**Section 240.1859 Emergency Abatement Orders**

a) The Department may issue an emergency abatement order requiring the abatement of a violation of this Part, the Act, or the Oil and Gas Act that is creating an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property at a gas storage operation, with or without issuing a notice of probable violation under Section 240.1854.

b) Before the issuance of an EAO, the Department shall:

1) Attempt to contact the operator and inform it of a condition, practice or violation that is creating an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property.

2) Attempt to resolve the condition, practice or violation with the operator within a timeframe set by the Department that takes into consideration the seriousness of the situation, the disruption, if any, to the natural gas utility customers, and the likelihood of a quick resolution.

3) Communicate and work cooperatively, as appropriate, with the Illinois Commerce Commission or any other entities in federal and State government in the resolution of the condition, practice or violation. Pursuant to the Act, the Department will at all times exercise its sole jurisdiction over the downhole portion of the underground natural gas storage facility.

c) 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, this Part or any permit condition, and that the 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, and after the Department has complied with subsection (b), the Director of the Department's Office of Oil and Gas Resource Management (OOGRM) may issue an EAO. The EAO shall be for the abatement, in whole or in part, of the condition, practice or violation.

d) An EAO shall include:

1) The date the EAO was issued.

2) The specific portion of the gas storage operation that is the subject of the EAO.

3) A description of the condition, practice or violation that is creating an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property.

4) The date and location of the condition, practice or violation.

5) A detailed description of the circumstances that support the issuance of an EAO.

6) The timeframe in which required corrective action must be completed.

7) The date, location and procedures for the hearing that shall be held pursuant to subsection (h).

8) Notice to the operator of the right to request a temporary relief hearing under Section 240.1860.

e) The Department will immediately notify the Illinois Commerce Commission upon the issuance of an EAO.

f) If a responsible party cannot be readily located, in the judgment of the OOGRM Director, or fails, within the time frame specified in the EAO, to correct the condition endangering the public health, safety or environment, the OOGRM Director may order any Department agent or employee to take any action the OOGRM Director deems necessary to cause an abatement of the condition, practice or violation.

g) Notice of the EAO shall be served by personal delivery to the person or gas storage operator named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or gas storage operator as soon as is practicably possible but in no event later than 5 days after its issuance.

h) The EAO shall contain a date for a hearing that shall be held within 15 days after the issuance of the EAO. The hearing shall be conducted 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. If a settlement agreement is entered into at any stage of the hearing process, the person to whom the EAO was issued will be deemed to have waived all right to further review, 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 DNR Director and shall constitute the Department's final administrative decision as to the matter being contested.

i) The EAO shall also provide that the person or gas storage operator named in the order has the right to a temporary relief hearing, within 5 days after a request for a temporary relief hearing is served upon the Department, in accordance with Section 240.1860. The EAO shall be considered served when personally delivered to the person or gas storage operator 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.

j) The EAO hearing shall be held to determine whether the person or gas storage operator has complied with the EAO. The Department shall have the burden of proving the facts of the violation alleged in the EAO. 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. The DNR Director shall issue the final administrative decision of the Department under Section 10 of the Illinois Oil and Gas Act.

k) An EAO 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 240.1860 shall not operate as a stay of the EAO. The EAO may be stayed by the grant of temporary relief in accordance with Section 240.1860 or by voluntary order of the Department.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)