



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5567

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

225 ILCS 725/6.1	from Ch. 96 1/2, par. 5410
225 ILCS 725/21.1	from Ch. 96 1/2, par. 5433
225 ILCS 725/22.2	from Ch. 96 1/2, par. 5436
225 ILCS 725/23.3	from Ch. 96 1/2, par. 5440

Amends the Illinois Oil and Gas Act. Establishes procedural requirements that the Department of Natural Resources must follow upon receiving certain applications or permits under the Act. Provides that all such applications or petitions for a permit submitted to the Department shall be accepted and filed or not accepted and filed by the Department within 5 business days after the date of receipt by the Department. Further provides that if the application or petition is accepted and filed, a public hearing on the application or petition shall be scheduled not less than 30 days but not more than 60 days after the acceptance and filing by the Department, and if not accepted and filed, requires the Department to provide specific requirements for additional information or documentation. Further provides that the application or petition shall not be accepted and filed if it is determined by the Department that legal or regulatory impediments would prevent such acceptance and filing. Provides that if the Department does not timely respond to any application or petition or the submission of additional information or documentation after initial submission, the application or petition shall be deemed to be sufficient for acceptance and filing and that the Department shall proceed with the scheduling of a public hearing. Provides that, after a public hearing, the Department shall either grant or deny the application or petition within 20 working days after the conclusion of the hearing.

LRB098 19182 ZMM 55641 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Oil and Gas Act is amended by
5 changing Sections 6.1, 21.1, 22.2, and 23.3 as follows:

6 (225 ILCS 725/6.1) (from Ch. 96 1/2, par. 5410)

7 Sec. 6.1. When the applicant has complied with all
8 applicable provisions of this Act and the rules of the
9 Department, the Department shall issue the permit. All
10 applications for a permit submitted to the Department shall
11 either be granted or denied in writing within 5 business days
12 after the date of receipt by the Department. If granted, the
13 written permit shall be issued. If denied, the Department shall
14 provide specific requirements for additional information or
15 documentation needed for the application to be considered and
16 the permit issued. Upon submission of the required information
17 and documentation, the same process and timeframe as provided
18 in this Section shall continue until either the permit is
19 issued or it is determined that the permit cannot be issued
20 because of legal or regulatory impediments. If the Department
21 does not timely respond to any application or submission of
22 additional information and documentation after initial
23 submission, then the application shall be deemed granted and

1 the permit shall be issued by the Department within 3 working
2 days after the expiration of the time to respond.

3 (Source: P.A. 85-1334.)

4 (225 ILCS 725/21.1) (from Ch. 96 1/2, par. 5433)

5 Sec. 21.1. (a) The Department is authorized to issue
6 permits for the drilling of wells and to regulate the spacing
7 of wells for oil and gas purposes. For the prevention of waste,
8 to protect and enforce the correlative rights of owners in the
9 pool, and to prevent the drilling of unnecessary wells, the
10 Department shall, upon application of any interested person and
11 after notice and hearing, establish a drilling unit or units
12 for the production of oil and gas or either of them for each
13 pool, provided that no spacing regulation shall be adopted nor
14 drilling unit established which requires the allocation of more
15 than 40 acres of surface area nor less than 10 acres of surface
16 area to an individual well for production of oil from a pool
17 the top of which lies less than 4,000 feet beneath the surface
18 (as determined by the original or discovery well in the pool),
19 provided, however, that the Department may permit the
20 allocation of greater acreage to an individual well than that
21 above specified, and provided further that the spacing of wells
22 in any pool the top of which lies less than 4,000 feet beneath
23 the surface (as determined by the original or discovery well in
24 the pool) shall not include the fixing of a pattern except with
25 respect to the 2 nearest external boundary lines of each

1 drilling unit, and provided further that no acreage allocation
2 shall be required for input or injection wells nor for
3 producing wells lying within a secondary recovery unit as now
4 or hereafter established.

5 (b) Drilling units shall be of approximately uniform size
6 and shape for each entire pool, except that where circumstances
7 reasonably require, the Department may grant exceptions to the
8 size or shape of any drilling unit or units. Each order
9 establishing drilling units shall specify the size and shape of
10 the unit, which shall be such as will result in the efficient
11 and economical development of the pool as a whole, and subject
12 to the provisions of subsection (a) hereof the size of no
13 drilling unit shall be smaller than the maximum area that can
14 be efficiently and economically drained by one well. Each order
15 establishing drilling units for a pool shall cover all lands
16 determined or believed to be underlaid by such pool, and may be
17 modified by the Department from time to time to include
18 additional lands determined to be underlaid by such pool. Each
19 order establishing drilling units may be modified by the
20 Department to change the size thereof, or to permit the
21 drilling of additional wells.

22 (b-2) Any petition requesting a drilling unit exception
23 shall be accompanied by a non-refundable application fee in the
24 amount of \$1,500 for a Modified Drilling Unit or Special
25 Drilling Unit or a non-refundable application fee in the amount
26 of \$2,500 for a Pool-Wide Drilling Unit.

1 (c) Each order establishing drilling units shall prohibit
2 the drilling of more than one well on any drilling unit for the
3 production of oil or gas from the particular pool with respect
4 to which the drilling unit is established and subject to the
5 provisions of subsection (a) hereof shall specify the location
6 for the drilling of such well thereon, in accordance with a
7 reasonably uniform spacing pattern, with necessary exceptions
8 for wells drilled or drilling at the time of the application.
9 If the Department finds, after notice and hearing, that surface
10 conditions would substantially add to the burden or hazard of
11 drilling such well at the specified location, or for some other
12 reason it would be inequitable or unreasonable to require a
13 well to be drilled at the specified location, the Department
14 may issue an order permitting the well to be drilled at a
15 location other than that specified in the order establishing
16 drilling units.

17 (d) After the date of the notice for a hearing called to
18 establish drilling units, no additional well shall be commenced
19 for production from the pool until the order establishing
20 drilling units has been issued, unless the commencement of the
21 well is authorized by order of the Department.

22 (e) After an order establishing a drilling unit or units
23 has been issued by the Department, the commencement of drilling
24 of any well or wells into the pool with regard to which such
25 unit was established for the purpose of producing oil or gas
26 therefrom, at a location other than that authorized by the

1 order, or by order granting exception to the original spacing
2 order, is hereby prohibited. The operation of any well drilled
3 in violation of an order establishing drilling units is hereby
4 prohibited.

5 (f) Any application or petition by any interested person
6 for a drilling unit as provided in this Section shall be
7 accepted and filed or not accepted and filed by the Department
8 within 10 business days after receipt by the Department. If the
9 petition is accepted and filed, a public hearing on the
10 petition shall be scheduled not less than 30 days, but not more
11 than 60 days, after the acceptance and filing by the
12 Department. If not accepted, and filed, the Department shall
13 provide specific requirements for additional information or
14 documentation needed for the petition to be considered,
15 accepted, and filed. Upon submission of the required
16 information and documentation, the same process and timeframe
17 as provided in this subsection (f) shall continue until the
18 petition has been accepted and filed at which time a hearing
19 shall be scheduled as previously stated in this subsection (f).
20 The petition shall not be accepted and filed if it is
21 determined by the Department that, under any circumstance,
22 legal or regulatory impediments would prevent such acceptance
23 and filing. If the Department does not timely respond to any
24 petition or the submission of additional information or
25 documentation after initial submission, then the petition
26 shall be deemed to be in sufficient form for acceptance and

1 filing and the Department shall proceed with the scheduling of
2 a public hearing. The Department, after public hearing, shall
3 either grant or deny the petition within 20 working days after
4 the conclusion of the hearing.

5 (g) Any petition by an interested person to establish
6 drilling units for a pool as provided in this Section shall be
7 accepted and filed or not accepted and filed by the Department
8 within 10 business days after receipt by the Department. If the
9 petition is accepted and filed, a public hearing on the
10 petition shall be scheduled not less than 30 days, but not more
11 than 60 days, after the acceptance and filing by the
12 Department. If not accepted and filed, the Department shall
13 provide specific requirements for additional information or
14 documentation needed for the petition to be considered,
15 accepted, and filed. Upon submission of the required
16 information and documentation, the same process and timeframe
17 as provided in this subsection (g) shall continue until the
18 petition has been accepted and filed at which time a hearing
19 shall be scheduled as previously stated in this subsection (g).
20 The petition shall not be accepted and filed if it is
21 determined by the Department that, under any circumstance,
22 legal or regulatory impediments would prevent such acceptance
23 and filing. If the Department does not timely respond to any
24 petition or the submission of additional information or
25 documentation after initial submission, then the petition
26 shall be deemed to be in sufficient form for acceptance and

1 filing and the Department shall proceed with the scheduling of
2 a public hearing. The Department, after public hearing, shall
3 either grant or deny the petition within 20 working days after
4 the conclusion of the hearing.

5 (Source: P.A. 97-1136, eff. 1-1-13.)

6 (225 ILCS 725/22.2) (from Ch. 96 1/2, par. 5436)

7 Sec. 22.2. Integration of interests in drilling unit.

8 (a) As used in this Section, "owner" means any person
9 having an interest in the right to drill into and produce oil
10 or gas from any pool, and to appropriate the production for
11 such owner or others.

12 (b) Except as provided in subsection (b-5), when 2 or more
13 separately owned tracts of land are embraced within an
14 established drilling unit, or when there are separately owned
15 interests in all or a part of such units, the owners of all oil
16 and gas interests therein may validly agree to integrate their
17 interests and to develop their lands as a drilling unit. Where,
18 however, such owners have not agreed to integrate their
19 interests and where no action has been commenced seeking
20 permission to drill pursuant to the provisions of "An Act in
21 relation to oil and gas interests in land", approved July 1,
22 1939, and where at least one of the owners has drilled or has
23 proposed to drill a well on an established drilling unit the
24 Department on the application of an owner shall, for the
25 prevention of waste or to avoid the drilling of unnecessary

1 wells, require such owners to do so and to develop their lands
2 as a drilling unit. The Department, as a part of the order
3 integrating interests, may prescribe the terms and conditions
4 upon which the royalty interests in the unit or units shall, in
5 the absence of voluntary agreement, be determined to be
6 integrated without the necessity of a subsequent separate order
7 integrating the royalty interests. Each such integration order
8 shall be upon terms and conditions that are just and
9 reasonable.

10 (b-5) When 2 or more separately owned tracts of land are
11 embraced within an established drilling unit, or when there are
12 separately owned interests in all or a part of the unit, and
13 one of the owners is the Department of Natural Resources,
14 integration of the separate tracts shall be allowed only if,
15 following a comprehensive environmental impact review
16 performed by the Department, the Department determines that no
17 substantial or irreversible detrimental harm will occur on
18 Department lands as a result of any proposed activities
19 relating to mineral extraction. The environmental impact
20 review shall include but shall not be limited to an assessment
21 of the potential destruction or depletion of flora and fauna,
22 wildlife and its supporting habitat, surface and subsurface
23 water supplies, aquatic life, and recreational activities
24 located on the land proposed to be integrated. The Department
25 shall adopt rules necessary to implement this subsection.

26 (b-6) All proceeds, bonuses, rentals, royalties, and other

1 inducements and considerations received from the integration
2 of Department of Natural Resources lands that have not been
3 purchased by the Department of Natural Resources with moneys
4 appropriated from the Wildlife and Fish Fund shall be deposited
5 as follows: at least 50% of the amounts received shall be
6 deposited into the State Parks Fund and not more than 50% shall
7 be deposited into the Plugging and Restoration Fund.

8 (c) All orders requiring such integration shall be made
9 after notice and hearing and shall be upon terms and conditions
10 that are just and reasonable and will afford to the owners of
11 all oil and gas interests in each tract in the drilling unit
12 the opportunity to recover or receive their just and equitable
13 share of oil or gas from the drilling unit without unreasonable
14 expense and will prevent or minimize reasonably avoidable
15 drainage from each integrated drilling unit which is not
16 equalized by counter drainage, but the Department may not limit
17 the production from any well under this provision. The request
18 shall be made by petition accompanied by a non-refundable
19 application fee of \$1,500. The fee shall be deposited into the
20 Underground Resources Conservation Enforcement Fund. The
21 monies deposited into the Underground Resources Conservation
22 Enforcement Fund under this subsection shall not be subject to
23 administrative charges or chargebacks unless otherwise
24 authorized by this Act.

25 (d) All operations, including, but not limited to, the
26 commencement, drilling, or operation of a well upon any portion

1 of a drilling unit shall be deemed for all purposes the conduct
2 of such operations upon each separately owned tract in the
3 drilling unit by the several owners thereof. That portion of
4 the production allocated to a separately owned tract included
5 in a drilling unit shall, when produced, be deemed, for all
6 purposes, to have been actually produced from such tract by a
7 well drilled thereon.

8 (e) In making the determination of integrating separately
9 owned interests, and determining to whom the permit should be
10 issued, the Department may consider:

11 (1) the reasons requiring the integration of separate
12 interests;

13 (2) the respective interests of the parties in the
14 drilling unit sought to be established, and the pool or
15 pools in the field where the proposed drilling unit is
16 located;

17 (3) any parties' prior or present compliance with the
18 Act and the Department's rules; and

19 (4) any other information relevant to protect the
20 correlative rights of the parties sought to be affected by
21 the integration order.

22 (f) Each such integration order shall authorize the
23 drilling, testing, completing, equipping, and operation of a
24 well on the drilling unit; provide who may drill and operate
25 the well; prescribe the time and manner in which all the owners
26 in the drilling unit may elect to participate therein; and make

1 provision for the payment by all those who elect to participate
2 therein of the reasonable actual cost thereof, plus a
3 reasonable charge for supervision and interest. Should an owner
4 not elect to voluntarily participate in the risk and costs of
5 the drilling, testing, completing and operation of a well as
6 determined by the Department, the integration order shall
7 provide either that:

8 (1) the nonparticipating owner shall surrender a
9 leasehold interest to the participating owners on a basis
10 and for such terms and consideration the Department finds
11 fair and reasonable; or

12 (2) the nonparticipating owner shall share in a
13 proportionate part of the production of oil and gas from
14 the drilling unit determined by the Department, and pay a
15 proportionate part of operation cost after the
16 participating owners have recovered from the production of
17 oil or gas from a well all actual costs in the drilling,
18 testing, completing and operation of the well plus a
19 penalty to be determined by the Department of not less than
20 100% nor more than 300% of such actual costs.

21 (g) For the purpose of this Section, the owner or owners of
22 oil and gas rights in and under an unleased tract of land shall
23 be regarded as a lessee to the extent of a 7/8 interest in and
24 to said rights and a lessor to the extent of the remaining 1/8
25 interest therein.

26 (h) In the event of any dispute relative to costs and

1 expenses of drilling, testing, equipping, completing and
2 operating a well, the Department shall determine the proper
3 costs after due notice to interested parties and a hearing
4 thereon. The operator of such unit, in addition to any other
5 right provided by the integration order of the Department,
6 shall have a lien on the mineral leasehold estate or rights
7 owned by the other owners therein and upon their shares of the
8 production from such unit to the extent that costs incurred in
9 the development and operation upon said unit are a charge
10 against such interest by order of the Department or by
11 operation of law. Such liens shall be separable as to each
12 separate owner within such unit, and shall remain liens until
13 the owner or owners drilling or operating the well have been
14 paid the amount due under the terms of the integration order.
15 The Department is specifically authorized to provide that the
16 owner or owners drilling, or paying for the drilling, or for
17 the operation of a well for the benefit of all shall be
18 entitled to production from such well which would be received
19 by the owner or owners for whose benefit the well was drilled
20 or operated, after payment of royalty, until the owner or
21 owners drilling or operating the well have been paid the amount
22 due under the terms of the integration order settling such
23 dispute.

24 (i) Any petition submitted to the Department for
25 integration as provided in this Section shall be accepted and
26 filed or not accepted and filed by the Department within 10

1 business days after receipt by the Department. If the petition
2 is accepted and filed, a public hearing on the petition shall
3 be scheduled not less than 30 days, but not more than 60 days,
4 after the acceptance and filing by the Department. If not
5 accepted and filed, the Department shall provide specific
6 requirements for additional information or documentation
7 needed for the petition to be considered, accepted, and filed.
8 Upon submission of the required information and documentation,
9 the same process and timeframe as provided in this subsection
10 (i) shall continue until the petition has been accepted and
11 filed at which time a hearing shall be scheduled as previously
12 stated in this subsection (i). The petition shall not be
13 accepted and filed if it is determined by the Department that
14 under any circumstance, legal or regulatory impediments would
15 prevent such acceptance and filing. If the Department does not
16 timely respond to any petition or the submission of additional
17 information or documentation after initial submission, then
18 the petition shall be deemed to be in sufficient form for
19 acceptance and filing and the Department shall proceed with the
20 scheduling of a public hearing. The Department, after public
21 hearing, shall either grant or deny the petition within 20
22 working days after the conclusion of the hearing.

23 (Source: P.A. 97-1136, eff. 1-1-13.)

24 (225 ILCS 725/23.3) (from Ch. 96 1/2, par. 5440)

25 Sec. 23.3. The Department, upon the petition of any

1 interested person, shall hold a public hearing to consider the
2 need for operating a pool, pools, or any portion thereof, as a
3 unit to enable, authorize and require operations which will
4 increase the ultimate recovery of oil and gas, prevent the
5 waste of oil and gas, and protect correlative rights of the
6 owners of the oil and gas.

7 (1) Such petition shall contain the following:

8 (a) A description of the land and pool, pools, or parts
9 thereof, within the proposed unit area.

10 (b) The names of all persons owning or having an
11 interest in the oil and gas rights in the proposed unit
12 area as of the date of filing the petition, as disclosed by
13 the records in the office of the recorder for the county or
14 counties in which the unit area is situated, and their
15 addresses, if known. If the address of any person is
16 unknown, the petition shall so indicate.

17 (c) A statement of the type of operations contemplated
18 for the unit area.

19 (d) A copy of a proposed plan of unitization signed by
20 persons owning not less than 51% of the working interest
21 underlying the surface within the area proposed to be
22 unitized, which the petitioner considers fair, reasonable
23 and equitable; said plan of unitization shall include (or
24 provide in a separate unit operating agreement, if there be
25 more than one working interest owner, a copy of which shall
26 accompany the petition) the following:

1 (i) A plan for allocating to each separately owned
2 tract in the unit area its share of the oil and gas
3 produced from the unit area and not required or
4 consumed in the conduct of the operation of the unit
5 area or unavoidably lost.

6 (ii) A provision indicating how unit expense shall
7 be determined and charged to the several owners,
8 including a provision for carrying or otherwise
9 financing any working interest owner who has not
10 executed the proposed plan of unitization and who
11 elects to be carried or otherwise financed, and
12 allowing the unit operator, for the benefit of those
13 working interest owners who have paid the development
14 and operating costs, the recovery of not more than 150%
15 of such person's actual share of development costs of
16 the unit plus operating costs, with interest. Recovery
17 of the money advanced to owners wishing to be financed,
18 for development and operating costs of the unit,
19 together with such other sums provided for herein,
20 shall only be recoverable from such owner's share of
21 unit production from the unit area.

22 (iii) A procedure and basis upon which wells,
23 equipment, and other properties of the several working
24 interest owners within the unit area are to be taken
25 over and used for unit operations, including the method
26 of arriving at the compensation therefor.

1 (iv) A plan for maintaining effective supervision
2 and conduct of unit operations, in respect to which
3 each working interest owner shall have a vote with a
4 value corresponding to the percentage of unit expense
5 chargeable against the interest of such owner.

6 (e) A non-refundable application fee in the amount of
7 \$2,500.

8 (2) Concurrently with the filing of the petition with the
9 Department, the petitioner may file or cause to be filed, in
10 the office of the recorder for the county or counties in which
11 the affected lands sought to be unitized are located, a notice
12 setting forth:

13 (a) The type of proceedings before the Department and a
14 general statement of the purpose of such proceedings.

15 (b) A legal description of the lands, oil and gas lease
16 or leases, and other oil and gas property interests, which
17 may be affected by the proposed unitization.

18 (3) Upon the filing of such notice:

19 (a) All transfers of title to oil and gas rights shall
20 thereafter be subject to the final order of the Department
21 in such proceedings, and

22 (b) Such notice shall be constructive notification to
23 every person subsequently acquiring an interest in or a
24 lien on any of the property affected thereby, and every
25 person whose interest or lien is not shown of record at the
26 time of filing such notice shall, for the purpose of this

1 Act, be deemed a subsequent purchaser and shall be bound by
2 the proceedings before the Department to the same extent
3 and in the same manner as if he were a party thereto.

4 (4) Any petition by any interested person for a unit as
5 provided in this Section shall be accepted and filed or not
6 accepted and filed by the Department within 10 business days
7 after receipt by the Department. If the petition is accepted
8 and filed, a public hearing on the petition shall be scheduled
9 not less than 30 days, but not more than 60 days, after the
10 acceptance and filing by the Department. If not accepted and
11 filed, the Department shall provide specific requirements for
12 additional information or documentation needed for the
13 petition to be considered, accepted, and filed. Upon submission
14 of the required information and documentation, the same process
15 and timeframe as provided in this paragraph (4) shall continue
16 until the petition has been accepted and filed at which time a
17 hearing shall be scheduled as previously stated in this
18 paragraph (4). The petition shall not be accepted and filed if
19 it is determined by the Department that under any circumstance,
20 legal or regulatory impediments would prevent such acceptance
21 and filing. If the Department does not timely respond as to any
22 petition or the submission of additional information or
23 documentation after initial submission, then the petition
24 shall be deemed to be in sufficient form for acceptance and
25 filing and the Department shall proceed with the scheduling of
26 a public hearing. The Department, after public hearing, shall

1 either grant or deny the petition within 20 working days after
2 the conclusion of the hearing.

3 (Source: P.A. 97-1136, eff. 1-1-13.)