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Justin Fisher

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ILLINOIS



*Justin Fisher**

I. Legislative and Regulatory Developments

A. State Statutory Developments

1. Illinois Oil and Gas Act Amendments

The Governor approved House Bill 4746 on August 16, 2018, which added two new code sections to the Illinois Oil and Gas Act, designated 225 Ill. Comp. Stat. 725/§7.5 and 225 Ill. Comp. Stat. 725/7.6, respectively, and became effective on January 1, 2019.¹ Section 7.5 requires operators of

* Justin Fisher is a Member in the Charleston, West Virginia office of Steptoe & Johnson PLLC.

1. H.B. 4746, 100th Gen. Assemb. (Ill. 2008).

natural gas storage fields that lie on the footprint of a Sole Source Aquifer designated as such in 2015 by the United States Environmental Protection Agency to immediately notify the following parties located within 5 miles of the boundaries of a natural gas incident: (i) the Illinois Emergency Management Agency and all municipalities and counties; (ii) all emergency service agencies serving that area; and (iii) all owners and operators of public water supplies, community water supplies, and non-community water supplies.² Code section 7.5 also directs the Department of Natural Resources to adopt rules establishing the minimum criteria for an unintentional release of natural gas that would constitute an incident for purposes of the new code section, which shall be at least as stringent as the definition of “incident” as promulgated by the United States Secretary of Transportation under 49 C.F.R. § 191.3(1)(iii).³ The new Code section also requires the operator to notify private residents, owners and operators of private water systems and businesses located within one and a half miles of the boundaries of the natural gas incident as soon as practically possible.⁴

Section 7.6 requires the Department of Natural Resources to conduct annual inspections at all gas storage fields lying on the footprint of a Sole Source Aquifer 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.

2. Illinois Underground Natural Gas Storage Safety Act

The Governor approved S.B. 3549 on January 4, 2019, which enacted the Illinois Underground Natural Gas Storage Safety Act and became effective on January 4, 2019.⁵ The Act directs the Department of Natural Resources to adopt rules establishing minimum safety standards for underground natural gas storage facilities. Such rules shall be at least as inclusive, stringent, and compatible with the minimum safety standards adopted by the Secretary of Transportation under 49 U.S.C. § 60141 (2017).⁶ Operators of underground natural gas storage facilities must file a plan with the Department of Natural Resources for inspection and maintenance of the downhole portion of each of the operator’s underground natural gas storage facilities. The Act sets forth criteria to be used by the Department of Natural Resources in determining the adequacy of the plan, and permits the

2. 225 ILL. COMP. STAT. 725/7.5

3. *See id.*

4. *Id.*

5. S.B. 3549, 100th Gen. Assemb. (Ill. 2018).

6. 415 ILL. COMP. STAT. 160/10 (2019).

Department of Natural Resources to require revisions to the plan if the Department finds that the plan is inadequate to achieve safe operation.⁷ The Department of Natural Resources may grant compliance waivers under the Act⁸ and may assess penalties for violations.⁹

B. Emergency Rulemaking under the Illinois Oil and Gas Act Illinois Underground Natural Gas Storage Safety Act

The General Assembly adopted emergency rules pursuant to P.A. 100-896 and P.A. 100-1172 on April 19, 2019, which became effective on April 4, 2019, and will remain in effect for a maximum of 150 days.¹⁰ Permanent rules were proposed on May 24, 2019.¹¹

7. 415 ILL. COMP. STAT 160/20 (2019).

8. 415 ILL. COMP. STAT 160/15 (2019).

9. 415 ILL. COMP. STAT 160/30 (2019).

10. Emergency Rules, 43 Ill. Reg. 4650 (Apr. 19, 2019), 2019 IL REG TEXT 521838 (NS) (to be codified at ILL. ADMIN. CODE tit 62 § 240 (2019)).

11. Notices of Public Hearings, 43 Ill. Reg. 6113 (May 24, 2019), 2019 IL REG TEXT 524585 (NS) (to be codified at ILL. ADMIN. CODE tit 62, § 240 (2019)).