- ~~f) *The cessation order shall provide that the person or permittee named in the order has the right to request a temporary relief hearing before the scheduled date of the cessation order hearing, in accordance with Section 240.190.*~~
- ~~g) *A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. (Section 8a of the Act) The filing of a request for temporary relief, under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief, in accordance with Section 240.190.*~~

(Source: Amended at ~~35 Ill. Reg. 13281~~, effective ~~July 26, 2011~~)

Section 240.185 Cessation of ~~Oil Production~~ Operations Orders

- a) *If, at the expiration of the period of time originally fixed in a Director's decision issued pursuant to Section 240.180 or in any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violation.* (Section 8(a) of the Act)
- b) *If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of this Act or the rules adopted hereunder or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of operation.* (Section 19.1 of the Act)

c) Upon observation of any conditions listed in subsection (b), and prior to issuing a cessation of operations order, the authorized employee or agent of the Department shall make reasonable efforts to locate the responsible party, notify them of the conditions and allow them an opportunity to immediately abate the conditions. Reasonable efforts include contacting a permittee at the address required to be submitted in compliance with Section 240.1710. If a responsible party cannot be readily located in the judgment of the employee or agent issuing the order, the employee or agent may take any action he deems necessary to cause a cessation of operations and abatement of any condition. (Section 19.1 of the Act) If the responsible party is located and does not take immediate action to abate the conditions, the employee or agent may take any action they deems necessary to cause a cessation of operations and abatement of any condition.

d) The Department may issue orders requiring the cessation of operations, with or without issuing a notice of violation in accordance with Section 240.1560.

~~b) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or this Part or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of operations. (Section 19.1 of the Act)~~

~~The following constitute procedures or violations mandating the issuance of a cessation order under this subsection: operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority; operating a well in violation of the Department's spacing requirements; operating wells without paying annual well fees; or operating wells without maintaining the required amount of performance bond in force; or operating wells by a permittee for whom funds have been expended and not reimbursed from the PRF.~~

~~ee) If a responsible party cannot be located or if the responsible party is located and does not take immediate action to abate the conditions, a cessation order shall be served by personal delivery to the person or permittee named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or permittee as soon as is practicably possible but in no event later than 5 days after its issuance. (Section 19.1 of the Act)~~

~~f) The cessation order shall contain a date for a hearing that shall be held within 30 days after the issuance of the cessation order. The hearing shall be conducted in accordance with the requirements of Section 240.180(b) by a Hearing Officer, designated by the Director, held in the Department's office in Springfield, Illinois, and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].~~

ge) The cessation order shall also provide that the person or permittee named in the order has the right to request a temporary relief hearing, within 14 days from the date of issuance of

the cessation order, in accordance with Section 240.190. The cessation order shall be considered served when personally delivered to the person or permittee named in the order or when the cessation order is mailed by certified mail, return receipt requested, to the person or permittee at his or her last known address.

~~f) — At the cessation order hearing scheduled to determine whether the person or permittee has complied, the Department shall have the burden of proving the facts of the violation alleged in the cessation order. The standard of proof shall be a preponderance of the evidence. The Hearing Officer shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render findings of fact and conclusions of law and issue the final administrative decision of the Department, pursuant to Section 10 of the Act.~~

hg) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. The filing of a request for temporary relief under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 240.190.

(Source: Amended at ~~35 Ill. Reg. 13281~~, effective ~~July 26, 2011~~)

~~Section 240.186 Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment~~

~~a) — The Department may issue cessation orders requiring the cessation of conditions causing, or the correction of any condition that creates, a threat to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property, with or without issuing a notice of violation in accordance with Section 240.160.~~

~~b) — If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or this Part or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of the condition or practice. (Section 19.1 of the Act) The following constitute conditions or violations mandating the issuance of a cessation order under this subsection: drilling or operating, without a permit from the Department, a well required to be permitted under the Act; operating an annular or casing injection/disposal well; or failure to repair a leak or cease improper discharge of saltwater, oil or other liquid oilfield wastes from a well, tank or flowline or by a liquid oilfield waste hauler.~~

~~c) — If a responsible party cannot be readily located, in the judgment of the employee or agent issuing the cessation order, or fails to respond, within the time frame specified in the cessation order, to correct the condition endangering the public health, safety or the environment, the employee or agent may take any action he or she deems necessary to~~

~~cause a cessation of operations and abatement of any condition observed (Section 19.1 of the Act), including emergency activities specified in Section 240.1630.~~

- ~~d) The cessation order shall be served by personal delivery to the person or permittee named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or permittee as soon as is practicably possible but in no event later than 5 days after its issuance. (Section 19.1 of the Act) The notice shall contain a scheduled hearing date that shall be held within 30 days after the issuance of the cessation order. The hearing shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act by a Hearing Officer designated by the Director and held in the Department's office in Springfield, Illinois.~~
- ~~e) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the cessation order. The standard of proof shall be a preponderance of the evidence. The Hearing Officer shall conduct the hearing, hear the evidence, and, at the conclusion of the hearing, render findings of fact and conclusions of law and issue the final administrative decision of the Department, pursuant to Section 10 of the Act.~~
- ~~f) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department (Section 8(a) of the Act). A cessation order issued under this Section is not subject to temporary relief under Section 240.190.~~

~~(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)~~

Section 240.190 Temporary Relief Hearings

- a) Pending the holding of a hearing in accordance with Section 240.185~~(d)~~ or and 240.180~~(e)~~ relating to a cessation order issued under Section 240.185 ~~or 240.180~~, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief. The person or permittee shall serve the request for temporary relief within 14 days after service of the cessation order.
- b) The Department shall commence a hearing within 5 working days after receipt of a timely request for temporary relief and may grant that relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him or her and the relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.
- c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield to the production and/or injection/disposal well identified in the

Director's decision being contested if facilities are available and convenient satisfactory to the Department.

- d) All hearings conducted under this Section are open to the public and are held in compliance with the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.). The hearings will be held at locations ordered by the Hearing Officer. The Hearing Officer will select hearing locations that comply with any geographic requirements imposed by applicable law and, to the extent feasible, promote the convenience of the parties and the conservation of the Department's resources. All hearings are subject to cancellation without notice. Interested persons may contact the Department or the Hearing Officer for information about the hearing. Parties, participants and members of the public must conduct themselves with decorum at the hearing.
- e) Upon the motion of any party, the Hearing Officer may order that a hearing be held by telephone conference, video conference or other electronic means. In deciding whether a hearing should be held by telephone conference, video conference or other electronic means, factors that the Hearing Officer shall consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. ~~All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.~~
- ~~f~~d) At the hearing, the permittee shall have the burden of proving that temporary relief from the cessation order will not adversely affect the health or safety of the public or cause environmental harm or significant damage to property. The Hearing Officer shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render findings of fact, conclusions of law and the disposition of the case.
- ge) The Hearing Officer shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after the close of the administrative record, pursuant to Section 10 of the Act. Temporary relief shall not extend for more than 90 days, after which the cessation order shall be reinstated pending the outcome of the cessation order and pending a resolution of the violations of the Act specified in the cessation order.

(Source: Amended at ~~35 Ill. Reg. 13281~~, effective ~~July 26, 2011~~)

Section 240.311 Application for Freshwater Aquifer Exemption

- a) If it is determined by the Department a freshwater aquifer exemption is required in order to permit and/or operate a Class II well, the applicant shall submit to the Department a written request to exempt the freshwater aquifer along with evidence showing the freshwater aquifer satisfies the criteria for an exemption.
- b) A freshwater aquifer or a portion thereof, may be determined under the 40 CFR 146.4 to be exempted if evidence is submitted showing the following criteria are met:
 - 1) The aquifer does not currently serve as a source of drinking water; and
 - 2) Either:
 - A) The aquifer cannot now and will not in the future serve as a source of drinking water because:
 - i) the aquifer is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible; or
 - ii) the aquifer is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical; or
 - iii) the aquifer is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
 - iv) the aquifer is located over a Class III well mining area subject to subsidence or catastrophic collapse, or
 - B) The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/1 and it is not reasonably expected to supply a public water system.
- c) If, after review of the request, the Department finds the request deficient, the request shall not be accepted and the Department shall issue a written deficiency notice to the requestor. If the requestor does not respond to the deficiencies within sixty (60) days, the request will be deemed denied.
- d) If, after review of the request, the Department finds the request sufficient to justify exemption of the aquifer under the 40 CFR 146.4, the Department shall notify the

requestor of its acceptance of the request. A copy of the accepted request shall be posted on the Department's website.

e) A public hearing on the request shall be scheduled not less than thirty (30) days, but not more than sixty (60) days, after the acceptance of the request.

f) Public Hearing Notice: At least thirty (30) calendar days before the date of the public hearing, and again ten (10) days prior to the public hearing, the petitioner shall publish notice of the public hearing in a newspaper of general circulation published in, or as near possible to, the county where the proposed well site is located. The requestor shall provide a copy of the public hearing notice to the Department. The notice shall include:

1) the date, time and place of the public hearing;

2) the name and mailing address of the Hearing Officer scheduled to preside over the public hearing;

3) the purpose of the public hearing and the name of the requestor;

4) the legal description, per the Public Land Survey System, of the proposed well site;

5) the name and the top and bottom depth of the aquifer proposed to be exempted; and

6) the legal description, per the Public Land Survey System, of the areal extent of the aquifer proposed to be exempted.

The public hearing notice shall be published on the Department's website at least thirty (30) days prior to the hearing and the notice shall be maintained until the close of the hearing record.

e) Hearing

1) Hearing Officer: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall conduct a fair hearing and shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render findings on the request, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

- C) To regulate the course of the hearing and the conduct of the parties and their counsel;
 - D) To consider and rule upon procedural requests;
 - E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and
 - F) To change the time and place of the hearing subject to the notice requirements of this section.
- 2) All hearings are open to the public and are held in compliance with the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.). The hearings will be held at locations ordered by the Hearing Officer. The Hearing Officer will select hearing locations that comply with any geographic requirements imposed by applicable law and, to the extent feasible, promote the convenience of the parties and the conservation of the Department's resources. All hearings are subject to cancellation without notice. If cancelled, the hearing must be rescheduled in compliance with the notice requirements of this section. Interested persons may contact the Department or the Hearing Officer for information about the hearing. Parties, participants and members of the public must conduct themselves with decorum at the hearing.
- 3) The requestor shall appear at any hearing held under this section.
- 4) All participants in the public hearing shall have the right to be represented by counsel, or by some other authorized representative.
- 5) The hearing shall be informal. Every interested party wishing to participate at the hearing shall enter an appearance in writing.
- 6) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
- 7) Where necessary in order to prevent undue prolongation of the hearing, the hearing officer shall establish a time period during which the participants shall be heard. Every effort will be made to allow all persons who wish to make a statement to do so.
- 8) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.
- 9) A verbatim transcript of the hearing shall be maintained by a court reporter appointed by the Department, and shall constitute a part of the record. Copies of the transcript shall be furnished, at cost, upon request to the court reporter. Such

record shall be maintained by the Department according to all applicable records retention requirements and shall be accessible to the public at the Department's Springfield Office.

10) The record shall remain open for additional written statements responsive to statements or other documents for ten (10) days following the close of the hearing, or for such other reasonable time as the hearing officer may direct. A time for responsive oral statements may be set by the hearing officer.

f) Recommended Findings

1) After the close of evidence at any public hearing held under this Section, the Hearing Officer shall prepare recommended findings regarding the objections and concerns raised by the parties at the public hearing, and identifying any potential impact on the request based on the evidence and testimony presented at the hearing.

2) The Hearing Officer shall issue and serve on all parties the recommended findings within thirty (30) calendar days after the close of the record.

3) A copy of the recommended findings shall be published on the Department's website.

3) The Department shall take into consideration the recommended findings when making a decision on the request consistent with Subsection (b).

g) If, after review of the hearing record and recommended findings, the Department finds the request deficient, the Department shall issue a written deficiency notice to the requestor. If the requestor does not respond to the deficiencies within sixty (60) days, the request will be deemed denied.

h) If, after review of the hearing record and recommended findings, the Department finds the request sufficient to justify exemption of the aquifer under the 40 CFR 146.4, ~~After review and approval of the submitted evidence,~~ the Department will forward the information, along with a recommendation, to the U.S. Environmental Protection Agency Region V Office for approval. A copy of the request, recommendation and related administrative record shall be published on the Department's website and maintained according to applicable records retention requirements.

(Source: Added at ~~22 Ill. Reg. 22314~~, effective ~~December 14, 1998~~)

Section 240.1805 Definitions

a) — “Downhole” means the portion of an underground natural gas storage facility from the first flange attaching the wellhead to the pipeline equipment and continuing down the well casing to and including the storage reservoir.

d) — “Gas Storage Operator” means any entity that owns or operates an underground gas storage field.

“Gas Storage Well” means a well drilled for input and/or withdrawal of natural gas or manufactured gas in a gas storage field.

“Natural Gas Incident” means any of the following events:

- (1) An event that involves a release of stored natural gas from the downhole portion of an underground natural gas storage facility located within the footprint of a Sole Source Aquifer in the State, and that results in one or more of the following consequences:
 - (i) A death, or personal injury necessitating in-patient hospitalization;
 - (ii) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost; or
 - (iii) Unintentional estimated gas loss of three million cubic feet or more.
- (2) An event that results in an emergency shutdown of an underground natural gas storage facility located within the footprint of a Sole Source Aquifer in the State. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.
- (3) An event that is significant in the judgment of the operator or the Department, even though it did not meet the criteria of paragraph (1) or (2) of this definition.

“Natural Gas Release” means any of the following:

- (1) An event that involves a release of stored natural gas from the downhole portion of an underground natural gas storage facility subject to this Part, and which results in one or more of the following consequences:
 - (i) Unintentional loss of any amount of stored natural gas into a source of fresh water as defined in Section 240.10;
 - (ii) Unintentional loss which results in the release of stored natural gas within one quarter of a mile of a manmade structure;

- (iii) Unintentional loss of stored gas into any subsurface strata other than the storage formation from any part of a gas storage or observation well; or
 - (iv) Unintentional loss of stored gas from an underground gas storage field that results in the movement of gas from the storage stratum into other strata or the surface expression of the stored gas.
- (2) An event that results in an emergency shutdown of an underground natural gas storage facility subject to this Part. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.
 - (3) An event that is significant in the judgment of the operator or the Department, even though it did not meet the criteria of paragraph (1) or (2) of this definition.

~~b)~~—"Observation Well" means a well drilled to monitor subsurface conditions in oil and gas projects or gas storage fields.

"Sole Source Aquifer" means an aquifer which is the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health as defined in 42 U.S.C. 300h-3(e) and further defined in U.S. EPA, 1987, Sole Source Aquifer Designation Decision Process, Petition Review Guidance.

"Surface Expression of Gas" means the release of stored gas to the atmosphere which originated from any subsurface part of a well subject to this subpart.

~~e)~~—"Underground Gas Storage Field" means an area of land that is contained within the lowest closing structural contour for which gas can be stored in a subsurface stratum.

~~d)~~—"Gas Storage Operator" means any entity that owns or operates an underground gas storage field.

"Underground Natural Gas Storage Facility" means a facility that stores natural gas in an underground natural gas storage field incident to natural gas transportation, including:

- (1) A depleted hydrocarbon reservoir;
- (2) An aquifer reservoir; or
- (3) A solution-mined salt cavern reservoir, including associated material and equipment used for injection, withdrawal, monitoring, or observation wells, and wellhead equipment, piping, rights-of-way, property, buildings, compressor units, separators, metering equipment, and regulator equipment.

(Source: Amended at ~~35 Ill. Reg. 13281~~, effective ~~July 26, 2011~~)

Section 240.1853 Annular Pressure Monitoring

Within one (1) year of the effective date of this section, every gas storage well subject to this Part shall be configured to allow the monitoring of each annulus present on the well, including annuli containing cement. A permittee may utilize digital remote sensing equipment to measure the annuli present on a gas storage well. If digital remote sensing is not utilized, upon demand of a Department well inspector or other authorized employee or agent of the Department, the permittee shall allow the Department access to the annulus of a gas storage well to observe and record the annulus pressure. To ensure the safety of all parties involved and compliance with the permittee's standard operating procedures, the permittee shall provide staff to assist with the installation and removal of gauges for the observance of annulus pressure. All annular pressure data collected by the permittee shall be provided to the Department upon demand and shall be retained for at least ten (10) years from the date of recording.

Section 240.1880 Natural Gas Release Notification

a) Applicability

This Section applies to all natural gas releases from underground natural gas storage facilities in the State.

b) Natural gas releases shall be reported immediately to the Department's District Office responsible for the county where the release occurred. The initial report shall contain at a minimum:

(1) the name of the permittee responsible for the release;

(2) the location of the release;

(3) the amount of natural gas released;

(4) the areal extent of the release;

(5) the cause of the release; and

(6) proposed emergency remediation action.

c) All natural gas releases, regardless of amount, which enter into a source of freshwater or are located within one quarter of a mile of a manmade structure, shall be reported immediately to the following parties:

(1) the Illinois Emergency Management Agency;

(2) any municipalities and counties located within the boundaries of the area affected by the release;

- (3) any emergency service agencies serving that area within boundaries of the area affected by the release;
 - (4) any private residents, owners and operators of private water systems, or businesses, including agricultural operations located within the boundaries of the area affected by the release; and
 - (5) only for releases that enter a source of freshwater, the Illinois Environmental Protection Agency, Bureau of Water, any owners and operators of public water supplies, community water supplies, and non-community water supplies located within the boundaries of the area affected by the release.
- d) Gas storage operators shall have a continuous and ongoing obligation to further notify Department and any affected parties as necessary if it is determined that the boundaries of the natural gas release have increased, moved, or shifted.

Section 240.1885 Natural Gas Incident Notice to Department

a) Applicability

This Section applies to all natural gas incidents which occur at an underground natural gas storage facility located within the footprint of a sole source aquifer.

- b) For all natural gas incidents, the permittee shall provide public notice in compliance with Section 7.5 of the Act.

Section 240.1890 Inspection Fees for Underground Natural Gas Storage Fields Within Footprint of Sole Source Aquifer

- a) *The Department shall conduct annual inspections at all gas storage fields lying on the footprint of a Sole Source Aquifer designated as such in 2015 by the United States Environmental Protection Agency in the State to ensure that there are no infrastructure deficiencies or failures that could pose any harm to public health. The owner of the gas storage field shall cover the costs of the annual inspection. (Section 7.6 of the Act)*
- b) The Department shall assess an inspection fee during each fiscal year of \$1,000 per well for all permits of record for wells located within an underground natural gas storage facility located within the footprint of a Sole Source Aquifer, as of July 1, including wells reported to be transferred pursuant to Subpart N but not yet approved for transfer by the Department. The permittee for each well is responsible for paying the full assessed amount.
- c) The permittee will be assessed applicable inspection fees until:
- 1) five (5) years after the well or wells under permit to the permittee are plugged and restored;

- 2) the well or wells have been transferred to a new permittee pursuant to Subpart N. The effective date of transfer will be the date stated on the Department's Notification of Transfer Form; or
- 3) the permittee notifies the Department in writing that a well for which the permittee has a valid permit has not been drilled and the permittee requests that the permit be cancelled.
- c) Liability for assessed inspection fees does not cease until full payment is received by the Department.
- d) If a permittee fee check is returned due to insufficient funds or because payment, was stopped, the permittee is required to repay fees for that fiscal year by cashier's check or money order.