



Rep. John E. Bradley

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LRB098 10864 MGM 43076 a

1 AMENDMENT TO HOUSE BILL 2615

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2615 by replacing  
3 everything after the enacting clause with the following:

4 "ARTICLE 1.

5 Section 1-1. Short title. This Act may be cited as the  
6 Hydraulic Fracturing Regulatory Act.

7 Section 1-5. Definitions. For the purposes of this Act,  
8 unless the context otherwise requires:

9 "Agency" means the Illinois Environmental Protection  
10 Agency.

11 "Aquatic life" means all fish, reptiles, amphibians,  
12 crayfish, and mussels.

13 "Aquifer" means saturated (with groundwater) soils and  
14 geologic materials that are sufficiently permeable to readily  
15 yield economically useful quantities (at least 70 gallons per

1 minute) of fresh water to wells, springs, or streams under  
2 ordinary hydraulic gradients.

3 "Base fluid" means the continuous phase fluid type,  
4 including, but not limited to, water used in a high volume  
5 horizontal hydraulic fracturing operation.

6 "BTEX" means benzene, toluene, ethylbenzene, and xylene.

7 "Chemical" means any element, chemical compound, or  
8 mixture of elements or compounds that has its own specific name  
9 or identity, such as a Chemical Abstracts Service number,  
10 regardless of whether the chemical is subject to the  
11 requirements of paragraph (2) of subsection (g) of 29 Code of  
12 Federal Regulations §1910.1200.

13 "Chemical Abstracts Service" means the division of the  
14 American Chemical Society that is the globally recognized  
15 authority for information on chemical substances.

16 "Chemical Abstracts Service number" or "CAS number" means  
17 the unique identification number assigned to a chemical by the  
18 Chemical Abstracts Service.

19 "Completion combustion device" means any ignition device,  
20 installed horizontally or vertically, used in exploration and  
21 production operations to combust otherwise vented emissions.

22 "Delineation well" means a well drilled in order to  
23 determine the boundary of a field or producing reservoir.

24 "Department" means the Illinois Department of Natural  
25 Resources.

26 "Diesel" means a substance having any one of the following

1 Chemical Abstracts Service Registry numbers: 68334-30-5;  
2 68476-34-6; 68476-30-2; 68476-31-3; 8008-20-6; or 68410-00-4.  
3 "Diesel" includes any additional substances regulated by the  
4 United States Environmental Protection Agency as diesel fuel  
5 used in hydraulic fracturing activities under the federal Safe  
6 Drinking Water Act.

7 "Director" means the Director of Natural Resources.

8 "Enhanced oil recovery operation" means any secondary or  
9 tertiary recovery method used in an effort to recover  
10 hydrocarbons from a pool by injection of fluids, gases or other  
11 substances to maintain, restore, or augment natural reservoir  
12 energy, or by introducing gases, chemicals, other substances,  
13 or heat, or by in-situ combustion, or by any combination  
14 thereof.

15 "Flare" means a thermal oxidation system using an open,  
16 enclosed, or semi-enclosed flame. "Flare" does not include  
17 completion combustion devices as defined in this Section.

18 "Flowback period" means the process of allowing fluids to  
19 flow from a well following a treatment, either in preparation  
20 for a subsequent phase of treatment or in preparation for  
21 cleanup and returning the well to production. "Flowback period"  
22 begins when the material the hydraulic fracturing fluid returns  
23 to the surface following hydraulic fracturing or  
24 re-fracturing. "Flowback period" ends with either well shut in  
25 or when the well is producing continuously to the flow line or  
26 to a storage vessel for collection, whichever occurs first.

1 "Fresh water" means surface and subsurface water in its  
2 natural state that is suitable for drinking water for human  
3 consumption, domestic livestock, irrigation, industrial,  
4 municipal and recreational purposes, that is capable of  
5 supporting aquatic life, and contains less than 10,000 ppm  
6 total dissolved solids.

7 "Gas" means all natural gas, including casinghead gas, and  
8 all other natural hydrocarbons not defined as oil.

9 "Groundwater" means any water below the land surface that  
10 is within the saturated zone or geologic materials where the  
11 fluid pressure in the pore space is equal to or greater than  
12 atmospheric pressure.

13 "Health professional" means a physician, physician  
14 assistant, nurse practitioner, a registered professional  
15 nurse, emergency medical technician, or other individual  
16 appropriately licensed or registered to provide health care  
17 services.

18 "High volume horizontal hydraulic fracturing operations"  
19 means all stages of a stimulation treatment of a horizontal  
20 well as defined by this Act by the pressurized application of  
21 more than 80,000 gallons per stage of hydraulic fracturing  
22 fluid and proppant to initiate or propagate fractures in a  
23 geologic formation to enhance extraction or production of oil  
24 or gas.

25 "High volume horizontal hydraulic fracturing permit" means  
26 the permit issued by the Department under this Act allowing

1 high volume horizontal hydraulic fracturing operations to  
2 occur at a well site.

3 "High volume horizontal hydraulic fracturing treatment"  
4 shall have the same definition as "High volume horizontal  
5 hydraulic fracturing operations".

6 "Horizontal well" means a well with a wellbore drilled  
7 laterally at an angle of at least 80 degrees to the vertical  
8 and with a horizontal projection exceeding 100 feet measured  
9 from the initial point of penetration into the productive  
10 formation through the terminus of the lateral in the same  
11 common source of hydrocarbon supply.

12 "Hydraulic fracturing additive" means any chemical  
13 substance or combination of chemicals, including, but not  
14 limited to, any chemical or proppant that is added to a base  
15 fluid for the purposes of preparing a hydraulic fracturing  
16 fluid for a high volume horizontal hydraulic fracturing  
17 operation.

18 "Hydraulic fracturing flowback" means all hydraulic  
19 fracturing fluid and other fluids that return to the surface  
20 after a stage of high volume horizontal hydraulic fracturing  
21 operations has been completed and prior to the well being  
22 placed in production.

23 "Hydraulic fracturing fluid" means the mixture of the base  
24 fluid and all the hydraulic fracturing additives, used to  
25 perform high volume horizontal hydraulic fracturing.

26 "Hydraulic fracturing string" means any pipe or casing

1 string used for the transport of hydraulic fracturing fluids  
2 during the conduct of the high volume horizontal hydraulic  
3 fracturing operations.

4 "Intake" means a pipe or other means to withdraw raw water  
5 from a water source.

6 "Landowner" means the legal title holder or owner of real  
7 property and includes an owner of an undivided interest, a life  
8 tenant, a remainderman, a public or private corporation, a  
9 trustee under an active trust, and the holder of the beneficial  
10 interest under a land trust. "Landowner" does not include a  
11 mortgagee, a trustee under a trust deed in the nature of a  
12 mortgage, a lien holder, or a lessee.

13 "Low pressure well" means a well with reservoir pressure  
14 and vertical well depth such that  $0.445$  times the reservoir  
15 pressure (in psia) minus  $0.038$  times the vertical well depth  
16 (in feet) minus  $67.578$  psia is less than the flow line pressure  
17 at the sales meter.

18 "Nature preserve" shall have the same meaning as provided  
19 in Section 3.11 of the Illinois Natural Areas Preservation Act.

20 "Oil" means natural crude oil or petroleum and other  
21 hydrocarbons, regardless of gravity, which are produced at the  
22 well in liquid form by ordinary production methods or by the  
23 use of an oil and gas separator and which are not the result of  
24 condensation of gas after it leaves the underground reservoir.

25 "Operator" means the individual or entity controlling the  
26 right to drill or produce a horizontal well in accordance with

1 the requirements of the Illinois Oil and Gas Act.

2 "Owner" shall have the same meaning as provided in Section  
3 1 of the Illinois Oil and Gas Act.

4 "Perennial stream" means a stream that has continuous flow  
5 in its stream bed during all of the calendar year.

6 "Permit" means a high volume horizontal hydraulic  
7 fracturing permit.

8 "Permittee" means a person holding a high volume horizontal  
9 hydraulic fracturing permit under this Act.

10 "Person" means any individual, partnership,  
11 co-partnership, firm, company, limited liability company,  
12 corporation, association, joint stock company, trust, estate,  
13 political subdivision, state agency, or any other legal entity  
14 or their legal representative, agent, or assigns.

15 "Pollution or diminution" means:

16 (1) in groundwater, any of the following:

17 (A) detection of benzene or any other carcinogen in  
18 any Class I, Class II, or Class III groundwater;

19 (B) detection of any constituent in item (i) of  
20 subparagraph (A) of paragraph (3) of subsection (a) of  
21 35 Ill. Adm. Code 620.310 equal to or above the listed  
22 preventive response criteria in any Class I, Class II,  
23 or Class III groundwater;

24 (C) detection of any constituent in 35 Ill. Adm.  
25 Code 620.410 (a), (b), (c), (d) or (e) equal to or  
26 above the listed standard in any Class I, Class II, or

1 Class III groundwater;

2 (D) detection of any constituent in Class III  
3 groundwater equal to or above a standard established  
4 under 35 Ill. Adm. Code 620.260; or

5 (E) detection of any constituent in Class I, Class  
6 II, or Class III groundwater equal to or above a  
7 cleanup objective listed in 35 Ill. Adm. Code 742.

8 (2) in surface water, exceeding any applicable numeric  
9 or narrative standard in 35 Ill. Adm. Code Part 302 or Part  
10 304.

11 "Produced water" means water, regardless of chloride and  
12 total dissolved solids content, that is produced in conjunction  
13 with oil or natural gas production or natural gas storage  
14 operations, but does not include hydraulic fracturing  
15 flowback.

16 "Proppant" means sand or any natural or man-made material  
17 that is used during high volume horizontal hydraulic fracturing  
18 operations to prop open the artificially created or enhanced  
19 fractures.

20 "Public water supply" means all mains, pipes, and  
21 structures through which water is obtained and distributed to  
22 the public, including wells and well structures, intakes and  
23 cribs, pumping stations, treatment plants, reservoirs, and  
24 storage tanks and appurtenances, collectively or severally,  
25 actually used or intended for use for the purpose of furnishing  
26 water for drinking or general domestic use, and which serves at



1 least 15 service connections or which regularly serves at least  
2 25 persons at least 60 days per year.

3 "Register of Land and Water Reserves" means the list of  
4 areas registered in accordance with Section 16 of the Illinois  
5 Natural Areas Preservation Act and Part 4010 of Title 17 of the  
6 Illinois Administrative Code.

7 "Release" means any spilling, leaking, pumping, pouring,  
8 emitting, emptying, discharging, injecting, escaping,  
9 leaching, dumping, or disposing into the environment.

10 "Serious violation" means any violation set forth in 62  
11 Ill. Adm. Code 240.140(c).

12 "Service connection" means the opening, including all  
13 fittings and appurtenances, at the water main through which  
14 water is supplied to the user.

15 "Surface water" means all water that is open to the  
16 atmosphere and subject to surface runoff.

17 "Total water volume" means the total quantity of water from  
18 all sources used in the high volume horizontal hydraulic  
19 fracturing operations, including surface water, groundwater,  
20 produced water, or recycled water.

21 "True vertical depth" or "TVD" means the vertical distance  
22 from a depth in a planned or existing wellbore or well to a  
23 point at the surface.

24 "Water pollution" means any alteration of the physical,  
25 thermal, chemical, biological, or radioactive properties of  
26 any waters of the State, or the discharge of any contaminant

1 into any water of the State, as will or is likely to create a  
2 nuisance or render the waters harmful, detrimental, or  
3 injurious to public health, safety, or welfare, or to domestic,  
4 commercial, industrial, agricultural, recreational, or other  
5 legitimate uses, or to livestock, wild animals, birds, or fish  
6 or other aquatic life.

7 "Water source" means (1) any existing water well or  
8 developed spring used for human or domestic animal consumption,  
9 or (2) any river, perennial stream, aquifer, natural or  
10 artificial lake, pond, wetland listed on the Register of Land  
11 and Water Reserves, or reservoir.

12 "Well" means any drill hole required to be permitted under  
13 the Illinois Oil and Gas Act.

14 "Well site" means surface areas, including the well,  
15 occupied by all equipment or facilities necessary for or  
16 incidental to high volume horizontal hydraulic fracturing  
17 operations, drilling, production, or plugging a well.

18 "Wildcat well" means a well outside known fields or the  
19 first well drilled in an oil or gas field where no other oil  
20 and gas production exists.

21 "Wildlife" means any bird or mammal that are by nature wild  
22 by way of distinction from those that are naturally tame and  
23 are ordinarily living unconfined in a state of nature without  
24 the care of man.

25 Section 1-10. Intergovernmental cooperation. The

1 Department shall have the primary authority to administer the  
2 provisions of this Act. The Illinois State Geological Survey,  
3 the Illinois State Water Survey, the Office of the State Fire  
4 Marshal, and the Agency shall be advised of high volume  
5 horizontal hydraulic fracturing permit applications received  
6 by the Department and lend assistance as required by the  
7 provisions of this Act.

8 Section 1-15. Powers and duties.

9 (a) Except as otherwise provided, the Department shall  
10 enforce this Act and all rules and orders adopted in accordance  
11 with this Act.

12 (b) Except as otherwise provided, the Department shall have  
13 jurisdiction and authority over all persons and property  
14 necessary to enforce the provisions of this Act effectively. In  
15 aid of this jurisdiction, the Director, or anyone designated in  
16 writing by the Director, shall have the authority to administer  
17 oaths and to issue subpoenas for the production of records or  
18 other documents and for the attendance of witnesses at any  
19 proceedings of the Department.

20 (c) The Department may authorize any employee of the  
21 Department, qualified by training and experience, to perform  
22 the powers and duties set forth in this Act.

23 (d) For the purpose of determining compliance with the  
24 provisions of this Act and any orders or rules entered or  
25 adopted under this Act, the Department shall have the right at

1 all times to go upon and inspect properties where high volume  
2 horizontal hydraulic fracturing operations are being or have  
3 been conducted.

4 (e) Except as otherwise provided, the Department shall make  
5 any inquiries as it may deem proper to determine whether a  
6 violation of this Act or any orders or rules entered or adopted  
7 under this Act exists or is imminent. In the exercise of these  
8 powers, the Department shall have the authority to collect  
9 data; require testing and sampling; to make investigation and  
10 inspections; to examine properties, including records and  
11 logs; to examine, check, and test hydrocarbon wells; to hold  
12 hearings; to adopt administrative rules; and to take any action  
13 as may be reasonably necessary to enforce this Act.

14 (f) The Department may specify the manner in which all  
15 information required to be submitted under this Act is  
16 submitted.

17 Section 1-20. Applicability. This Act applies to all wells  
18 where high volume horizontal hydraulic fracturing operations  
19 are planned, have occurred, or are occurring in this State. The  
20 provisions of this Act shall be in addition to the provisions  
21 of the Illinois Oil and Gas Act. However, if there is a  
22 conflict, the provisions of the Illinois Oil and Gas Act are  
23 superseded by this Act.

24 Section 1-25. Setbacks and prohibitions.

1 (a) Except as otherwise provided in this Section, no well  
2 site where high volume horizontal hydraulic fracturing  
3 operations are proposed, planned, or occurring may be located  
4 as follows. Unless specified otherwise, all distances shall be  
5 measured from the closest edge of the well site:

6 (1) within 500 feet measured horizontally from any  
7 residence or place of worship unless the owner of the  
8 residence or the governing body of the place of worship  
9 otherwise expressly agrees in writing to a closer well  
10 location;

11 (2) within 500 feet measured horizontally from the edge  
12 of the property line from any school, hospital, or licensed  
13 nursing home facility;

14 (3) within 500 feet measured horizontally from the  
15 surface location of any existing water well or developed  
16 spring used for human or domestic animal consumption,  
17 unless the owner or owners of the well or developed spring  
18 otherwise expressly agrees or agree in writing to a closer  
19 well location;

20 (4) within 300 feet measured horizontally from the  
21 center of a perennial stream or from the ordinary high  
22 water mark of any river, natural or artificial lake, pond,  
23 or reservoir;

24 (5) within 750 feet of a nature preserve or a site on  
25 the Register of Land and Water Reserves;

26 (6) within 1,500 feet of a surface water or groundwater

1 intake of a public water supply; the distance from the  
2 public water supply as identified by the Department shall  
3 be measured as follows:

4 (A) For a surface water intake on a lake or  
5 reservoir, the distance shall be measured from the  
6 intake point on the lake or reservoir.

7 (B) For a surface water intake on a flowing stream,  
8 the distance shall be measured from a semicircular  
9 radius extending upstream of the surface water intake.

10 (C) For a groundwater source, the distance shall be  
11 measured from the surface location of the wellhead or  
12 the ordinary high water mark of the spring.

13 The distance restrictions under this subsection (a) shall  
14 be determined as conditions exist at the time of the submission  
15 of the permit application under this Act.

16 (b) Notwithstanding any other provision of this Section,  
17 the owner of a water source identified in paragraph (4) of  
18 subsection (a) of this Section that is wholly contained within  
19 the owner's property may expressly agree in writing to a closer  
20 well location.

21 (c) It is unlawful to inject or discharge hydraulic  
22 fracturing fluid, produced water, BTEX, diesel, or petroleum  
23 distillates into fresh water.

24 (d) It is unlawful to perform any high volume horizontal  
25 hydraulic fracturing operations by knowingly or recklessly  
26 injecting diesel.

1           Section 1-30. High volume horizontal hydraulic fracturing  
2 permit required.

3           (a) Notwithstanding any other provision of law, a person  
4 may not drill, deepen, or convert a horizontal well where high  
5 volume horizontal hydraulic fracturing operations are planned  
6 or occurring or convert a vertical well into a horizontal well  
7 where high volume horizontal hydraulic fracturing operations  
8 are planned in this State, unless the person has been issued a  
9 permit by the Department under this Act and has obtained all  
10 applicable authorizations required by the Illinois Oil and Gas  
11 Act.

12           (b) If multiple wells are to be stimulated using high  
13 volume horizontal hydraulic fracturing operations from a  
14 single well site, then a separate permit shall be obtained for  
15 each well at the site.

16           Section 1-35. High volume horizontal hydraulic fracturing  
17 permit application.

18           (a) Every applicant for a permit under this Act shall first  
19 register with the Department at least 30 days before applying  
20 for a permit. The Department shall make available a  
21 registration form within 90 days after the effective date of  
22 this Act. The registration form shall require the following  
23 information:

24           (1) the name and address of the registrant and any

1 parent, subsidiary, or affiliate thereof;

2 (2) disclosure of all findings of a serious violation  
3 or an equivalent violation under federal or state laws or  
4 regulations in the development or operation of an oil or  
5 gas exploration or production site via hydraulic  
6 fracturing by the applicant or any parent, subsidiary, or  
7 affiliate thereof within the previous 5 years; and

8 (3) proof of insurance to cover injuries, damages, or  
9 loss related to pollution or diminution in the amount of at  
10 least \$5,000,000, from an insurance carrier authorized,  
11 licensed, or permitted to do this insurance business in  
12 this State that holds at least an A- rating by A.M. Best &  
13 Co. or any comparable rating service.

14 A registrant must notify the Department of any change in  
15 the information identified in paragraphs (1), (2), or (3) of  
16 this subsection (a) at least annually or upon request of the  
17 Department.

18 (b) Every applicant for a permit under this Act must submit  
19 the following information to the Department on an application  
20 form provided by the Department:

21 (1) the name and address of the applicant and any  
22 parent, subsidiary, or affiliate thereof;

23 (2) the proposed well name and address and legal  
24 description of the well site and its unit area;

25 (3) a statement whether the proposed location of the  
26 well site is in compliance with the requirements of Section



1 1-25 of this Act and a plat, which shows the proposed  
2 surface location of the well site, providing the distance  
3 in feet, from the surface location of the well site to the  
4 features described in subsection (a) of Section 1-25 of  
5 this Act;

6 (4) a detailed description of the proposed well to be  
7 used for the high volume horizontal hydraulic fracturing  
8 operations including, but not limited to, the following  
9 information:

10 (A) the approximate total depth to which the well  
11 is to be drilled or deepened;

12 (B) the proposed angle and direction of the well;

13 (C) the actual depth or the approximate depth at  
14 which the well to be drilled deviates from vertical;

15 (D) the angle and direction of any nonvertical  
16 portion of the wellbore until the well reaches its  
17 total target depth or its actual final depth; and

18 (E) the estimated length and direction of the  
19 proposed horizontal lateral or wellbore;

20 (5) the estimated depth and elevation, according to the  
21 most recent publication of the Illinois State Geological  
22 Survey of Groundwater for the location of the well, of the  
23 lowest potential fresh water along the entire length of the  
24 proposed wellbore;

25 (6) a detailed description of the proposed high volume  
26 horizontal hydraulic fracturing operations, including, but

1 not limited to, the following:

2 (A) the formation affected by the high volume  
3 horizontal hydraulic fracturing operations, including,  
4 but not limited to, geologic name and geologic  
5 description of the formation that will be stimulated by  
6 the operation;

7 (B) the anticipated surface treating pressure  
8 range;

9 (C) the maximum anticipated injection treating  
10 pressure;

11 (D) the estimated or calculated fracture pressure  
12 of the producing and confining zones; and

13 (E) the planned depth of all proposed perforations  
14 or depth to the top of the open hole section;

15 (7) plat showing all known previous well bores within  
16 750 feet of any part of the horizontal well bore that  
17 penetrated within 400 vertical feet of the formation that  
18 will be stimulated as part of the high volume horizontal  
19 hydraulic fracturing operations;

20 (8) unless the applicant documents why the information  
21 is not available at the time the application is submitted,  
22 a chemical disclosure report identifying each chemical and  
23 proppant anticipated to be used in hydraulic fracturing  
24 fluid for each stage of the hydraulic fracturing operations  
25 including the following:

26 (A) the total volume of water anticipated to be

1 used in the hydraulic fracturing treatment of the well  
2 or the type and total volume of the base fluid  
3 anticipated to be used in the hydraulic fracturing  
4 treatment, if something other than water;

5 (B) each hydraulic fracturing additive anticipated  
6 to be used in the hydraulic fracturing fluid, including  
7 the trade name, vendor, a brief descriptor of the  
8 intended use or function of each hydraulic fracturing  
9 additive, and the Material Safety Data Sheet (MSDS), if  
10 applicable;

11 (C) each chemical anticipated to be intentionally  
12 added to the base fluid, including for each chemical,  
13 the Chemical Abstracts Service number, if applicable;  
14 and

15 (D) the anticipated concentration in the base  
16 fluid, in percent by mass, of each chemical to be  
17 intentionally added to the base fluid;

18 (9) a certification of compliance with the Water Use  
19 Act of 1983 and applicable regional water supply plans;

20 (10) a fresh water withdrawal and management plan that  
21 shall include the following information:

22 (A) the source of the water, such as surface or  
23 groundwater, anticipated to be used for water  
24 withdrawals, and the anticipated withdrawal location;

25 (B) the anticipated volume and rate of each water  
26 withdrawal from each withdrawal location;

1 (C) the anticipated months when water withdrawals  
2 shall be made from each withdrawal location;

3 (D) the methods to be used to minimize water  
4 withdrawals as much as feasible; and

5 (E) the methods to be used for surface water  
6 withdrawals to minimize adverse impact to aquatic  
7 life.

8 Where a surface water source is wholly contained  
9 within a single property, and the owner of the property  
10 expressly agrees in writing to its use for water  
11 withdrawals, the applicant is not required to include  
12 this surface water source in the fresh water withdrawal  
13 and management plan.

14 (11) a plan for the handling, storage, transportation,  
15 and disposal or reuse of hydraulic fracturing fluids and  
16 hydraulic fracturing flowback. The plan shall identify the  
17 specific Class II injection well or wells that will be used  
18 to dispose of the hydraulic fracturing flowback. The plan  
19 shall describe the capacity of the tanks to be used for the  
20 capture and storage of flowback and of the lined reserve  
21 pit to be used, if necessary, to temporarily store any  
22 flowback in excess of the capacity of the tanks.  
23 Identification of the Class II injection well or wells  
24 shall be by name, identification number, and specific  
25 location and shall include the date of the most recent  
26 mechanical integrity test for each Class II injection well;

1           (12) a well site safety plan to address proper safety  
2 measures to be employed during high volume horizontal  
3 hydraulic fracturing operations for the protection of  
4 persons on the site as well as the general public. Within  
5 15 calendar days after submitting the permit application to  
6 the Department, the applicant must provide a copy of the  
7 plan to the county or counties in which hydraulic  
8 fracturing operations will occur. Within 5 calendar days of  
9 its receipt, the Department shall provide a copy of the  
10 well site safety plan to the Office of the State Fire  
11 Marshal;

12           (13) a containment plan describing the containment  
13 practices and equipment to be used and the area of the well  
14 site where containment systems will be employed, and within  
15 5 calendar days of its receipt, the Department shall  
16 provide a copy of the containment plan to the Office of the  
17 State Fire Marshal;

18           (14) a casing and cementing plan that describes the  
19 casing and cementing practices to be employed, including  
20 the size of each string of pipe, the starting point, and  
21 depth to which each string is to be set and the extent to  
22 which each string is to be cemented;

23           (15) a traffic management plan that identifies the  
24 anticipated roads, streets, and highways that will be used  
25 for access to and egress from the well site. The traffic  
26 management plan will include a point of contact to discuss

1 issues related to traffic management. Within 15 calendar  
2 days after submitting the permit application to the  
3 Department, the applicant must provide a copy of the  
4 traffic management plan to the county or counties in which  
5 the well site is located, and within 5 calendar days of its  
6 receipt, the Department shall provide a copy of the traffic  
7 management plan to the Office of the State Fire Marshal;

8 (16) the names and addresses of all owners of any real  
9 property within 1,500 feet of the proposed well site, as  
10 disclosed by the records in the office of the recorder of  
11 the county or counties;

12 (17) drafts of the specific public notice and general  
13 public notice as required by Section 1-40 of this Act;

14 (18) statement that the well site at which the high  
15 volume horizontal hydraulic fracturing operation will be  
16 conducted will be restored in compliance with Section  
17 240.1181 of Title 62 of the Illinois Administrative Code  
18 and Section 1-95 of this Act;

19 (19) proof of insurance to cover injuries, damages, or  
20 loss related to pollution in the amount of at least  
21 \$5,000,000; and

22 (20) any other relevant information which the  
23 Department may, by rule, require.

24 (c) Where an application is made to conduct high volume  
25 horizontal fracturing operations at a well site located within  
26 the limits of any city, village, or incorporated town, the

1 application shall state the name of the city, village, or  
2 incorporated town and be accompanied with a certified copy of  
3 the official consent for the hydraulic fracturing operations to  
4 occur from the municipal authorities where the well site is  
5 proposed to be located. No permit shall be issued unless  
6 consent is secured and filed with the permit application. In  
7 the event that an amended location is selected, the original  
8 permit shall not be valid unless a new certified consent is  
9 filed for the amended location.

10 (d) The hydraulic fracturing permit application shall be  
11 accompanied by a bond as required by subsection (a) of Section  
12 1-65 of this Act.

13 (e) Each application for a permit under this Act shall  
14 include payment of a non-refundable fee of \$13,500. Of this  
15 fee, \$11,000 shall be deposited into the Mines and Minerals  
16 Regulatory Fund for the Department to use to administer and  
17 enforce this Act and otherwise support the operations and  
18 programs of the Office of Mines and Minerals. The remaining  
19 \$2,500 shall be deposited into the Illinois Clean Water Fund  
20 for the Agency to use to carry out its functions under this  
21 Act. The Department shall not initiate its review of the permit  
22 application until the applicable fee under this subsection (e)  
23 has been submitted to and received by the Department.

24 (f) Each application submitted under this Act shall be  
25 signed, under the penalty of perjury, by the applicant or the  
26 applicant's designee who has been vested with the authority to

1 act on behalf of the applicant and has direct knowledge of the  
2 information contained in the application and its attachments.  
3 Any person signing an application shall also sign an affidavit  
4 with the following certification:

5 "I certify, under penalty of perjury as provided by law  
6 and under penalty of refusal, suspension, or revocation of  
7 a high volume horizontal hydraulic fracturing permit, that  
8 this application and all attachments are true, accurate,  
9 and complete to the best of my knowledge."

10 (g) The permit application shall be submitted to the  
11 Department in both electronic and hard copy format. The  
12 electronic format shall be searchable.

13 (h) The application for a high volume horizontal hydraulic  
14 fracturing permit may be submitted as a combined permit  
15 application with the operator's application to drill on a form  
16 as the Department shall prescribe. The combined application  
17 must include the information required in this Section. If the  
18 operator elects to submit a combined permit application,  
19 information required by this Section that is duplicative of  
20 information required for an application to drill is only  
21 required to be provided once as part of the combined  
22 application. The submission of a combined permit application  
23 under this subsection shall not be interpreted to relieve the  
24 applicant or the Department from complying with the  
25 requirements of this Act or the Illinois Oil and Gas Act.

26 (i) Upon receipt of a permit application, the Department



1 shall have no more than 60 calendar days from the date it  
2 receives the permit application to approve, with any conditions  
3 the Department may find necessary, or reject the application  
4 for the high volume horizontal hydraulic fracturing permit. The  
5 applicant may waive, in writing, the 60-day deadline upon its  
6 own initiative or in response to a request by the Department.

7 (j) If at any time during the review period the Department  
8 determines that the permit application is not complete under  
9 this Act, does not meet the requirements of this Section, or  
10 requires additional information, the Department shall notify  
11 the applicant in writing of the application's deficiencies and  
12 allow the applicant to correct the deficiencies and provide the  
13 Department any information requested to complete the  
14 application. If the applicant fails to provide adequate  
15 supplemental information within the review period, the  
16 Department may reject the application.

17 Section 1-40. Public notice.

18 (a) Within 5 calendar days after the Department's receipt  
19 of the high volume horizontal hydraulic fracturing  
20 application, the Department shall post notice of its receipt  
21 and a copy of the permit application on its website. The notice  
22 shall include the dates of the public comment period and  
23 directions for interested parties to submit comments.

24 (b) Within 5 calendar days after the Department's receipt  
25 of the permit application and notice to the applicant that the

1 high volume horizontal hydraulic fracturing permit application  
2 was received, the Department shall provide the Agency, the  
3 Office of the State Fire Marshal, Illinois State Water Survey,  
4 and Illinois State Geological Survey with notice of the  
5 application.

6 (c) Within 3 calendar days of submittal of the high volume  
7 horizontal hydraulic fracturing permit application to the  
8 Department, the applicant shall provide the following public  
9 notice:

10 (1) Applicants shall mail specific public notice by  
11 U.S. Postal Service certified mail, return receipt  
12 requested to all, within 5 calendar days after notification  
13 by the Department that the permit application was received,  
14 to all persons identified as owners of real property within  
15 1,500 feet of the proposed well site, as disclosed by the  
16 records in the office of the recorder of the county or  
17 counties, and to each municipality and county in which the  
18 well site is proposed to be located.

19 (2) Except as otherwise provided in this paragraph (2)  
20 of subsection (c), applicants shall provide general public  
21 notice by publication, once each week for 2 consecutive  
22 weeks, beginning no later than 3 calendar days after  
23 submittal of the high volume hydraulic fracturing permit  
24 application to the Department, in a newspaper of general  
25 circulation published in each county where the well  
26 proposed for high volume hydraulic fracturing operations

1 is proposed to be located.

2 If a well is proposed for high volume hydraulic  
3 fracturing operations in a county where there is no daily  
4 newspaper of general circulation, applicant shall provide  
5 general public notice, by publication, once each week for 2  
6 consecutive weeks, in a weekly newspaper of general  
7 circulation in that county beginning as soon as the  
8 publication schedule of the weekly newspaper permits, but  
9 in no case later than 10 days after submittal of the high  
10 volume hydraulic fracturing permit application to the  
11 Department.

12 (3) The specific and general public notices required  
13 under this subsection shall contain the following  
14 information:

15 (A) the name and address of the applicant;

16 (B) the date the application for high volume  
17 horizontal hydraulic fracturing permit was filed;

18 (C) the dates for the public comment period and a  
19 statement that anyone may file written comments about  
20 any portion of the applicant's submitted high volume  
21 horizontal hydraulic fracturing permit application  
22 with the Department during the public comment period;

23 (D) the proposed well name, reference number  
24 assigned by the Department, and the address and legal  
25 description of the well site and its unit area;

26 (E) a statement that the information filed by the

1 applicant in their application for a high volume  
2 horizontal hydraulic fracturing permit is available  
3 from the Department through its website;

4 (F) the Department's website and the address and  
5 telephone number for the Department's Oil and Gas  
6 Division;

7 (G) a statement that any person having an interest  
8 that is or may be adversely affected, any government  
9 agency that is or may be affected, or the county board  
10 of a county to be affected under a proposed permit, may  
11 file written objections to a permit application and may  
12 request a public hearing.

13 (d) After providing the public notice as required under  
14 paragraph (2) of subsection (c) of this Section, the applicant  
15 shall supplement its permit application by providing the  
16 Department with a certification and documentation that the  
17 applicant fulfilled the public notice requirements of this  
18 Section. The Department shall not issue a permit until the  
19 applicant has provided the supplemental material required  
20 under this subsection.

21 (e) If multiple applications are submitted at the same time  
22 for wells located on the same well site, the applicant may use  
23 one public notice for all applications provided the notice is  
24 clear that it pertains to multiple applications and conforms to  
25 the requirements of this Section. Notice shall not constitute  
26 standing for purposes of requesting a public hearing or for

1 standing to appeal the decision of the Department in accordance  
2 with the Administrative Review Law.

3 Section 1-45. Public comment periods.

4 (a) The public comment period shall begin 7 calendar days  
5 after the Department's receipt of the permit application and  
6 last for 30 calendar days.

7 (b) Where a public hearing is conducted under Section 1-50  
8 of this Act, the Department may provide for an additional  
9 public comment period of 15 days as necessary to allow for  
10 comments in response to evidence and testimony presented at the  
11 hearing. The additional public comment period shall begin on  
12 the day after the public hearing.

13 (c) During any public comment period, any person may file  
14 written comments to the Department concerning any portion of  
15 the permit application and any issue relating to the  
16 applicant's compliance with the requirements of the Act and any  
17 other applicable laws.

18 (d) The Department may request that the applicant respond  
19 to any substantive public comments obtained during the public  
20 comment period.

21 Section 1-50. High volume horizontal hydraulic fracturing  
22 permit; hearing.

23 (a) When a permit application is submitted to conduct high  
24 volume horizontal hydraulic fracturing operations for the

1 first time at a particular well site, any person having an  
2 interest that is or may be adversely affected, any government  
3 agency that is or may be affected, or the county board of a  
4 county to be affected under a proposed permit, may file written  
5 objections to the permit application and may request a public  
6 hearing during the public comment period established under  
7 subsection (a) of Section 1-45 of this Act. The request for  
8 hearing shall contain a short and plain statement identifying  
9 the person and stating facts demonstrating that the person has  
10 an interest that is or may be adversely affected. The  
11 Department shall hold a public hearing upon a request under  
12 this subsection, unless the request is determined by the  
13 Department to (i) lack an adequate factual statement that the  
14 person is or may be adversely affected or (ii) be frivolous.

15 (b) Prior to the commencement of a public hearing under  
16 this Section, any person who could have requested the hearing  
17 under subsection (a) of this Section may petition the  
18 Department to participate in the hearing in the same manner as  
19 the party requesting the hearing. The petition shall contain a  
20 short and plain statement identifying the petitioner and  
21 stating facts demonstrating that the petitioner is a person  
22 having an interest that is or may be adversely affected. The  
23 petitioner shall serve the petition upon the Department. Unless  
24 the Department determines that the petition is frivolous, or  
25 that the petitioner has failed to allege facts in support of an  
26 interest that is or may be adversely affected, the petitioner

1 shall be allowed to participate in the hearing in the same  
2 manner as the party requesting the hearing.

3 (c) The public hearing to be conducted under this Section  
4 shall comply with the contested case requirements of the  
5 Illinois Administrative Procedure Act. The Department shall  
6 establish rules and procedures to determine whether any request  
7 for a public hearing may be granted in accordance with  
8 subsection (a) of this Section, and for the notice and conduct  
9 of the public hearing. These procedural rules shall include  
10 provisions for reasonable notice to (i) the public and (ii) all  
11 parties to the proceeding, which include the applicant, the  
12 persons requesting the hearing, and the persons granted the  
13 right to participate in the hearing pursuant to subsection (b)  
14 of this Section, for the qualifications, powers, and  
15 obligations of the hearing officer, and for reasonable  
16 opportunity for all the parties to provide evidence and  
17 argument, to respond by oral or written testimony to statements  
18 and objections made at the public hearing, and for reasonable  
19 cross-examination of witnesses. County boards and the public  
20 may present their written objections or recommendations at the  
21 public hearing. A complete record of the hearings and all  
22 testimony shall be made by the Department and recorded  
23 stenographically or electronically. The complete record shall  
24 be maintained and shall be accessible to the public on the  
25 Department's website until final release of the applicant's  
26 performance bond.

1 (d) At least 10 calendar days before the date of the public  
2 hearing, the Department shall publish notice of the public  
3 hearing in a newspaper of general circulation published in the  
4 county where the proposed well site will be located.

5 Section 1-53. High volume horizontal hydraulic fracturing  
6 permit; determination; judicial review.

7 (a) The Department shall issue a high volume horizontal  
8 hydraulic fracturing permit, with any conditions the  
9 Department may find necessary, only if the record of decision  
10 demonstrates that:

11 (1) the well location restrictions of Section 1-25 of  
12 this Act have been satisfied;

13 (2) the application meets the requirements of Section  
14 1-35 of this Act;

15 (3) the plans required to be submitted with the  
16 application under Section 1-35 of this Act are adequate and  
17 effective;

18 (4) the proposed hydraulic fracturing operations will  
19 be conducted in a manner that will protect the public  
20 health and safety and prevent pollution or diminution of  
21 any water source;

22 (5) the work plan required under Section 1-80 of this  
23 Act has been submitted to the Department;

24 (6) the applicant or any parent, subsidiary, or  
25 affiliate thereof has not failed to abate a violation of



1 this Act or the Illinois Oil and Gas Act;

2 (7) the Class II injection wells to be used for  
3 disposal of hydraulic fracturing flowback comply with all  
4 applicable requirements for mechanical integrity testing,  
5 including that the well has been tested within the previous  
6 5 years; and

7 (8) there is no good cause to deny the permit under  
8 subsection (a) of Section 1-60 of this Act.

9 (b) For the purpose of determining whether to issue a  
10 permit, the Department shall consider and the Department's  
11 record of decision shall include:

12 (1) the application for the high volume horizontal  
13 hydraulic fracturing permit, including all documentation  
14 required by Section 1-35 of this Act;

15 (2) all written comments received during the public  
16 comment periods and, if applicable, the complete record  
17 from the public hearing held under Section 1-50 of this  
18 Act;

19 (3) all information provided by the applicant in  
20 response to any public comments; and

21 (4) any information known to the Department as the  
22 public entity responsible for regulating high volume  
23 horizontal hydraulic fracturing operations, including, but  
24 not limited to, inspections of the proposed well site as  
25 necessary to ensure adequate review of the application.

26 (c) The Department shall, by U.S. Mail and electronic

1 transmission, provide the applicant with a copy of the high  
2 volume horizontal hydraulic fracturing permit as issued or its  
3 final administrative decision denying the permit to the  
4 applicant and shall, by U.S. Mail or electronic transmission,  
5 provide a copy of the permit as issued or the final  
6 administrative decision to any person or unit of local  
7 government who received specific public notice under Section  
8 1-40 of this Act or submitted comments or participated in any  
9 public hearing under Section 1-50 of this Act.

10 (d) The Department's decision to approve or deny a high  
11 volume horizontal hydraulic fracturing permit shall be  
12 considered a final administrative decision subject to judicial  
13 review under the Administrative Review Law and the rules  
14 adopted under that Law.

15 (e) Following completion of the Department's review and  
16 approval process, the Department's website shall indicate  
17 whether an individual high volume horizontal hydraulic  
18 fracturing permit was approved or denied and provide a copy of  
19 the approval or denial.

20 Section 1-55. High volume horizontal hydraulic fracturing  
21 permit; conditions; restriction; modifications.

22 (a) Each permit issued by the Department under this Act  
23 shall require the permittee to comply with all provisions of  
24 this Act and all other applicable local, State, and federal  
25 laws, rules, and regulations in effect at the time the permit

1 is issued. All plans submitted with the application under  
2 Section 1-35 shall be conditions of the permit.

3 (b) A permit issued under this Act shall continue in effect  
4 until plugging and restoration in compliance with this Act and  
5 the Illinois Oil and Gas Act are completed to the Department's  
6 satisfaction. No permit may be transferred to another person  
7 without approval of the Department.

8 (c) No permit issued under this Act may be modified without  
9 approval of the Department. If the Department determines that  
10 the proposed modifications constitute a significant deviation  
11 from the terms of the original application and permit approval,  
12 or presents a serious risk to public health, life, property,  
13 aquatic life, or wildlife, the Department shall provide the  
14 opportunities for notice, comment, and hearing required under  
15 Sections 1-45 and 1-50 of this Act. The Department shall  
16 provide notice of the proposed modification and opportunity for  
17 comment and hearing to the persons who received specific public  
18 notice under Section 1-40 of this Act and shall publish the  
19 notice and the proposed modification on its website. The  
20 Department shall adopt rules regarding procedures for a permit  
21 modification. When applying for a modified permit, the  
22 permittee shall submit a modification fee to the Department.  
23 The fee shall be deposited into the Mines and Minerals  
24 Regulatory Fund. The Department shall adopt rules regarding  
25 procedures for a permit modification.

1 Section 1-60. High volume horizontal hydraulic fracturing  
2 permit; denial, suspension, or revocation.

3 (a) The Department may suspend, revoke, or refuse to issue  
4 a high volume horizontal hydraulic fracturing permit under this  
5 Act for one or more of the following causes:

6 (1) providing incorrect, misleading, incomplete, or  
7 materially untrue information in a permit application or  
8 any document required to be filed with the Department;

9 (2) violating any condition of the permit;

10 (3) violating any provision of or any regulation  
11 adopted under this Act or the Illinois Oil and Gas Act;

12 (4) using fraudulent, coercive, or dishonest  
13 practices, or demonstrating incompetence,  
14 untrustworthiness, or financial irresponsibility in the  
15 conduct of business in this State or elsewhere;

16 (5) having a high volume horizontal hydraulic  
17 fracturing permit, or its equivalent, revoked in any other  
18 state, province, district, or territory for incurring a  
19 material or major violation or using fraudulent or  
20 dishonest practices; or

21 (6) an emergency condition exists under which conduct  
22 of the high volume horizontal hydraulic fracturing  
23 operations would pose a significant hazard to public  
24 health, aquatic life, wildlife, or the environment.

25 (b) In every case in which a permit is suspended or  
26 revoked, the Department shall serve notice of its action,

1 including a statement of the reasons for the action, either  
2 personally or by certified mail, receipt return requested, to  
3 the permittee.

4 (c) The order of suspension or revocation of a permit shall  
5 take effect upon issuance of the order. The permittee may  
6 request, in writing, within 30 days after the date of receiving  
7 the notice, a hearing. Except as provided under subsection (d)  
8 of this Section, in the event a hearing is requested, the order  
9 shall remain in effect until a final order is entered pursuant  
10 to the hearing.

11 (d) The order of suspension or revocation of a permit may  
12 be stayed if requested by the permittee and evidence is  
13 submitted demonstrating that there is no significant threat to  
14 the public health, aquatic life, wildlife, or the environment  
15 if the operation is allowed to continue.

16 (e) The hearing shall be held at a time and place  
17 designated by the Department. The Director of the Department or  
18 any administrative law judge designated by him or her have the  
19 power to administer oaths and affirmations, subpoena witnesses  
20 and compel their attendance, take evidence, and require the  
21 production of books, papers, correspondence, and other records  
22 or information that he or she considers relevant or material.

23 (f) The costs of the administrative hearing shall be set by  
24 rule and shall be borne by the permittee.

25 (g) The Department's decision to suspend or revoke a high  
26 volume horizontal hydraulic fracturing permit is subject to

1 judicial review under the Administrative Review Law.

2 Section 1-65. Hydraulic fracturing permit; bonds.

3 (a) An applicant for a high volume horizontal hydraulic  
4 fracturing permit under this Act shall provide a bond, executed  
5 by a surety authorized to transact business in this State. The  
6 bond shall be in the amount of \$50,000 per permit or a blanket  
7 bond of \$500,000 for all permits. If the applicant is required  
8 to submit a bond to the Department under the Illinois Oil and  
9 Gas Act, the applicant's submission of a bond under this  
10 Section shall satisfy the bonding requirements provided for in  
11 the Illinois Oil and Gas Act. In lieu of a bond, the applicant  
12 may provide other collateral securities such as cash,  
13 certificates of deposit, or irrevocable letters of credit under  
14 the terms and conditions as the Department may provide by rule.

15 (b) The bond or other collateral securities shall remain in  
16 force until the well is plugged and abandoned. Upon abandoning  
17 a well to the satisfaction of the Department and in accordance  
18 with the Illinois Oil and Gas Act, the bond or other collateral  
19 securities shall be promptly released by the Department. Upon  
20 the release by the Department of the bond or other collateral  
21 securities, any cash or collateral securities deposited shall  
22 be returned by the Department to the applicant who deposited  
23 it.

24 (c) If, after notice and hearing, the Department determines  
25 that any of the requirements of this Act or rules adopted under

1 this Act or the orders of the Department have not been complied  
2 with within the time limit set by any notice of violation  
3 issued under this Act, the permittee's bond or other collateral  
4 securities shall be forfeited. Forfeiture under this  
5 subsection shall not limit any duty of the permittee to  
6 mitigate or remediate harms or foreclose enforcement by the  
7 Department or the Agency. In no way will payment under this  
8 bond exceed the aggregate penalty as specified.

9 (d) When any bond or other collateral security is forfeited  
10 under the provisions of this Act or rules adopted under this  
11 Act, the Department shall collect the forfeiture without delay.  
12 The surety shall have 30 days to submit payment for the bond  
13 after receipt of notice by the permittee of the forfeiture.

14 (e) All forfeitures shall be deposited in the Mines and  
15 Minerals Regulatory Fund to be used, as necessary, to mitigate  
16 or remediate violations of this Act or rules adopted under this  
17 Act.

18 Section 1-70. Well preparation, construction, and  
19 drilling.

20 (a) This Section shall apply to all horizontal wells that  
21 are to be completed using high volume horizontal hydraulic  
22 fracturing operations under a high volume horizontal hydraulic  
23 fracturing permit. The requirements of this Section shall be in  
24 addition to any other laws or rules regarding wells and well  
25 sites.

1 (b) Site preparation standards shall be as follows:

2 (1) The access road to the well site must be located in  
3 accordance with access rights identified in the Illinois  
4 Oil and Gas Act and located as far as practical from  
5 occupied structures, places of assembly, and property  
6 lines of unleased property.

7 (2) Unless otherwise approved or directed by the  
8 Department, all topsoil stripped to facilitate the  
9 construction of the well pad and access roads must be  
10 stockpiled, stabilized, and remain on site for use in  
11 either partial or final reclamation. In the event it is  
12 anticipated that the final reclamation shall take place in  
13 excess of one year from drilling the well the topsoil may  
14 be disposed of in any lawful manner provided the operator  
15 reclaims the site with topsoil of similar characteristics  
16 of the topsoil removed.

17 (3) Piping, conveyances, valves, and tanks in contact  
18 with hydraulic fracturing fluid, hydraulic fracturing  
19 flowback, or produced water must be constructed of  
20 materials compatible with the composition of the hydraulic  
21 fracturing fluid, hydraulic fracturing flowback, and  
22 produced water.

23 (c) Site maintenance standards shall be as follows:

24 (1) Secondary containment is required for all fueling  
25 tanks.

26 (2) Fueling tanks shall be subject to Section 1-25 of



1 this Act.

2 (3) Fueling tank filling operations shall be  
3 supervised at the fueling truck and at the tank if the tank  
4 is not visible to the fueling operator from the truck.

5 (4) Troughs, drip pads, or drip pans are required  
6 beneath the fill port of a fueling tank during filling  
7 operations if the fill port is not within the secondary  
8 containment required by paragraph (1) of this subsection.

9 (d) All wells shall be constructed, and casing and  
10 cementing activities shall be conducted, in a manner that shall  
11 provide for control of the well at all times, prevent the  
12 migration of oil, gas, and other fluids into the fresh water  
13 and coal seams, and prevent pollution or diminution of fresh  
14 water. In addition to any of the Department's casing and  
15 cementing requirements, the following shall apply:

16 (1) All casings must conform to the current industry  
17 standards published by the American Petroleum Institute.

18 (2) Casing thread compound and its use must conform to  
19 the current industry standards published by the American  
20 Petroleum Institute.

21 (3) Surface casing shall be centralized at the shoe,  
22 above and below a stage collar or diverting tool, if run,  
23 and through usable-quality water zones. In non-deviated  
24 holes, pipe centralization as follows is required: a  
25 centralizer shall be placed every fourth joint from the  
26 cement shoe to the ground surface or to the bottom of the

1 cellar. All centralizers shall meet specifications in, or  
2 equivalent to, API spec 10D, Specification for Bow-Spring  
3 Casing Centralizers; API Spec 10 TR4, Technical Report on  
4 Considerations Regarding Selection of Centralizers for  
5 Primary Cementing Operations; and API RP 10D-2,  
6 Recommended Practice for Centralizer Placement and Stop  
7 Collar Testing. The Department may require additional  
8 centralization as necessary to ensure the integrity of the  
9 well design is adequate. All centralizers must conform to  
10 the current industry standards published by the American  
11 Petroleum Institute.

12 (4) Cement must conform to current industry standards  
13 published by the American Petroleum Institute and the  
14 cement slurry must be prepared to minimize its free water  
15 content in accordance with the current industry standards  
16 published by the American Petroleum Institute; the cement  
17 must also:

18 (A) secure the casing in the wellbore;

19 (B) isolate and protect fresh groundwater;

20 (C) isolate abnormally pressured zones, lost  
21 circulation zones, and any potential flow zones  
22 including hydrocarbon and fluid-bearing zones;

23 (D) properly control formation pressure and any  
24 pressure from drilling, completion and production;

25 (E) protect the casing from corrosion and  
26 degradation; and

1 (F) prevent gas flow in the annulus.

2 (5) Prior to cementing any casing string, the borehole  
3 must be circulated and conditioned to ensure an adequate  
4 cement bond.

5 (6) A pre-flush or spacer must be pumped ahead of the  
6 cement.

7 (7) The cement must be pumped at a rate and in a flow  
8 regime that inhibits channeling of the cement in the  
9 annulus.

10 (8) Cement compressive strength tests must be  
11 performed on all surface, intermediate, and production  
12 casing strings; after the cement is placed behind the  
13 casing, the operator shall wait on cement to set until the  
14 cement achieves a calculated compressive strength of at  
15 least 500 pounds per square inch, and a minimum of 8 hours  
16 before the casing is disturbed in any way, including  
17 installation of a blowout preventer. The cement shall have  
18 a 72-hour compressive strength of at least 1,200 psi, and  
19 the free water separation shall be no more than 6  
20 milliliters per 250 milliliters of cement, tested in  
21 accordance with current American petroleum Institute  
22 standards.

23 (9) A copy of the cement job log for any cemented  
24 casing string in the well shall be maintained in the well  
25 file and available to the Department upon request.

26 (10) Surface casing shall be used and set to a depth of

1 at least 200 feet, or 100 feet below the base of the  
2 deepest fresh water, whichever is deeper, but no more than  
3 200 feet below the base of the deepest fresh water and  
4 prior to encountering any hydrocarbon-bearing zones. The  
5 surface casing must be run and cemented as soon as  
6 practicable after the hole has been adequately circulated  
7 and conditioned.

8 (11) The Department must be notified at least 24 hours  
9 prior to surface casing cementing operations. Surface  
10 casing must be fully cemented to the surface with excess  
11 cements. Cementing must be by the pump and plug method with  
12 a minimum of 25% excess cement with appropriate lost  
13 circulation material, unless another amount of excess  
14 cement is approved by the Department. If cement returns are  
15 not observed at the surface, the operator must perform  
16 remedial actions as appropriate.

17 (12) Intermediate casing must be installed when  
18 necessary to isolate fresh water not isolated by surface  
19 casing and to seal off potential flow zones, anomalous  
20 pressure zones, lost circulation zones and other drilling  
21 hazards.

22 Intermediate casing must be set to protect fresh water  
23 if surface casing was set above the base of the deepest  
24 fresh water, if additional fresh water was found below the  
25 surface casing shoe, or both. Intermediate casing used to  
26 isolate fresh water must not be used as the production

1 string in the well in which it is installed, and may not be  
2 perforated for purposes of conducting a hydraulic fracture  
3 treatment through it.

4 When intermediate casing is installed to protect fresh  
5 water, the operator shall set a full string of new  
6 intermediate casing at least 100 feet below the base of the  
7 deepest fresh water and bring cement to the surface. In  
8 instances where intermediate casing was set solely to  
9 protect fresh water encountered below the surface casing  
10 shoe, and cementing to the surface is technically  
11 infeasible, would result in lost circulation, or both,  
12 cement must be brought to a minimum of 600 feet above the  
13 shallowest fresh water zone encountered below the surface  
14 casing shoe or to the surface if the fresh water zone is  
15 less than 600 feet from the surface. The location and  
16 depths of any hydrocarbon-bearing zones or fresh water  
17 zones that are open to the wellbore above the casing shoe  
18 must be confirmed by coring, electric logs, or testing and  
19 must be reported to the Department.

20 In the case that intermediate casing was set for a  
21 reason other than to protect strata that contains fresh  
22 water, the intermediate casing string shall be cemented  
23 from the shoe to a point at least 600 true vertical feet  
24 above the shoe. If there is a hydrocarbon bearing zone  
25 capable of producing exposed above the intermediate casing  
26 shoe, the casing shall be cemented from the shoe to a point

1 at least 600 true vertical feet above the shallowest  
2 hydrocarbon bearing zone or to a point at least 200 feet  
3 above the shoe of the next shallower casing string that was  
4 set and cemented in the well (or to the surface if less  
5 than 200 feet).

6 (13) The Department must be notified prior to  
7 intermediate casing cementing operations. Cementing must  
8 be by the pump and plug method with a minimum of 25% excess  
9 cement. A radial cement bond evaluation log, or other  
10 evaluation approved by the Department, must be run to  
11 verify the cement bond on the intermediate casing. Remedial  
12 cementing is required if the cement bond is not adequate  
13 for drilling ahead.

14 (14) Production casing must be run and fully cemented  
15 to 500 feet above the top perforated zone, if possible. The  
16 Department must be notified at least 24 hours prior to  
17 production casing cementing operations. Cementing must be  
18 by the pump and plug method with a minimum of 25% excess  
19 cement.

20 (15) At any time, the Department, as it deems  
21 necessary, may require installation of an additional  
22 cemented casing string or strings in the well.

23 (16) After the setting and cementing of a casing  
24 string, except the conductor casing, and prior to further  
25 drilling, the casing string shall be tested with fresh  
26 water, mud, or brine to at least the maximum anticipated

1 treatment pressure but no less than 0.22 psi per foot of  
2 casing string length or 1,500 psi, whichever is greater,  
3 for at least 30 minutes with less than a 5% pressure loss.  
4 The pressure test shall not exceed 70% of the minimum  
5 internal yield. If the pressure declines more than 5% or if  
6 there are other indications of a leak, corrective action  
7 shall be taken before conducting further drilling and high  
8 volume horizontal hydraulic fracturing operations. The  
9 operator shall contact the Department's District Office  
10 for any county in which the well is located at least 24  
11 hours prior to conducting a pressure test to enable an  
12 inspector to be present when the test is done. A record of  
13 the pressure test must be maintained by the operator and  
14 must be submitted to the Department on a form prescribed by  
15 the Department prior to conducting high volume horizontal  
16 hydraulic fracturing operations. The actual pressure must  
17 not exceed the test pressure at any time during high volume  
18 horizontal hydraulic fracturing operations.

19 (17) Any hydraulic fracturing string used in the high  
20 volume horizontal hydraulic fracturing operations must be  
21 either strung into a production liner or run with a packer  
22 set at least 100 feet below the deepest cement top and must  
23 be tested to not less than the maximum anticipated treating  
24 pressure minus the annulus pressure applied between the  
25 fracturing string and the production or immediate casing.  
26 The pressure test shall be considered successful if the

1 pressure applied has been held for 30 minutes with no more  
2 than 5% pressure loss. A function-tested relief valve and  
3 diversion line must be installed and used to divert flow  
4 from the hydraulic fracturing string-casing annulus to a  
5 covered watertight steel tank in case of hydraulic  
6 fracturing string failure. The relief valve must be set to  
7 limit the annular pressure to no more than 95% of the  
8 working pressure rating of the casings forming the annulus.  
9 The annulus between the hydraulic fracturing string and  
10 casing must be pressurized to at least 250 psi and  
11 monitored.

12 (18) After a successful pressure test under paragraph  
13 (16) of this subsection, a formation pressure integrity  
14 test must be conducted below the surface casing and below  
15 all intermediate casing. The operator shall notify the  
16 Department's District Office for any county in which the  
17 well is located at least 24 hours prior to conducting a  
18 formation pressure integrity test to enable an inspector to  
19 be present when the test is done. A record of the pressure  
20 test must be maintained by the operator and must be  
21 submitted to the Department on a form prescribed by the  
22 Department prior to conducting high volume horizontal  
23 hydraulic fracturing operations. The actual hydraulic  
24 fracturing treatment pressure must not exceed the test  
25 pressure at any time during high volume horizontal  
26 hydraulic fracturing operations.



1 (e) Blowout prevention standards shall be set as follows:

2 (1) The operator shall use blowout prevention  
3 equipment after setting casing with a competent casing  
4 seat. Blowout prevention equipment shall be in good  
5 working condition at all times.

6 (2) The operator shall use pipe fittings, valves,  
7 and unions placed on or connected to the blow-out  
8 prevention systems that have a working pressure  
9 capability that exceeds the anticipated pressures.

10 (3) During all drilling and completion operations  
11 when a blowout preventer is installed, tested, or in  
12 use, the operator or operator's designated  
13 representative shall be present at the well site and  
14 that person or personnel shall have a current well  
15 control certification from an accredited training  
16 program that is acceptable to the Department. The  
17 certification shall be available at the well site and  
18 provided to the Department upon request.

19 (4) Appropriate pressure control procedures and  
20 equipment in proper working order must be properly  
21 installed and employed while conducting drilling and  
22 completion operations including tripping, logging,  
23 running casing into the well, and drilling out  
24 solid-core stage plugs.

25 (5) Pressure testing of the blowout preventer and  
26 related equipment for any drilling or completion

1 operation must be performed. Testing must be conducted  
2 in accordance with current industry standards  
3 published by the American Petroleum Institute. Testing  
4 of the blowout preventer shall include testing after  
5 the blowout preventer is installed on the well but  
6 prior to drilling below the last cemented casing seat.  
7 Pressure control equipment, including the blowout  
8 preventer, that fails any pressure test shall not be  
9 used until it is repaired and passes the pressure test.

10 (6) A remote blowout preventer actuator, that is  
11 powered by a source other than rig hydraulics, shall be  
12 located at least 50 feet from the wellhead and have an  
13 appropriate rated working pressure.

14 Section 1-75. High volume horizontal hydraulic fracturing  
15 operations.

16 (a) General.

17 (1) During all phases of high volume horizontal  
18 hydraulic fracturing operations, the permittee shall  
19 comply with all terms of the permit.

20 (2) All phases of high volume horizontal hydraulic  
21 fracturing operations shall be conducted in a manner that  
22 shall not pose a significant risk to public health, life,  
23 property, aquatic life, or wildlife.

24 (3) The permittee shall notify the Department by phone,  
25 electronic communication, or letter, at least 48 hours

1 prior to the commencement of high volume horizontal  
2 hydraulic fracturing operations.

3 (b) Integrity tests and monitoring.

4 (1) Before the commencement of high volume horizontal  
5 hydraulic fracturing operations, all mechanical integrity  
6 tests required under subsection (d) of Section 1-70 and  
7 this subsection must be successfully completed.

8 (2) Prior to commencing high volume horizontal  
9 hydraulic fracturing operations and pumping of hydraulic  
10 fracturing fluid, the injection lines and manifold,  
11 associated valves, fracture head or tree and any other  
12 wellhead component or connection not previously tested  
13 must be tested with fresh water, mud, or brine to at least  
14 the maximum anticipated treatment pressure for at least 30  
15 minutes with less than a 5% pressure loss. A record of the  
16 pressure test must be maintained by the operator and made  
17 available to the Department upon request. The actual high  
18 volume horizontal hydraulic fracturing treatment pressure  
19 must not exceed the test pressure at any time during high  
20 volume horizontal hydraulic fracturing operations.

21 (3) The pressure exerted on treating equipment  
22 including valves, lines, manifolds, hydraulic fracturing  
23 head or tree, casing and hydraulic fracturing string, if  
24 used, must not exceed 95% of the working pressure rating of  
25 the weakest component. The high volume horizontal  
26 hydraulic fracturing treatment pressure must not exceed

1 the test pressure of any given component at any time during  
2 high volume horizontal hydraulic fracturing operations.

3 (4) During high volume horizontal hydraulic fracturing  
4 operations, all annulus pressures, the injection pressure,  
5 and the rate of injection shall be continuously monitored  
6 and recorded. The records of the monitoring shall be  
7 maintained by the operator and shall be provided to the  
8 Department upon request at any time during the period up to  
9 and including 5 years after the well is permanently plugged  
10 or abandoned.

11 (5) High volume horizontal hydraulic fracturing  
12 operations must be immediately suspended if any anomalous  
13 pressure or flow condition or any other anticipated  
14 pressure or flow condition is occurring in a way that  
15 indicates the mechanical integrity of the well has been  
16 compromised and continued operations pose a risk to the  
17 environment. Remedial action shall be undertaken  
18 immediately prior to recommencing high volume horizontal  
19 hydraulic fracturing operations. The permittee shall  
20 notify the Department within 1 hour of suspending  
21 operations for any matters relating to the mechanical  
22 integrity of the well or risk to the environment.

23 (c) Fluid and waste management.

24 (1) For the purposes of storage at the well site and  
25 except as provided in paragraph (2) of this subsection,  
26 hydraulic fracturing additives, hydraulic fracturing

1 fluid, hydraulic fracturing flowback, and produced water  
2 shall be stored in above-ground tanks during all phases of  
3 drilling, high volume horizontal hydraulic fracturing, and  
4 production operations until removed for proper disposal.  
5 For the purposes of centralized storage off site for  
6 potential reuse prior to disposal, hydraulic fracturing  
7 additives, hydraulic fracturing fluid, hydraulic  
8 fracturing flowback, and produced water shall be stored in  
9 above-ground tanks.

10 (2) In accordance with the plan required by paragraph  
11 (11) of subsection (b) of Section 1-35 of this Act and as  
12 approved by the Department, the use of a reserve pit is  
13 allowed for the temporary storage of hydraulic fracturing  
14 flowback. The reserve pit shall be used only in the event  
15 of a lack of capacity for tank storage due to higher than  
16 expected volume or rate of hydraulic fracturing flowback,  
17 or other unanticipated flowback occurrence. Any reserve  
18 pit must comply with the following construction standards  
19 and liner specifications:

20 (A) the synthetic liner material shall have a  
21 minimum thickness of 24 mils with high puncture and  
22 tear strength and be impervious and resistant to  
23 deterioration;

24 (B) the pit lining system shall be designed to have  
25 a capacity at least equivalent to 110% of the maximum  
26 volume of hydraulic fracturing flowback anticipated to

1 be recovered;

2 (C) the lined pit shall be constructed, installed,  
3 and maintained in accordance with the manufacturers'  
4 specifications and good engineering practices to  
5 prevent overflow during any use;

6 (D) the liner shall have sufficient elongation to  
7 cover the bottom and interior sides of the pit with the  
8 edges secured with at least a 12 inch deep anchor  
9 trench around the pit perimeter to prevent any slippage  
10 or destruction of the liner materials; and

11 (E) the foundation for the liner shall be free of  
12 rock and constructed with soil having a minimum  
13 thickness of 12 inches after compaction covering the  
14 entire bottom and interior sides of the pit.

15 (3) Fresh water may be stored in tanks or pits at the  
16 election of the operator.

17 (4) Tanks required under this subsection must be  
18 above-ground tanks that are closed, watertight, and will  
19 resist corrosion. The permittee shall routinely inspect  
20 the tanks for corrosion.

21 (5) Hydraulic fracturing fluids and hydraulic  
22 fracturing flowback must be removed from the well site  
23 within 60 days after completion of high volume horizontal  
24 fracturing operations, except that any excess hydraulic  
25 fracturing flowback captured for temporary storage in a  
26 reserve pit as provided in paragraph (2) of this subsection

1 must be removed from the well site within 7 days.

2 (6) Tanks, piping, and conveyances, including valves,  
3 must be constructed of suitable materials, be of sufficient  
4 pressure rating, be able to resist corrosion, and be  
5 maintained in a leak-free condition. Fluid transfer  
6 operations from tanks to tanker trucks must be supervised  
7 at the truck and at the tank if the tank is not visible to  
8 the truck operator from the truck. During transfer  
9 operations, all interconnecting piping must be supervised  
10 if not visible to transfer personnel at the truck and tank.

11 (7) Hydraulic fracturing flowback must be tested for  
12 volatile organic chemicals, semi-volatile organic  
13 chemicals, inorganic chemicals, heavy metals, and  
14 naturally occurring radioactive material prior to removal  
15 from the site. Testing shall occur once per well site and  
16 the analytical results shall be filed with the Department  
17 and the Agency, and provided to the liquid oilfield waste  
18 transportation and disposal operators. Prior to plugging  
19 and site restoration, the ground adjacent to the storage  
20 tanks and any hydraulic fracturing flowback reserve pit  
21 must be measured for radioactivity.

22 (8) Hydraulic fracturing flowback may only be disposed  
23 of by injection into a Class II injection well that is  
24 below interface between fresh water and naturally  
25 occurring Class IV groundwater. Produced water may be  
26 disposed of by injection in a permitted enhanced oil

1 recovery operation. Hydraulic fracturing flowback and  
2 produced water may be treated and recycled for use in  
3 hydraulic fracturing fluid for high volume horizontal  
4 hydraulic fracturing operations.

5 (9) Discharge of hydraulic fracturing fluids,  
6 hydraulic fracturing flowback, and produced water into any  
7 surface water or water drainage way is prohibited.

8 (10) Transport of all hydraulic fracturing fluids,  
9 hydraulic fracturing flowback, and produced water by  
10 vehicle for disposal must be undertaken by a liquid  
11 oilfield waste hauler permitted by the Department under  
12 Section 8c of the Illinois Oil and Gas Act. The liquid  
13 oilfield waste hauler transporting hydraulic fracturing  
14 fluids, hydraulic fracturing flowback, or produced water  
15 under this Act shall comply with all laws, rules, and  
16 regulations concerning liquid oilfield waste.

17 (11) Drill cuttings, drilling fluids, and drilling  
18 wastes not containing oil-based mud or polymer-based mud  
19 may be stored in tanks or pits. Pits used to store  
20 cuttings, fluids, and drilling wastes from wells not using  
21 fresh water mud shall be subject to the construction  
22 standards identified in (2) of this Section. Drill cuttings  
23 not contaminated with oil-based mud or polymer-based mud  
24 may be disposed of onsite subject to the approval of the  
25 Department. Drill cuttings contaminated with oil-based mud  
26 or polymer-based mud shall not be disposed of on site.



1 Annular disposal of drill cuttings or fluid is prohibited.

2 (12) Any release of hydraulic fracturing fluid,  
3 hydraulic fracturing additive, or hydraulic fracturing  
4 flowback, used or generated during or after high volume  
5 horizontal hydraulic fracturing operations shall be  
6 immediately cleaned up and remediated pursuant to  
7 Department requirements. Any release of hydraulic  
8 fracturing fluid or hydraulic fracturing flowback in  
9 excess of 1 barrel, shall be reported to the Department.  
10 Any release of a hydraulic fracturing additive shall be  
11 reported to the Department in accordance with the  
12 appropriate reportable quantity thresholds established  
13 under the federal Emergency Planning and Community  
14 Right-to-Know Act as published in the Code of Federal  
15 Regulations (CFR), 40 CFR Parts 355, 370, and 372, the  
16 federal Comprehensive Environmental Response,  
17 Compensation, and Liability Act as published in 40 CFR Part  
18 302, and subsection (r) of Section 112 of the Federal Clean  
19 Air Act as published in 40 CFR Part 68. Any release of  
20 produced water in excess of 5 barrels shall be cleaned up,  
21 remediated, and reported pursuant to Department  
22 requirements.

23 (13) Secondary containment for tanks required under  
24 this subsection and additive staging areas is required.  
25 Secondary containment measures may include, as deemed  
26 appropriate by the Department, one or a combination of the

1 following: dikes, liners, pads, impoundments, curbs,  
2 sumps, or other structures or equipment capable of  
3 containing the substance. Any secondary containment must  
4 be sufficient to contain 110% of the total capacity of the  
5 single largest container or tank within a common  
6 containment area. No more than one hour before initiating  
7 any stage of the high volume horizontal hydraulic  
8 fracturing operations, all secondary containment must be  
9 visually inspected to ensure all structures and equipment  
10 are in place and in proper working order. The results of  
11 this inspection must be recorded and documented by the  
12 operator, and available to the Department upon request.

13 (14) A report on the transportation and disposal of the  
14 hydraulic fracturing fluids and hydraulic fracturing  
15 flowback shall be prepared and included in the well file.  
16 The report must include the amount of fluids transported,  
17 identification of the company that transported the fluids,  
18 the destination of the fluids, and the method of disposal.

19 (15) Operators operating wells permitted under this  
20 Act must submit an annual report to the Department  
21 detailing the management of any produced water associated  
22 with the permitted well. The report shall be due to the  
23 Department no later than April 30th of each year and shall  
24 provide information on the operator's management of any  
25 produced water for the prior calendar year. The report  
26 shall contain information relative to the amount of

1 produced water the well permitted under this Act produced,  
2 the method by which the produced water was disposed, and  
3 the destination where the produced water was disposed in  
4 addition to any other information the Department  
5 determines is necessary by rule.

6 (d) Hydraulic fracturing fluid shall be confined to the  
7 targeted formation designated in the permit. If the hydraulic  
8 fracturing fluid or hydraulic fracturing flowback are  
9 migrating into the freshwater zone or to the surface from the  
10 well in question or from other wells, the permittee shall  
11 immediately notify the Department and shut in the well until  
12 remedial action that prevents the fluid migration is completed.  
13 The permittee shall obtain the approval of the Department prior  
14 to resuming operations.

15 (e) Emissions controls.

16 (1) This subsection applies to all horizontal wells  
17 that are completed with high volume horizontal hydraulic  
18 fracturing.

19 (2) Except as otherwise provided in paragraph (8) of  
20 this subsection (e), permittees shall be responsible for  
21 managing gas and hydrocarbon fluids produced during the  
22 flowback period by routing recovered hydrocarbon fluids to  
23 one or more storage vessels or re-injecting into the well  
24 or another well, and routing recovered natural gas into a  
25 flow line or collection system, re-injecting the gas into  
26 the well or another well, using the gas as an on-site fuel

1 source, or using the gas for another useful purpose that a  
2 purchased fuel or raw material would serve, with no direct  
3 release to the atmosphere.

4 (3) If it is technically infeasible or economically  
5 unreasonable to minimize emissions associated with the  
6 venting of hydrocarbon fluids and natural gas during the  
7 flowback period using the methods specified in paragraph  
8 (2) of this subsection (e), the permittee shall capture and  
9 direct the emissions to a completion combustion device,  
10 except in conditions that may result in a fire hazard or  
11 explosion, or where high heat emissions from a completion  
12 combustion device may negatively impact waterways.  
13 Completion combustion devices must be equipped with a  
14 reliable continuous ignition source over the duration of  
15 the flowback period.

16 (4) Except as otherwise provided in paragraph (8) of  
17 this subsection (e), permittees shall be responsible for  
18 minimizing the emissions associated with venting of  
19 hydrocarbon fluids and natural gas during the production  
20 phase by:

21 (A) routing the recovered fluids into storage  
22 vessels and (i) routing the recovered gas into a gas  
23 gathering line, collection system, or to a generator  
24 for onsite energy generation, providing that gas to the  
25 surface owner of the well site for use for heat or  
26 energy generation, or (ii) using another method other

1           than venting; and

2                   (B)   employing sand traps, surge vessels,  
3           separators, and tanks as soon as practicable during  
4           cleanout operations to safely maximize resource  
5           recovery and minimize releases to the environment.

6           (5) If the permittee establishes that it is technically  
7           infeasible or economically unreasonable to minimize  
8           emissions associated with the venting of hydrocarbon  
9           fluids and natural gas during production using the methods  
10          specified in paragraph (4) of this subsection (e), the  
11          Department shall require the permittee to capture and  
12          direct any natural gas produced during the production phase  
13          to a flare. Any flare used pursuant to this paragraph shall  
14          be equipped with a reliable continuous ignition source over  
15          the duration of production. In order to establish technical  
16          infeasibility or economic unreasonableness under this  
17          paragraph (5), the permittee must demonstrate, for each  
18          well site on an annual basis, that taking the actions  
19          listed in paragraph (4) of this subsection (e) are not cost  
20          effective based on a site-specific analysis. Permittees  
21          that use a flare during the production phase for operations  
22          other than emergency conditions shall file an updated  
23          site-specific analysis annually with the Department. The  
24          analysis shall be due one year from the date of the  
25          previous submission and shall detail whether any changes  
26          have occurred that alter the technical infeasibility or

1 economic unreasonableness of the permittee to reduce their  
2 emissions in accordance with paragraph (4) of this  
3 subsection (e).

4 (6) Uncontrolled emissions exceeding 6 tons per year  
5 from storage tanks shall be recovered and routed to a flare  
6 that is designed in accordance with 40 CFR 60.18 and is  
7 certified by the manufacturer of the device. The permittee  
8 shall maintain and operate the flare in accordance with  
9 manufacturer specifications. Any flare used under this  
10 paragraph must be equipped with a reliable continuous  
11 ignition source over the duration of production.

12 (7) The Department may approve an exemption that waives  
13 the flaring requirements of paragraphs (5) and (6) of this  
14 subsection (e) only if the permittee demonstrates that the  
15 use of the flare will pose a significant risk of injury or  
16 property damage and that alternative methods of collection  
17 will not threaten harm to the environment. In determining  
18 whether to approve a waiver, the Department shall consider  
19 the quantity of casinghead gas produced, the topographical  
20 and climatological features at the well site, and the  
21 proximity of agricultural structures, crops, inhabited  
22 structures, public buildings, and public roads and  
23 railways.

24 (8) For each wildcat well, delineation well, or low  
25 pressure well, permittees shall be responsible for  
26 minimizing the emissions associated with venting of

1 hydrocarbon fluids and natural gas during the flowback  
2 period and production phase by capturing and directing the  
3 emissions to a completion combustion device during the  
4 flowback period and to a flare during the production phase,  
5 except in conditions that may result in a fire hazard or  
6 explosion, or where high heat emissions from a completion  
7 combustion device or flare may negatively impact  
8 waterways. Completion combustion devices and flares shall  
9 be equipped with a reliable continuous ignition source over  
10 the duration of the flowback period and the production  
11 phase, as applicable.

12 (9) On or after July 1, 2015, all flares used under  
13 paragraphs (5) and (8) of this subsection (e) shall (i)  
14 operate with a combustion efficiency of at least 98%, in  
15 accordance with 40 CFR 60.18; and (ii) be certified by the  
16 manufacturer of the device. The permittee shall maintain  
17 and operate the flare in accordance with manufacturer  
18 specifications.

19 (10) Permittees shall employ practices for control of  
20 fugitive dust related to their operations. These practices  
21 shall include, but are not limited to, the use of speed  
22 restrictions, regular road maintenance, and restriction of  
23 construction activity during high-wind days. Additional  
24 management practices such as road surfacing, wind breaks  
25 and barriers, or automation of wells to reduce truck  
26 traffic may also be required by the Department if

1           technologically feasible and economically reasonable to  
2           minimize fugitive dust emissions.

3           (11) Permittees shall record and report to the  
4           Department on an annual basis the amount of gas flared or  
5           vented from each high volume horizontal hydraulic  
6           fracturing well. Three years after the effective date of  
7           the first high-volume horizontal hydraulic fracturing well  
8           permit issued by the Department, and every 3 years  
9           thereafter, the Department shall prepare a report that  
10          analyzes the amount of gas that has been flared or vented  
11          and make recommendations to the General Assembly on whether  
12          steps should be taken to reduce the amount of gas that is  
13          being flared or vented in this State.

14          (f) High volume horizontal hydraulic fracturing operations  
15          completion report. Within 60 calendar days after the conclusion  
16          of high volume horizontal hydraulic fracturing operations, the  
17          operator shall file a high volume horizontal hydraulic  
18          fracturing operations completion report with the Department. A  
19          copy of each completion report submitted to the Department  
20          shall be provided by the Department to the Illinois State  
21          Geological Survey. The completion reports required by this  
22          Section shall be considered public information and shall be  
23          made available on the Department's website. The high volume  
24          horizontal hydraulic fracturing operations completion report  
25          shall contain the following information:

26               (1) the permittee name as listed in the permit



1 application;

2 (2) the dates of the high volume horizontal hydraulic  
3 fracturing operations;

4 (3) the county where the well is located;

5 (4) the well name and Department reference number;

6 (5) the total water volume used in the high volume  
7 horizontal hydraulic fracturing operations of the well,  
8 and the type and total volume of the base fluid used if  
9 something other than water;

10 (6) each source from which the water used in the high  
11 volume horizontal hydraulic fracturing operations was  
12 drawn, and the specific location of each source, including,  
13 but not limited to, the name of the county and latitude and  
14 longitude coordinates;

15 (7) the quantity of hydraulic fracturing flowback  
16 recovered from the well;

17 (8) a description of how hydraulic fracturing flowback  
18 recovered from the well was disposed and, if applicable,  
19 reused;

20 (9) a chemical disclosure report identifying each  
21 chemical and proppant used in hydraulic fracturing fluid  
22 for each stage of the hydraulic fracturing operations  
23 including the following:

24 (A) the total volume of water used in the hydraulic  
25 fracturing treatment of the well or the type and total  
26 volume of the base fluid used in the hydraulic

1 fracturing treatment, if something other than water;

2 (B) each hydraulic fracturing additive used in the  
3 hydraulic fracturing fluid, including the trade name,  
4 vendor, a brief descriptor of the intended use or  
5 function of each hydraulic fracturing additive, and  
6 the Material Safety Data Sheet (MSDS), if applicable;

7 (C) each chemical intentionally added to the base  
8 fluid, including for each chemical, the Chemical  
9 Abstracts Service number, if applicable; and

10 (D) the actual concentration, in percent by mass,  
11 of each chemical intentionally added to the base fluid;

12 (10) all pressures recorded during the high volume  
13 horizontal hydraulic fracturing operations; and

14 (11) any other reasonable or pertinent information  
15 related to the conduct of the high volume horizontal  
16 hydraulic fracturing operations the Department may request  
17 or require by administrative rule.

18 Section 1-77. Chemical disclosure; trade secret  
19 protection.

20 (a) If the chemical disclosure information required by  
21 paragraph (8) of subsection (b) of Section 1-35 of this Act is  
22 not submitted at the time of permit application, then the  
23 permittee, applicant, or person who will perform high volume  
24 horizontal hydraulic fracturing operations at the well shall  
25 submit this information to the Department in electronic format

1 no less than 21 calendar days prior to performing the high  
2 volume horizontal hydraulic fracturing operations. The  
3 permittee shall not cause or allow any stimulation of the well  
4 if it is not in compliance with this Section. Nothing in this  
5 Section shall prohibit the person performing high volume  
6 horizontal hydraulic fracturing operations from adjusting or  
7 altering the contents of the fluid during the treatment process  
8 to respond to unexpected conditions, as long as the permittee  
9 or the person performing the high volume horizontal hydraulic  
10 fracturing operations notifies the Department by electronic  
11 mail within 24 hours of the departure from the initial  
12 treatment design and includes a brief explanation of the reason  
13 for the departure.

14 (b) No permittee shall use the services of another person  
15 to perform high volume horizontal hydraulic fracturing  
16 operations unless the person is in compliance with this  
17 Section.

18 (c) Any person performing high volume horizontal hydraulic  
19 fracturing operations within this State shall:

20 (1) be authorized to do business in this State; and

21 (2) maintain and disclose to the Department separate  
22 and up-to-date master lists of:

23 (A) the base fluid to be used during any high  
24 volume horizontal hydraulic fracturing operations  
25 within this State;

26 (B) all hydraulic fracturing additives to be used

1           during any high volume horizontal hydraulic fracturing  
2           operations within this State; and

3                   (C) all chemicals and associated Chemical Abstract  
4           Service numbers to be used in any high volume  
5           horizontal hydraulic fracturing operations within this  
6           State.

7           (d) Persons performing high volume horizontal hydraulic  
8           fracturing operations are prohibited from using any base fluid,  
9           hydraulic fracturing additive, or chemical not listed on their  
10          master lists disclosed under paragraph (2) of subsection (c) of  
11          this Section.

12          (e) The Department shall assemble and post up-to-date  
13          copies of the master lists it receives under paragraph (2) of  
14          subsection (c) of this Section on its website in accordance  
15          with Section 1-110 of this Act.

16          (f) Where an applicant, permittee, or the person performing  
17          high volume horizontal hydraulic fracturing operations  
18          furnishes chemical disclosure information to the Department  
19          under this Section, Section 1-35, or Section 1-75 of this Act  
20          under a claim of trade secret, the applicant, permittee, or  
21          person performing high volume horizontal hydraulic fracturing  
22          operations shall submit redacted and un-redacted copies of the  
23          documents containing the information to the Department and the  
24          Department shall use the redacted copies when posting materials  
25          on its website.

26          (g) Upon submission or within 5 calendar days of submission

1 of chemical disclosure information to the Department under this  
2 Section, Section 1-35, or Section 1-75 of this Act under a  
3 claim of trade secret, the person that claimed trade secret  
4 protection shall provide a justification of the claim  
5 containing the following: a detailed description of the  
6 procedures used by the person to safeguard the information from  
7 becoming available to persons other than those selected by the  
8 person to have access to the information for limited purposes;  
9 a detailed statement identifying the persons or class of  
10 persons to whom the information has been disclosed; a  
11 certification that the person has no knowledge that the  
12 information has ever been published or disseminated or has  
13 otherwise become a matter of general public knowledge; a  
14 detailed discussion of why the person believes the information  
15 to be of competitive value; and any other information that  
16 shall support the claim.

17 (h) Chemical disclosure information furnished under this  
18 Section, Section 1-35, or Section 1-75 of this Act under a  
19 claim of trade secret shall be protected from disclosure as a  
20 trade secret if the Department determines that the statement of  
21 justification demonstrates that:

22 (1) the information has not been published,  
23 disseminated, or otherwise become a matter of general  
24 public knowledge; and

25 (2) the information has competitive value.

26 There is a rebuttable presumption that the information has

1 not been published, disseminated, or otherwise become a matter  
2 of general public knowledge if the person has taken reasonable  
3 measures to prevent the information from becoming available to  
4 persons other than those selected by the person to have access  
5 to the information for limited purposes and the statement of  
6 justification contains a certification that the person has no  
7 knowledge that the information has ever been published,  
8 disseminated, or otherwise become a matter of general public  
9 knowledge.

10 (i) Denial of a trade secret request under this Section  
11 shall be appealable under the Administrative Review Law.

12 (j) A person whose request to inspect or copy a public  
13 record is denied, in whole or in part, because of a grant of  
14 trade secret protection may file a request for review with the  
15 Public Access Counselor under Section 9.5 of the Freedom of  
16 Information Act or for injunctive or declaratory relief under  
17 Section 11 of the Freedom of Information Act for the purpose of  
18 reviewing whether the Department properly determined that the  
19 trade secret protection should be granted.

20 (k) Except as otherwise provided in subsections (l) and (m)  
21 of this Section, the Department must maintain the  
22 confidentiality of chemical disclosure information furnished  
23 under this Section, Section 1-35, or Section 1-75 of this Act  
24 under a claim of trade secret, until the Department receives  
25 official notification of a final order by a reviewing body with  
26 proper jurisdiction that is not subject to further appeal

1 rejecting a grant of trade secret protection for that  
2 information.

3 (l) The Department shall adopt rules for the provision of  
4 information furnished under a claim of trade secret to a health  
5 professional who states a need for the information and  
6 articulates why the information is needed. The health  
7 professional may share that information with other persons as  
8 may be professionally necessary, including, but not limited to,  
9 the affected patient, other health professionals involved in  
10 the treatment of the affected patient, the affected patient's  
11 family members if the affected patient is unconscious, unable  
12 to make medical decisions, or is a minor, the Centers for  
13 Disease Control, and other government public health agencies.  
14 Except as otherwise provided in this Section, any recipient of  
15 the information shall not use the information for purposes  
16 other than the health needs asserted in the request and shall  
17 otherwise maintain the information as confidential.  
18 Information so disclosed to a health professional shall in no  
19 way be construed as publicly available. The holder of the trade  
20 secret may request a confidentiality agreement consistent with  
21 the requirements of this Section from all health professionals  
22 to whom the information is disclosed as soon as circumstances  
23 permit. The rules adopted by the Department shall also  
24 establish procedures for providing the information in both  
25 emergency and non-emergency situations.

26 (m) In the event of a release of hydraulic fracturing

1 fluid, a hydraulic fracturing additive, or hydraulic  
2 fracturing flowback, and when necessary to protect public  
3 health or the environment, the Department may disclose  
4 information furnished under a claim of trade secret to the  
5 relevant county public health director or emergency manager,  
6 the relevant fire department chief, the Director of the  
7 Illinois Department of Public Health, the Director of the  
8 Illinois Department of Agriculture, and the Director of the  
9 Illinois Environmental Protection Agency upon request by that  
10 individual. The Director of the Illinois Department of Public  
11 Health, and the Director of the Illinois Environmental  
12 Protection Agency, and the Director of the Illinois Department  
13 of Agriculture may disclose this information to staff members  
14 under the same terms and conditions as apply to the Director of  
15 Natural Resources. Except as otherwise provided in this  
16 Section, any recipient of the information shall not use the  
17 information for purposes other than to protect public health or  
18 the environment and shall otherwise maintain the information as  
19 confidential. Information disclosed to staff shall in no way be  
20 construed as publicly available. The holder of the trade secret  
21 information may request a confidentiality agreement consistent  
22 with the requirements of this Section from all persons to whom  
23 the information is disclosed as soon as circumstances permit.

24 Section 1-80. Water quality monitoring.

25 (a) Each application for a high volume horizontal hydraulic



1 fracturing permit shall provide the Department with a work plan  
2 to ensure accurate and complete sampling and testing as  
3 required under this Section. The work plan shall ensure  
4 compliance with the requirements of this Section and include,  
5 at a minimum, the following:

6 (1) information identifying all water sources within  
7 the range of testing under this Section;

8 (2) a sampling plan and protocol, including  
9 notification to the Department at least 7 calendar days  
10 prior to sample collection;

11 (3) the name and contact information of an independent  
12 third party under the supervision of a professional  
13 engineer or professional geologist that shall be  
14 designated to conduct sampling to establish a baseline as  
15 provided for under subsection (b) of this Section;

16 (4) the name and contact information of an independent  
17 third party under the supervision of a professional  
18 engineer or professional geologist that shall be  
19 designated to conduct sampling to establish compliance  
20 with monitoring as provided within subsection (c) of this  
21 Section;

22 (5) the name and contact information of an independent  
23 testing laboratory, certified to perform the required  
24 laboratory method, to conduct the analysis required under  
25 subsections (b) and (c) of this Section;

26 (6) proof of access and the right to test within the

1 area for testing prescribed within subsection (b) of this  
2 Section during the duration of high volume horizontal  
3 hydraulic fracturing operations covered under the permit  
4 application, and copies of any non-disclosure agreements  
5 made under subsection (d) of this Section; and

6 (7) identification of practicable contingency  
7 measures, including provision for alternative drinking  
8 water supplies, which could be implemented in the event of  
9 pollution or diminution of a water source as provided for  
10 in Section 1-83.

11 (b) Prior to conducting high volume horizontal hydraulic  
12 fracturing operations on a well, a permittee shall retain an  
13 independent third party, as required within paragraph (3) of  
14 subsection (a) of this Section, and shall conduct baseline  
15 water quality sampling of all water sources within 1,500 feet  
16 of the well site prior to any fracturing activities. Where (i)  
17 there are no groundwater wells within 1,500 feet of a well  
18 site, or access to groundwater wells within 1,500 feet of the  
19 well site has been denied under subsection (d) of this Section,  
20 and (ii) the proposed well site is located within 1,500 feet  
21 from any portion of an aquifer, the permittee shall conduct  
22 sampling of the aquifer at the closest groundwater well with  
23 access to the aquifer to which the permittee has not been  
24 denied access under subsection (d) of this Section.  
25 Installation of a groundwater monitoring well is not required  
26 to satisfy the sampling requirements of this Section. The

1 samples collected by the independent third party, under the  
2 supervision of a professional engineer or professional  
3 geologist, shall be analyzed by an independent testing  
4 laboratory in accordance with paragraph (4) of subsection (a)  
5 of this Section. Testing shall be done by collection of a  
6 minimum of 3 samples for each water source required to be  
7 tested under this Section. The permittee shall, within 7  
8 calendar days after receipt of results of tests conducted under  
9 this subsection, submit the results to the Department or to the  
10 owner of the water source under a non-disclosure agreement  
11 under subsection (d) of this Section. The Department shall post  
12 the results on its website within 7 calendar days after  
13 receipt. The results shall, at a minimum, include a detailed  
14 description of the sampling and testing conducted under this  
15 subsection, the chain of custody of the samples, and quality  
16 control of the testing.

17 (c) After baseline tests are conducted under subsection (b)  
18 of this Section and following issuance of a permit by the  
19 Department, the permittee shall have all water sources  
20 subjected to sampling under subsection (b) of this Section. All  
21 water sources shall be sampled and tested in the same manner 6  
22 months, 18 months, and 30 months after the high volume  
23 horizontal hydraulic fracturing operations have been  
24 completed. Sampling of a water source under this subsection is  
25 not required if the water source was sampled under this  
26 subsection or subsection (b) within the previous month. The

1 permittee shall notify the Department at least 7 calendar days  
2 prior to taking the sample. The permittee shall, within 7  
3 calendar days after receipt of results of tests conducted under  
4 this subsection (c), submit the results to the Department or to  
5 the owner of the water source pursuant to a non-disclosure  
6 agreement under subsection (d) of this Section. The results  
7 shall include, at a minimum, a detailed description of the  
8 sampling and testing conducted under this subsection, the chain  
9 of custody of the samples, and quality control of the testing.

10 (d) Sampling of private water wells or ponds wholly  
11 contained within private property shall not be required where  
12 the owner of the private property declines, expressly and in  
13 writing, to provide access or permission for sampling. If the  
14 owner of the private property declines to provide proof of his  
15 or her refusal to allow access in writing, the operator shall  
16 provide the Department evidence as to the good faith efforts  
17 that were made to secure the required documentation. Permits  
18 issued under this Act cannot be denied if the owner of the  
19 private property declines to provide proof of his or her  
20 refusal to allow access in writing and the permittee provides  
21 evidence that good faith efforts were made to gain access for  
22 the purposes of conducting tests. The owners of private  
23 property may condition access or permission for sampling of a  
24 private water well or pond wholly within the property or a  
25 portion of any perennial stream or river that flows through the  
26 property under a non-disclosure agreement, which must include

1 the following terms and conditions:

2 (1) the permittee shall provide the results of the  
3 water quality testing to the property owners;

4 (2) the permittee shall retain the results of the water  
5 quality testing until at least one year after completion of  
6 all monitoring under this Section for review by the  
7 Department upon request;

8 (3) the permittee shall not file with the Department  
9 the results of the water quality testing, except under  
10 paragraph (4) of subsection (d) of this Section; and

11 (4) the permittee shall notify the Department within 7  
12 calendar days of its receipt of the water quality data  
13 where any testing under subsection (c) of this Section  
14 indicates that concentrations exceed the standards or  
15 criteria referenced in the definition of pollution or  
16 diminution under Section 1-5 of this Act.

17 (e) Each set of samples collected under subsections (b) and  
18 (c) of this Section shall include analyses for:

19 (1) pH;

20 (2) total dissolved solids, dissolved methane,  
21 dissolved propane, dissolved ethane, alkalinity, and  
22 specific conductance;

23 (3) chloride, sulfate, arsenic, barium, calcium,  
24 chromium, iron, magnesium, selenium, cadmium, lead,  
25 manganese, mercury, and silver;

26 (4) BTEX; and

1           (5) gross alpha and beta particles to determine the  
2           presence of any naturally occurring radioactive materials.

3           Sampling shall, at a minimum, be consistent with the work  
4           plan and allow for a determination of whether any hydraulic  
5           fracturing additive or other contaminant has caused pollution  
6           or diminution for purposes of Sections 1-83 and 1-85 of this  
7           Act.

8           Section 1-83. Order authority.

9           (a) Any person who has reason to believe they have incurred  
10          pollution or diminution of a water source as a result of a high  
11          volume horizontal hydraulic fracturing treatment of a well may  
12          notify the Department and request that an investigation be  
13          conducted.

14          (b) Within 30 calendar days after notification, the  
15          Department shall initiate the investigation of the claim and  
16          make a reasonable effort to reach a determination within 180  
17          calendar days after notification. The Department may contact  
18          the Agency to seek the Agency's assistance in water quality  
19          sampling. The Agency may seek cost recovery under subsection  
20          (e) of Section 1-87 of this Act and recover all costs for  
21          samples taken for the investigation under this Section.

22          (c) Any person conducting or who has conducted high volume  
23          horizontal hydraulic fracturing operations shall supply any  
24          information requested by the Department to assist the  
25          Department. The Department shall give due consideration to any

1 information submitted during the course of the investigation.

2 (d) If sampling results or other information obtained as  
3 part of the investigation or the results of tests conducted  
4 under subsection (c) of Section 1-80 of this Act indicate that  
5 concentrations exceed the standards or criteria referenced by  
6 pollution or diminution under Section 1-5 of this Act, the  
7 Department shall issue an order to the permittee as necessary  
8 to require permanent or temporary replacement of a water  
9 source. In addition to any other penalty available under the  
10 law and consistent with the Department's order, the permittee  
11 shall restore or replace the affected supply with an  
12 alternative source of water adequate in quantity and quality  
13 for the purposes served by the water source. The quality of a  
14 restored or replaced water source shall meet or exceed the  
15 quality of the original water source based upon the results of  
16 the baseline test results under subsection (b) of Section 1-80  
17 for that water source, or other available information. The  
18 Department may require the permittee to take immediate action,  
19 including but not limited to, repair, replacement, alteration,  
20 or prohibition of operation of equipment permitted by the  
21 Department. The Department may issue conditions within any  
22 order to protect the public health or welfare or the  
23 environment.

24 (e) Within 15 calendar days after a determination has been  
25 made regarding the pollution or diminution, the Department  
26 shall provide notice of its findings and the orders, if any, to

1 all persons that use the water source for domestic,  
2 agricultural, industrial, or any other legitimate beneficial  
3 uses.

4 (f) Upon issuance of an Order or a finding of pollution or  
5 diminution under subsection (d) of this Section, the Department  
6 shall contact the Agency and forward all information from the  
7 investigation to the Agency. The Agency shall investigate the  
8 potential for violations as designated within Section 1-87 of  
9 this Act.

10 (g) Reports of potential cases of water pollution that may  
11 be associated with high volume horizontal hydraulic fracturing  
12 operations may be submitted electronically. The Department  
13 shall establish a format for these reports to be submitted  
14 through the website developed under Section 1-110 of this Act.  
15 The Department shall electronically provide these reports to  
16 the Agency.

17 (h) The Department shall publish, on its website, lists of  
18 confirmed cases of pollution or diminution that result from  
19 high volume horizontal hydraulic fracturing operations. This  
20 information shall be searchable by county.

21 (i) Nothing in this Section shall prevent the Department  
22 from issuing a cessation order under Section 8a of the Illinois  
23 Oil and Gas Act.

24 Section 1-85. Presumption of pollution or diminution.

25 (a) This Section establishes a rebuttable presumption for



1 the purposes of evidence and liability under State law  
2 regarding claims of pollution or diminution of a water source  
3 and for use regarding the investigation and order authority  
4 under Section 1-83.

5 (b) Unless rebutted by a defense established in subsection  
6 (c) of this Section, it shall be presumed that any person  
7 conducting or who has conducted high volume horizontal  
8 hydraulic fracturing operations shall be liable for pollution  
9 or diminution of a water supply if:

10 (1) the water source is within 1,500 feet of the well  
11 site;

12 (2) water quality data showed no pollution or  
13 diminution prior to the start of high volume horizontal  
14 hydraulic fracturing operations; and

15 (3) the pollution or diminution occurred during high  
16 volume horizontal hydraulic fracturing operations or no  
17 more than 30 months after the completion of the high volume  
18 horizontal hydraulic fracturing operations.

19 (c) To rebut the presumption established under this  
20 Section, a person presumed responsible must affirmatively  
21 prove by clear and convincing evidence any of the following:

22 (1) the water source is not within 1,500 feet of the  
23 well site;

24 (2) the pollution or diminution occurred prior to high  
25 volume horizontal hydraulic fracturing operations or more  
26 than 30 months after the completion of the high volume

1 horizontal hydraulic fracturing operations; or

2 (3) the pollution or diminution occurred as the result  
3 of an identifiable cause other than the high volume  
4 horizontal hydraulic fracturing operations.

5 Section 1-87. Water quality investigation and enforcement.

6 (a) No person shall cause or allow high volume horizontal  
7 hydraulic fracturing operations permitted under this Act to  
8 violate Section 12 of the Illinois Environmental Protection Act  
9 or surface water or groundwater regulations adopted under the  
10 Illinois Environmental Protection Act.

11 (b) The Agency shall have the duty to investigate  
12 complaints that activities under this Act have caused a  
13 violation of Section 12 of the Illinois Environmental  
14 Protection Act or surface or groundwater rules adopted under  
15 the Illinois Environmental Protection Act. Any action taken by  
16 the Agency in enforcing these violations shall be taken under  
17 and consistent with the Illinois Environmental Protection Act,  
18 including but not limited to, the Agency's authority to seek a  
19 civil or criminal cause of action under that Act. The test  
20 results under subsections (b) and (c) of Section 1-80 of this  
21 Act may be considered by the Agency during an investigation  
22 under this Section.

23 (c) A person who has reason to believe they have incurred  
24 contamination of a water source as a result of high volume  
25 horizontal hydraulic fracturing may notify the Agency and

1 request an investigation be conducted. The Agency shall forward  
2 this request to the Department for consideration of an  
3 investigation under Section 1-83 of this Act. If the Agency is  
4 provided with notice under subsection (f) of Section 1-83, the  
5 Agency shall conduct an investigation to determine whether  
6 pollution or diminution is continuing to occur at the location  
7 subject to the order, as well as locations identified by the  
8 Department or at any other water source within 1,500 feet of  
9 the well site. Any person conducting or who has conducted high  
10 volume horizontal hydraulic fracturing operations shall supply  
11 any information requested to assist the Agency in its  
12 investigation. The Agency shall give due consideration to any  
13 information submitted during the course of the investigation.

14 (d) Pollution or diminution is a violation of this Act and  
15 may be pursued by the Department subject to the procedures and  
16 remedies under Sections 1-100 and 1-105 of this Act.

17 (e) If an Agency investigation under Section 1-83 or  
18 subsection (c) of this Section confirms that the cause of the  
19 pollution, diminution, or water pollution is attributable to  
20 high volume horizontal hydraulic fracturing operations, in  
21 addition to any other relief available under law, the permittee  
22 shall be required to reimburse the costs and reasonable  
23 expenses incurred by the Agency for all activities related to  
24 the investigation and cleanup. These costs shall include, but  
25 not be limited to, inspections, investigations, analyses,  
26 personnel, direct and indirect costs, studies, assessments,

1 reports, and review and evaluation of that data, as well as  
2 costs under the Agency's review of whether the quality of a  
3 restored or replaced water supply meets or exceeds the quality  
4 of the water supply before it was affected by the permittee.  
5 Costs shall be reimbursed to the Agency by the permittee within  
6 30 calendar days after receipt of a written request for  
7 reimbursement by the Agency. For all costs that remain unpaid  
8 following 30 calendar days after receipt of a written request  
9 for reimbursement, the Agency may institute a civil action for  
10 cost recovery under subsection (e) of Section 1-101 of this  
11 Act. Failure to reimburse the Agency within 30 calendar days  
12 after receipt of the written request for reimbursement is a  
13 violation of this Act. Reimbursement of costs collected under  
14 this subsection shall be deposited by the Agency into the  
15 Illinois Clean Water Fund.

16 Section 1-95. Plugging; restoration.

17 (a) The permittee shall perform and complete plugging of  
18 the well and restoration of the well site in accordance with  
19 the Illinois Oil and Gas Act and any and all rules adopted  
20 thereunder. The permittee shall bear all costs related to  
21 plugging of the well and reclamation of the well site. If the  
22 permittee fails to plug the well in accordance with this  
23 Section, the owner of the well shall be responsible for  
24 complying with this Section.

25 (b) Prior to conducting high volume horizontal hydraulic

1 fracturing operations at a well site, the permittee shall cause  
2 to be plugged all previously unplugged well bores within 750  
3 feet of any part of the horizontal well bore that penetrated  
4 within 400 vertical feet of the formation that will be  
5 stimulated as part of the high volume horizontal hydraulic  
6 fracturing operations.

7 (c) For well sites where high volume horizontal hydraulic  
8 fracturing operations were permitted to occur, the operator  
9 shall restore any lands used by the operator other than the  
10 well site and production facility to a condition as closely  
11 approximating the pre-drilling conditions that existed before  
12 the land was disturbed for any stage of site preparation  
13 activities, drilling, and high volume horizontal hydraulic  
14 fracturing operations. Restoration shall be commenced within 6  
15 months of completion of the well site and completed within 12  
16 months. Restoration shall include, but is not limited to,  
17 repair of tile lines, repair of fences and barriers, mitigation  
18 of soil compaction and rutting, application of fertilizer or  
19 lime to restore the fertility of disturbed soil, and repair of  
20 soil conservation practices such as terraces and grassed  
21 waterways.

22 (d) Unless contractually agreed to the contrary by the  
23 permittee and surface owner, the permittee shall restore the  
24 well site and production facility in accordance with the  
25 applicable restoration requirements in subsection (c) of this  
26 Section and shall remove all equipment and materials involved

1 in site preparation, drilling, and high volume horizontal  
2 hydraulic fracturing operations, including tank batteries,  
3 rock and concrete pads, oil field debris, injection and flow  
4 lines at or above the surface, electric power lines and poles  
5 extending on or above the surface, tanks, fluids, pipes at or  
6 above the surface, secondary containment measures, rock or  
7 concrete bases, drilling equipment and supplies, and any and  
8 all other equipment, facilities, or materials used during any  
9 stage of site preparation work, drilling, or hydraulic  
10 fracturing operations at the well site. Work on the removal of  
11 equipment and materials at the well site shall begin within 6  
12 months after plugging the final well on the well site and be  
13 completed no later than 12 months after the last producing well  
14 on the well site has been plugged. Roads installed as part of  
15 the oil and gas operation may be left in place if provided in  
16 the lease or pursuant to agreement with the surface owner, as  
17 applicable.

18 Section 1-97. Seismicity.

19 (a) For purposes of this Section, "induced seismicity"  
20 means an earthquake event that is felt, recorded by the  
21 national seismic network, and attributable to a Class II  
22 injection well used for disposal of flow-back and produced  
23 fluid from hydraulic fracturing operations.

24 (b) The Department shall adopt rules, in consultation with  
25 the Illinois State Geological Survey, establishing a protocol

1 for controlling operational activity of Class II injection  
2 wells in an instance of induced seismicity.

3 (c) The rules adopted by the Department under this Section  
4 shall employ a "traffic light" control system allowing for low  
5 levels of seismicity while including additional monitoring and  
6 mitigation requirements when seismic events are of sufficient  
7 intensity to result in a concern for public health and safety.

8 (d) The additional mitigation requirements referenced in  
9 subsection (c) of this Section shall provide for either the  
10 scaling back of injection operations with monitoring for  
11 establishment of a potentially safe operation level or the  
12 immediate cessation of injection operations.

13 Section 1-98. Department mapping. On or before February 1,  
14 2014, the Department shall, with the assistance of the Illinois  
15 State Geological Survey, submit a report to the General  
16 Assembly and Governor identifying the following in Illinois and  
17 include any recommendations for additional legislative or  
18 administrative action on these items:

19 (a) the location of resources of shale gas and oil,  
20 conventional gas and oil, and process materials, including sand  
21 and other naturally occurring geologic materials used in high  
22 volume horizontal hydraulic fracturing operations;

23 (b) the potential impacts of high volume horizontal  
24 hydraulic fracturing operations on:

25 (1) sites owned, managed or leased by the Department;

- 1 (2) nature preserves;
- 2 (3) sites on the Register of Land and Water Reserves;
- 3 (4) the availability of water for human consumption and
- 4 general domestic use; and
- 5 (5) the potential for influencing natural seismic
- 6 activity.

7 Section 1-99. Department report. Two years after the  
8 effective date of the first high volume horizontal hydraulic  
9 fracturing permit issued by the Department, and every 3 years  
10 thereafter, the Department shall prepare a report that examines  
11 the following:

- 12 (1) the number of high volume horizontal hydraulic
- 13 fracturing permits issued by the Department, on an annual
- 14 basis;
- 15 (2) a map showing the locations in this State where
- 16 high volume horizontal hydraulic fracturing operations
- 17 have been permitted by the Department;
- 18 (3) identification of the latest scientific research,
- 19 best practices, and technological improvements related to
- 20 high volume horizontal hydraulic fracturing operations and
- 21 methods to protect the environment and public health;
- 22 (4) any confirmed environmental impacts in this State
- 23 due to high volume horizontal hydraulic fracturing
- 24 operations, including, but not limited to, any reportable
- 25 release of hydraulic fracturing flowback, hydraulic



1 fracturing fluid, and hydraulic fracturing additive;

2 (5) confirmed public health impacts in this State due  
3 to high volume horizontal hydraulic fracturing operations;

4 (6) a comparison of the revenues generated under  
5 subsection (e) of Section 1-35 of this Act to the  
6 Department's costs associated with implementing and  
7 administering provisions of this Act;

8 (7) a comparison of the revenues generated under  
9 subsection (e) of Section 1-87 of this Act to the Agency's  
10 costs associated with implementing and administering  
11 provisions of this Act;

12 (7.5) a summary of revenues generated annually from  
13 income, ad valorem, sales, and any other State and local  
14 taxes applicable to activity permitted under this Act by  
15 the Department, including an estimate of the income tax  
16 generated from lease payments and royalty payments;

17 (8) a description of any modifications to existing  
18 programs, practices, or rules related to high volume  
19 horizontal hydraulic fracturing operations made by the  
20 Department;

21 (9) any problems or issues the Department identifies as  
22 it implements and administers the provisions of this Act;

23 (10) any recommendations for legislative action by the  
24 General Assembly to address the findings in the report; and

25 (11) any other information the Department deems  
26 relevant regarding its specific experiences implementing

1 and administering the provisions of this Act and,  
2 generally, high volume horizontal hydraulic fracturing  
3 operations.

4 The first report shall also examine any studies issued by  
5 the United States Environmental Protection Agency regarding  
6 high volume horizontal hydraulic fracturing operations. The  
7 report required by this Section shall be provided to the  
8 General Assembly and Governor.

9 Section 1-100. Criminal offenses; penalties.

10 (a) Except as otherwise provided in this Section, it shall  
11 be a Class A misdemeanor to knowingly violate this Act, its  
12 rules, or any permit or term or condition thereof, or knowingly  
13 to submit any false information under this Act or regulations  
14 adopted thereunder, or under any permit or term or condition  
15 thereof. A person convicted or sentenced under this subsection  
16 (a) shall be subject to a fine of not to exceed \$10,000 for  
17 each day of violation.

18 (b) It is unlawful for a person knowingly to violate:

19 (1) subsection (c) of Section 1-25 of this Act;

20 (2) subsection (d) of Section 1-25 of this Act;

21 (3) subsection (a) of Section 1-30 of this Act;

22 (4) paragraph (9) of subsection (c) of Section 1-75 of  
23 this Act; or

24 (5) subsection (a) of Section 1-87 of this Act.

25 A person convicted or sentenced for any knowing violation

1 of the requirements or prohibitions listed in this subsection  
2 (b) commits a Class 4 felony, and in addition to any other  
3 penalty prescribed by law is subject to a fine not to exceed  
4 \$25,000 for each day of violation. A person who commits a  
5 second or subsequent knowing violation of the requirements or  
6 prohibitions listed in this subsection (b) commits a Class 3  
7 felony and, in addition to any other penalties provided by law,  
8 is subject to a fine not to exceed \$50,000 for each day of  
9 violation.

10 (c) Any person who knowingly makes a false, fictitious, or  
11 fraudulent material statement, orally or in writing, to the  
12 Department or Agency as required by this Act, its rules, or any  
13 permit, term, or condition of a permit, commits a Class 4  
14 felony, and each false, fictitious, or fraudulent statement or  
15 writing shall be considered a separate violation. In addition  
16 to any other penalty prescribed by law, persons in violation of  
17 this subsection (c) is subject to a fine of not to exceed  
18 \$25,000 for each day of violation. A person who commits a  
19 second or subsequent knowing violation of this subsection (c)  
20 commits a Class 3 felony and, in addition to any other  
21 penalties provided by law, is subject to a fine not to exceed  
22 \$50,000 for each day of violation.

23 (d) Any criminal action provided for under this Section  
24 shall be brought by the State's Attorney of the county in which  
25 the violation occurred or by the Attorney General and shall be  
26 conducted in accordance with the applicable provision of the

1 Code of Criminal Procedure of 1963. For criminal conduct in  
2 this Section, the period for commencing prosecution shall not  
3 begin to run until the offense is discovered by or reported to  
4 a State or local agency having authority to investigate  
5 violations of this Act.

6 Section 1-101. Violations; civil penalties and  
7 injunctions.

8 (a) Except as otherwise provided in this Section, any  
9 person who violates any provision of this Act or any rule or  
10 order adopted under this Act or any permit issued under this  
11 Act shall be liable for a civil penalty not to exceed \$50,000  
12 for the violation and an additional civil penalty not to exceed  
13 \$10,000 for each day during which the violation continues.

14 (b) Any person who violates any requirements or  
15 prohibitions of provisions listed in this subsection (b) is  
16 subject to a civil penalty not to exceed \$100,000 for the  
17 violation and an additional civil penalty not to exceed \$20,000  
18 for each day during which the violation continues. The  
19 following are violations are subject to the penalties of this  
20 subsection (b):

- 21 (1) subsection (c) of Section 1-25 of this Act;  
22 (2) subsection (d) of Section 1-25 of this Act;  
23 (3) subsection (a) of Section 1-30 of this Act;  
24 (4) paragraph (9) of subsection (c) of Section 1-75 of  
25 this Act; or

1 (5) subsection (a) of Section 1-87 of this Act.

2 (c) Any person who knowingly makes, submits, causes to be  
3 made, or causes to be submitted a false report of pollution,  
4 diminution, or water pollution attributable to high volume  
5 horizontal hydraulic fracturing operations that results in an  
6 investigation by the Department or Agency under this Act shall  
7 be liable for a civil penalty not to exceed \$1,000 for the  
8 violation.

9 (d) The penalty shall be recovered by a civil action before  
10 the circuit court of the county in which the well site is  
11 located or in the circuit court of Sangamon County. Venue shall  
12 be considered proper in either court. These penalties may, upon  
13 the order of a court of competent jurisdiction, be made payable  
14 to the Environmental Protection Trust Fund, to be used in  
15 accordance with the provisions of the Environmental Protection  
16 Trust Fund Act.

17 (e) The State's Attorney of the county in which the  
18 violation occurred, or the Attorney General, may, at the  
19 request of the Department or on his or her own motion,  
20 institute a civil action for the recovery of costs, an  
21 injunction, prohibitory or mandatory, to restrain violations  
22 of this Act, any rule adopted under this Act, the permit or  
23 term or condition of the permit, or to require other actions as  
24 may be necessary to address violations of this Act, any rule  
25 adopted under this Act, the permit or term or condition of the  
26 permit.

1           (f) The State's Attorney of the county in which the  
2 violation occurred, or the Attorney General, shall bring  
3 actions under this Section in the name of the People of the  
4 State of Illinois. Without limiting any other authority that  
5 may exist for the awarding of attorney's fees and costs, a  
6 court of competent jurisdiction may award costs and reasonable  
7 attorney's fees, including the reasonable costs of expert  
8 witnesses and consultants, to the State's Attorney or the  
9 Attorney General in a case where he or she has prevailed  
10 against a person who has committed a knowing or repeated  
11 violation of this Act, any rule adopted under this Act, or the  
12 permit or term or condition of the permit.

13           (g) All final orders imposing civil penalties under this  
14 Section shall prescribe the time for payment of those  
15 penalties. If any penalty is not paid within the time  
16 prescribed, interest on penalty at the rate set forth in  
17 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
18 shall be paid for the period from the date payment is due until  
19 the date payment is received. However, if the time for payment  
20 is stayed during the pendency of an appeal, interest shall not  
21 accrue during stay.

22           Section 1-102. Other relief.

23           (a) Any person having an interest that is or may be  
24 adversely affected may commence a civil action on his or her  
25 own behalf to compel compliance with this Act against any

1 governmental instrumentality or agency which is alleged to be  
2 in violation of the provisions of this Act or of any rule,  
3 order, or permit issued under this Act, or against any other  
4 person who is alleged to be in violation of this Act or of any  
5 rule, order, or permit issued under this Act. No action may be  
6 commenced under this subsection (a): (i) prior to 60 days after  
7 the plaintiff has given notice in writing of the alleged  
8 violation to the Department and to any alleged violator or (ii)  
9 if the State has commenced and is diligently prosecuting a  
10 civil action to require compliance with the provisions of this  
11 Act, or any rule, order, or permit issued under this Act.

12 (b) Any person having an interest that is or may be  
13 adversely affected may commence a civil action against the  
14 Department on his or her own behalf to compel compliance with  
15 this Act where there is alleged a failure of the Department to  
16 perform any act or duty under this Act that is not  
17 discretionary with the Department. No action may be commenced  
18 under this subsection (b) prior to 60 days after the plaintiff  
19 has given notice in writing of the action to the Department,  
20 except that such action may be brought immediately after the  
21 notification in the case where the violation or order  
22 complained of constitutes an imminent threat to the health or  
23 safety of the plaintiff or would immediately affect a legal  
24 interest of the plaintiff.

25 (c) The court, in issuing any final order in any action  
26 brought under this Section, may award costs of litigation

1 (including attorney and expert witness fees) to any party, on  
2 the basis of the importance of the proceeding and the  
3 participation of the parties to the efficient and effective  
4 enforcement of this Act. The court may, if a temporary  
5 restraining order or preliminary injunction is sought, require  
6 the filing of a bond or equivalent security in accordance with  
7 Part 1 of Article XI of the Code of Civil Procedure.

8 (d) Any person who is injured in his or her person or  
9 property through the violation by any operator of any rule,  
10 order, or permit issued under this Act may bring an action for  
11 damages (including reasonable attorney and expert witness  
12 fees). Nothing in this subsection (d) shall affect any of the  
13 rights established by or limits imposed under the Workers'  
14 Compensation Act.

15 (e) Any action brought under this Section may be brought  
16 only in the county in which the high volume horizontal  
17 hydraulic fracturing operation complained of is located.

18 (f) In any action under this Section, the Department shall  
19 have an unconditional right to intervene.

20 (g) No existing civil or criminal remedy for any wrongful  
21 action shall be excluded or impaired by this Act.

22 (h) Nothing in this Section shall restrict any right that  
23 any person (or class of persons) may have under any statute or  
24 common law to seek enforcement of any of the provisions of this  
25 Act and the rules adopted under this Act, or to seek any other  
26 relief (and including relief against the United States or the



1 Department).

2 Section 1-105. Violations, complaints, and notice;  
3 website.

4 The Department shall maintain a detailed database that is  
5 readily accessible to the public on the Department's website.  
6 The database shall show each violation found by the Department  
7 regarding high volume horizontal hydraulic fracturing  
8 operations and the associated well owners, operators, and  
9 subcontractors. When the Department determines that any person  
10 has violated this Act, the Department shall provide notice by  
11 U.S. Postal Service certified mail, return receipt requested,  
12 of the Department's determination to all persons required to  
13 receive specific public notice under Section 1-40 of this Act  
14 within 7 calendar days after the determination. The Department  
15 shall also post the notice on the Department's website. The  
16 notice shall include a detailed, plain language description of  
17 the violation and a detailed, plain language description of all  
18 known risks to public health, life, property, aquatic life, and  
19 wildlife resulting from the violation.

20 Section 1-110. Public information; website.

21 (a) All information submitted to the Department under this  
22 Act is deemed public information, except information deemed to  
23 constitute a trade secret under Section 1-77 of this Act and  
24 private information and personal information as defined in the

1 Freedom of Information Act.

2 (b) To provide the public and concerned citizens with a  
3 centralized repository of information, the Department shall  
4 create and maintain a comprehensive website dedicated to  
5 providing information concerning high volume horizontal  
6 hydraulic fracturing operations. The website shall contain,  
7 assemble, and link the documents and information required by  
8 this Act to be posted on the Department's or other agencies'  
9 websites. The Department shall also create and maintain an  
10 online searchable database that provides information related  
11 to high volume horizontal hydraulic fracturing operations on  
12 wells that, at a minimum, include, for each well it permits,  
13 the identity of its operators, its waste disposal, its chemical  
14 disclosure information, and any complaints or violations under  
15 this Act. The website created under this Section shall allow  
16 users to search for completion reports by well name and  
17 location, dates of fracturing and drilling operations,  
18 operator, and by chemical additives.

19 Section 1-120. Applicable federal, State, and local laws.  
20 Compliance with this Act does not relieve responsibility for  
21 compliance with the Illinois Oil and Gas Act, the Illinois  
22 Environmental Protection Act, and other applicable federal,  
23 State, and local laws.

24 Section 1-125. Administrative review. All final

1 administrative decisions, including issuance or denial of a  
2 permit, made by the Department under this Act are subject to  
3 judicial review under the Administrative Review Law and its  
4 rules.

5 Section 1-130. Rules. The Department shall have the  
6 authority to adopt rules as may be necessary to accomplish the  
7 purposes of this Act. Any and all rules adopted under this Act  
8 by the Department are not subject to the review, consultation,  
9 or advisement of the Oil and Gas Board.

10 Section 1-135. The Mines and Minerals Regulatory Fund. The  
11 Mines and Minerals Regulatory Fund is created as a special fund  
12 in the State treasury. All moneys required by this Act to be  
13 deposited into the Fund shall be used by the Department to  
14 administer and enforce this Act and otherwise support the  
15 operations and programs of the Office of Mines and Minerals.

16 Section 1-140. Severability. The provisions of this Act are  
17 severable under Section 1.31 of the Statute on Statutes.

18 ARTICLE 2.

19 Section 2-5. Short title. This Act may be cited as the  
20 "Illinois Hydraulic Fracturing Tax Act".

1 Section 2-10. Definitions. For the purposes of this Act,  
2 unless the context otherwise requires:

3 "Barrel" for oil measurement means a barrel of 42 U.S.  
4 gallons of 231 cubic inches per gallon, computed at a  
5 temperature of 60 degrees Fahrenheit.

6 "Department" means the Illinois Department of Revenue.

7 "Fracturing" or "hydraulic fracturing" means the  
8 propagation of fractures in a rock layer, by a pressurized  
9 fluid used to release petroleum or natural gas (including shale  
10 gas, tight gas, and coal seam gas), for extraction.

11 "Gas" means natural gas taken from below the surface of the  
12 earth or water in this State, regardless of whether the gas is  
13 taken from a gas well or from a well also productive of oil or  
14 any other product.

15 "Lease number" means the number assigned by the purchaser  
16 to identify each production unit.

17 "Oil" means petroleum or other crude oil, condensate,  
18 casinghead gasoline, or other mineral oil that is severed or  
19 withdrawn from below the surface of the soil or water in this  
20 State.

21 "Operator" means the person primarily responsible for the  
22 management and operation of oil or gas productions from a  
23 production unit.

24 "Person" means any natural individual, firm, partnership,  
25 association, joint stock company, joint adventure, public or  
26 private corporation, limited liability company, or a receiver,

1 executor, trustee, guardian, or other representative appointed  
2 by order of any court.

3 "Producer" means any person owning, controlling, managing,  
4 or leasing any oil or gas property or oil or gas well, and any  
5 person who severs in any manner any oil or gas in this State,  
6 and shall include any person owning any direct and beneficial  
7 interest in any oil or gas produced, whether severed by such  
8 person or some other person on their behalf, either by lease,  
9 contract, or otherwise, including working interest owners,  
10 overriding royalty owners, or royalty owners.

11 "Production unit" means a unit of property designated by  
12 the Department of Natural Resources from which oil or gas is  
13 severed.

14 "Purchaser" means a person who is the first purchaser of a  
15 product after severance from a production unit.

16 "Remove" or "removal" means the physical transportation of  
17 oil or gas off of the production unit where severed; and if the  
18 oil or gas is used on the premises where severed, or if the  
19 manufacture or conversion of oil or gas into refined products  
20 occurs on the premises where severed, oil or gas shall be  
21 deemed to have been removed on the date such use, manufacture,  
22 or conversion begins.

23 "Severed" or "severing" means: (1) the production of oil  
24 through extraction or withdrawal of the same, whether such  
25 extraction or withdrawal is by natural flow, mechanical flow,  
26 forced flow, pumping, or any other means employed to get the

1 oil from below the surface of the soil or water and shall  
2 include the withdrawal by any means whatsoever of oil upon  
3 which the tax has not been paid, from any surface reservoir,  
4 natural or artificial, or from a water surface; and (2) the  
5 production of gas through the extraction or withdrawal of the  
6 same by any means whatsoever, from below the surface of the  
7 earth or water.

8 "Severance" means the taking of oil or gas from below the  
9 surface of the soil or water in any manner whatsoever.

10 "Value" means the sale price of oil or gas at the time of  
11 removal of the oil or gas from the production unit and if oil  
12 or gas is exchanged for something other than cash, or if no  
13 sale occurs at the time of removal, or if the Department  
14 determines that the relationship between the buyer and the  
15 seller is such that the consideration paid, if any, is not  
16 indicative of the true value or market price, then the  
17 Department shall determine the value of the oil or gas subject  
18 to tax based on the cash price paid to one or more producers  
19 for the oil or gas or based on the cash price paid to producers  
20 for like quality oil or gas in the vicinity of the production  
21 unit at the time of the removal of the oil or gas from the  
22 production unit.

23 Section 2-15. Tax imposed.

24 (a) For oil and gas removed on or after July 1, 2013, there  
25 is hereby imposed a tax upon the severance and production of

1 oil or gas from a well on a production unit in this State  
2 permitted, or required to be permitted, under the Illinois  
3 Hydraulic Fracturing Regulatory Act, for sale, transport,  
4 storage, profit, or commercial use. The tax shall be applied  
5 equally to all portions of the value of each barrel of oil  
6 severed and subject to such tax and to the value of the gas  
7 severed and subject to such tax. For a period of 24 months from  
8 the month in which oil or gas was first produced from the well,  
9 the rate of tax shall be 3% of the value of the oil or gas  
10 severed from the earth or water in this State. Thereafter, the  
11 rate of the tax shall be as follows:

12 (1) For oil:

13 (A) where the average daily production from the  
14 well during the month is less than 25 barrels, 3% of  
15 the value of the oil severed from the earth or water;

16 (B) where the average daily production from the  
17 well during the month is 15 or more barrels but less  
18 than 50 barrels, 4% of the value of the oil severed  
19 from the earth or water;

20 (C) where the average daily production from the  
21 well during the month is 50 or more barrels but less  
22 than 100 barrels, 5% of the value of the oil severed  
23 from the earth or water; or

24 (D) where the average daily production from the  
25 well during the month is 100 or more barrels, 6% of the  
26 value of the oil severed from the earth or water.

1           (2) For gas, 6% of the value of the gas severed from  
2           the earth or water.

3           If a well is required to be permitted under the Illinois  
4           Hydraulic Fracturing Regulatory Act, the tax imposed by this  
5           Section applies, whether or not a permit was obtained.

6           (b) Oil produced from a well whose average daily production  
7           is 15 barrels or less for the 12-month period immediately  
8           preceding the production is exempt from the tax imposed by this  
9           Act.

10          (c) For the purposes of the tax imposed by this Act the  
11          amount of oil produced shall be measured or determined, in the  
12          case of oil, by tank tables, without deduction for overage or  
13          losses in handling. Allowance for any reasonable and bona fide  
14          deduction for basic sediment and water, and for correction of  
15          temperature to 60 degrees Fahrenheit will be allowed. For the  
16          purposes of the tax imposed by this Act the amount of gas  
17          produced shall be measured or determined, by meter readings  
18          showing 100% of the full volume expressed in cubic feet at a  
19          standard base and flowing temperature of 60 degrees Fahrenheit,  
20          and at the absolute pressure at which the gas is sold and  
21          purchased. Correction shall be made for pressure according to  
22          Boyle's law, and used for specific gravity according to the  
23          gravity at which the gas is sold and purchased.

24          (d) The following severance and production of gas shall be  
25          exempt from the tax imposed by this Act: gas injected into the  
26          earth for the purpose of lifting oil, recycling, or



1 repressuring; gas used for fuel in connection with the  
2 operation and development for, or production of, oil or gas in  
3 the production unit where severed; and gas lawfully vented or  
4 flared; gas inadvertently lost on the production unit by reason  
5 of leaks, blowouts, or other accidental losses.

6 (e) All oil and gas removed from the premises where severed  
7 is subject to the tax imposed by this Act unless exempt under  
8 the terms of this Act.

9 (f) The liability for the tax accrues at the time the oil  
10 or gas is removed from the production unit.

11 Section 2-20. Taxable value; method of determining. The  
12 Department may determine the value of products severed from a  
13 production unit when the operator and purchaser are affiliated  
14 persons, when the sale and purchase of products is not an arm's  
15 length transaction, or when products are severed and removed  
16 from a production unit and a value is not established for such  
17 products. The value determined by the Department shall be  
18 commensurate with the actual price received for products of  
19 like quality, character, and use which are severed in the same  
20 field or area. If there are no sales of products of like  
21 quality, character, and use severed in the same field or area,  
22 then the Department shall establish a reasonable value based on  
23 sales of products of like quality, character, and use which are  
24 severed in other areas of the State, taking into consideration  
25 any other relevant factors.

1           Section 2-25. Withholding of tax. Any purchaser who makes  
2 a monetary payment to a producer for his or her portion of the  
3 value of products from a production unit shall withhold from  
4 such payment the amount of tax due from the producer. Any  
5 purchaser who pays any tax due from a producer shall be  
6 entitled to reimbursement from the producer for the tax so paid  
7 and may take credit for such amount from any monetary payment  
8 to the producer for the value of products. To the extent that a  
9 purchaser required to collect the tax imposed by this Act has  
10 actually collected that tax, such tax is held in trust for the  
11 benefit of the State of Illinois.

12           Section 2-30. Payment and collection of tax.

13           (a) For oil and gas removed on or after July 1, 2013, the  
14 tax incurred under this Act shall be due and payable on or  
15 before the 30th day of the month following the end of the month  
16 in which the oil or gas is removed from the production unit.  
17 The tax is upon the producers of such oil or gas in the  
18 proportion to their respective beneficial interests at the time  
19 of severance. The first purchaser of any oil or gas sold shall  
20 collect the amount of the tax due from the producers by  
21 deducting and withholding such amount from any payments made by  
22 such purchaser to the producers and shall remit the tax in this  
23 Act.

24           In the event the tax shall be withheld by a purchaser from

1 payments due a producer and such purchaser fails to make  
2 payment of the tax to the State as required herein, the first  
3 purchaser shall be liable for the tax. However, in the event a  
4 first purchaser fails to pay the tax withheld from a producer's  
5 payment, the producer's interest remains subject to any lien  
6 filed pursuant to subsection (c) of this Section. A producer  
7 shall be entitled to bring an action against such purchaser to  
8 recover the amount of tax so withheld together with penalties  
9 and interest which may have accrued by failure to make such  
10 payment. A producer shall be entitled to all attorney fees and  
11 court costs incurred in such action. To the extent that a  
12 producer liable for the tax imposed by this Act collects the  
13 tax, and any penalties and interest, from a purchaser, such  
14 tax, penalties, and interest are held in trust by the producer  
15 for the benefit of the State of Illinois.

16 (b) For all production units a first purchaser begins to  
17 purchase oil or gas from on or after July 1, 2013, the first  
18 purchaser is required to withhold and remit the tax imposed by  
19 this Act to the Department from the oil and gas purchased from  
20 the production unit unless the first purchaser obtains from the  
21 operator an exemption certificate signed by the operator  
22 stating that the production unit is not subject to the tax  
23 imposed by this Act. The exemption certificate must include the  
24 following information:

25 (1) name and address of the operator;

26 (2) name of the production unit;

1           (3) number assigned to the production unit by the first  
2 purchaser, if available;

3           (4) legal description of the production unit; and

4           (5) a statement by the operator that the production  
5 unit is exempt from the tax imposed by the Illinois  
6 Hydraulic Fracturing Tax Act.

7           If a first purchaser obtains an exemption certificate that  
8 contains the required information and reasonably relies on the  
9 exemption certificate and it is subsequently determined by the  
10 Department that the production unit is subject to the tax  
11 imposed by this Act, the Department will collect any tax that  
12 is due from the operator and producers, and the first purchaser  
13 is relieved of any liability.

14           (c) Notwithstanding subsection (a) of this Section, the tax  
15 is a lien on the oil and gas from the time of severance from the  
16 land or under the water until the tax and all penalties and  
17 interest are fully paid, and the State shall have a lien on all  
18 the oil or gas severed from the production unit in this State  
19 in the hands of the operator, any producer or the first or any  
20 subsequent purchaser thereof to secure the payment of the tax.  
21 If a lien is filed by the Department, the purchaser shall  
22 withhold from producers or operators the amount of tax, penalty  
23 and interest identified in the lien.

24           Section 2-35. Registration of purchasers. A person who  
25 engages in business as a purchaser of oil or gas in this State

1 shall register with the Department. Application for a  
2 certificate of registration shall be made to the Department  
3 upon forms furnished by the Department and shall contain any  
4 reasonable information the Department may require. Upon  
5 receipt of the application for a certificate of registration in  
6 proper form, the Department shall issue to the applicant a  
7 certificate of registration.

8 Section 2-40. Inspection of records by the Department;  
9 subpoena power, contempt. The Department shall have the power  
10 to require any operator, producer, transporter, or person  
11 purchasing any oil or gas severed from the earth or water to  
12 furnish any additional information deemed to be necessary for  
13 the purpose of computing the amount of the tax, and for such  
14 purpose to examine the meter and other charts, books, records,  
15 and all files of such person, and for such purpose the  
16 Department shall have the power to issue subpoenas and examine  
17 witnesses under oath, and if any witness shall fail or refuse  
18 to appear at the request of the director, or refuses access to  
19 books, records, and files, the circuit court of the proper  
20 county, or the judge thereof, on application of the Department,  
21 shall compel obedience by proceedings for contempt, as in the  
22 case of disobedience of the requirements of a subpoena issued  
23 from such court or a refusal to testify therein.

24 Section 2-45. Purchaser's return and tax remittance. Each

1 purchaser shall make a return to the Department showing the  
2 quantity of oil or gas purchased during the month for which the  
3 return is filed, the price paid therefore, total value, the  
4 name and address of the operator or other person from whom the  
5 same was purchased, a description of the production unit in the  
6 manner prescribed by the Department from which such oil or gas  
7 was severed and the amount of tax due from each production unit  
8 for each calendar month. All taxes due, or to be remitted, by  
9 the purchaser shall accompany this return. The return shall be  
10 filed on or before the 30th day of the month after the calendar  
11 month for which the return is required. The Department may  
12 require any additional report or information it may deem  
13 necessary for the proper administration of this Act.

14 Such returns shall be filed electronically in the manner  
15 prescribed by the Department. Purchasers shall make all  
16 payments of that tax to the Department by electronic funds  
17 transfer unless, as provided by rule, the Department grants an  
18 exception upon petition of a purchaser. Purchasers' returns  
19 must be accompanied by appropriate computer generated magnetic  
20 media supporting schedule data in the format required by the  
21 Department, unless, as provided by rule, the Department grants  
22 an exception upon petition of a purchaser.

23 Section 2-50. Operator returns; payment of tax.

24 (a) If, on or after July 1, 2013, oil or gas is transported  
25 off the production unit where severed by the operator, used on

1 the production unit where severed, or if the manufacture and  
2 conversion of oil and gas into refined products occurs on the  
3 production unit where severed, the operator is responsible for  
4 remitting the tax imposed under subsections (a) of Section 15,  
5 on or before the 30th day of the month following the end of the  
6 calendar month in which the oil and gas is removed from the  
7 production unit, and such payment shall be accompanied by a  
8 return to the Department showing the gross quantity of oil or  
9 gas removed during the month for which the return is filed, the  
10 price paid therefore, and if no price is paid therefore, the  
11 value of the oil and gas, a description of the production unit  
12 from which such oil or gas was severed, and the amount of tax.  
13 The Department may require any additional information it may  
14 deem necessary for the proper administration of this Act.

15 (b) Operators shall file all returns electronically in the  
16 manner prescribed by the Department unless, as provided by  
17 rule, the Department grants an exception upon petition of an  
18 operator. Operators shall make all payments of that tax to the  
19 Department by electronic funds transfer unless, as provided by  
20 rule, the Department grants an exception upon petition of an  
21 operator. Operators' returns must be accompanied by  
22 appropriate computer generated magnetic media supporting  
23 schedule data in the format required by the Department, unless,  
24 as provided by rule, the Department grants an exception upon  
25 petition of a purchaser.

26 (c) Any operator who makes a monetary payment to a producer

1 for his or her portion of the value of products from a  
2 production unit shall withhold from such payment the amount of  
3 tax due from the producer. Any operator who pays any tax due  
4 from a producer shall be entitled to reimbursement from the  
5 producer for the tax so paid and may take credit for such  
6 amount from any monetary payment to the producer for the value  
7 of products. To the extent that an operator required to collect  
8 the tax imposed by this Act has actually collected that tax,  
9 such tax is held in trust for the benefit of the State of  
10 Illinois.

11 (d) In the event the operator fails to make payment of the  
12 tax to the State as required herein, the operator shall be  
13 liable for the tax. A producer shall be entitled to bring an  
14 action against such operator to recover the amount of tax so  
15 withheld together with penalties and interest which may have  
16 accrued by failure to make such payment. A producer shall be  
17 entitled to all attorney fees and court costs incurred in such  
18 action. To the extent that a producer liable for the tax  
19 imposed by this Act collects the tax, and any penalties and  
20 interest, from an operator, such tax, penalties, and interest  
21 are held in trust by the producer for the benefit of the State  
22 of Illinois.

23 (e) When the title to any oil or gas severed from the earth  
24 or water is in dispute and the operator of such oil or gas is  
25 withholding payments on account of litigation, or for any other  
26 reason, such operator is hereby authorized, empowered and



1 required to deduct from the gross amount thus held the amount  
2 of the tax imposed and to make remittance thereof to the  
3 Department as provided in this Section.

4 (f) An operator required to file a return and pay the tax  
5 under this Section shall register with the Department.  
6 Application for a certificate of registration shall be made to  
7 the Department upon forms furnished by the Department and shall  
8 contain any reasonable information the Department may require.  
9 Upon receipt of the application for a certificate of  
10 registration in proper form, the Department shall issue to the  
11 applicant a certificate of registration.

12 (g) If oil or gas is transported off the production unit  
13 where severed by the operator and sold to a purchaser or  
14 refiner, the State shall have a lien on all the oil or gas  
15 severed from the production unit in this State in the hands of  
16 the operator, the first or any subsequent purchaser thereof, or  
17 refiner to secure the payment of the tax. If a lien is filed by  
18 the Department, the purchaser or refiner shall withhold from  
19 the operator the amount of tax, penalty and interest identified  
20 in the lien.

21 Section 2-55. Tax withholding and remittance when title to  
22 minerals disputed. When the title to any oil or gas severed  
23 from the earth or water is in dispute and the purchaser of such  
24 oil or gas is withholding payments on account of litigation, or  
25 for any other reason, such purchaser is hereby authorized,

1 empowered and required to deduct from the gross amount thus  
2 held the amount of the tax imposed and to make remittance  
3 thereof to the Department as provided in this Act.

4 Section 2-60. Transporters. When requested by the  
5 Department, all transporters of oil or gas out of, within or  
6 across the State of Illinois shall be required to furnish the  
7 Department such information relative to the transportation of  
8 such oil or gas as the Department may require. The Department  
9 shall have authority to inspect bills of lading, waybills,  
10 meter, or other charts, documents, books and records as may  
11 relate to the transportation of oil or gas in the hands of each  
12 transporter. The Department shall further be empowered to  
13 demand the production of such bills of lading, waybills,  
14 charts, documents, books, and records relating to the  
15 transportation of oil or gas at any point in the State of  
16 Illinois.

17 Section 2-65. Rulemaking. The Department is hereby  
18 authorized to adopt any rules as may be necessary to administer  
19 and enforce the provisions of this Act.

20 Section 2-70. Incorporation by reference. All of the  
21 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6,  
22 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the "Retailers'  
23 Occupation Tax Act" which are not inconsistent with this Act,

1 and all provisions of the Uniform Penalty and Interest Act  
2 shall apply, as far as practicable, to the subject matter of  
3 this Act to the same extent as if such provisions were included  
4 herein.

5 Section 2-75. Distribution of proceeds. All moneys  
6 received by the Department under this Act shall be paid into  
7 the General Revenue Fund in the State Treasury.

8 ARTICLE 3.

9 Section 3-150. The State Finance Act is amended by adding  
10 Section 5.826 as follows:

11 (30 ILCS 105/5.826 new)

12 Sec. 5.826. The Mines and Minerals Regulatory Fund.

13 ARTICLE 9.

14 Section 9-999. Effective date. This Act takes effect upon  
15 becoming law."