

**98TH GENERAL ASSEMBLY****State of Illinois****2013 and 2014****SB3327**

Introduced 2/14/2014, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

225 ILCS 732/1-25

225 ILCS 732/1-35

Amends the Hydraulic Fracturing Regulatory Act. Changes the setback requirements throughout the Act. Provides that no compressors, dehydrators, condensate tanks, processing plants or stations, pumping stations, open waste pits, flares or critical oil, liquid natural gas or natural gas infrastructure shall be located closer than 1,500 feet to any residence, habitable structure, dwelling, non-residential place of business, place of assembly or place of worship, edge of the property line from any school, hospital, or licensed nursing home facility, nature preserve, State park, or a site on the Register of Land and Water Reserves. Provides that no Class II injection well for use in disposal of any hydraulic fracturing or fracturing wastewater, flowback, or produced water from any oil, liquid natural gas, or natural gas extraction processes shall be located within 10 miles, as measured by a straight line from the closest edge of the property to the closest edge of the Class II injection well site, of any nuclear power plant, uranium processing facility, high level radioactive waste storage facility, or low level radioactive waste storage facility. Applies all setback requirements to horizontal drilling with fracturing operations in addition to all high volume horizontal hydraulic fracturing operations.

LRB098 19583 MGM 54775 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 Hydraulic Fracturing Regulatory Act is
5 amended by changing Sections 1-25 and 1-35 as follows:

6 (225 ILCS 732/1-25)

7 Sec. 1-25. Setbacks and prohibitions.

8 (a) Except as otherwise provided in this Section, no well
9 site where high volume horizontal hydraulic fracturing
10 operations or horizontal drilling with fracturing operations
11 are proposed, planned, or occurring may be located as follows.
12 Unless specified otherwise, all distances shall be measured
13 from the closest edge of the well site:

14 (1) within 1,500 ~~500~~ feet measured horizontally from
15 any residence, habitable structure, dwelling,
16 non-residential place of business, place of assembly, or
17 place of worship ~~unless the owner of the residence or the~~
18 ~~governing body of the place of worship otherwise expressly~~
19 ~~agrees in writing to a closer well location;~~

20 (2) within 1,500 ~~500~~ feet measured horizontally from
21 the edge of the property line from any school, hospital, or
22 licensed nursing home facility;

23 (3) within 1,500 ~~500~~ feet measured horizontally from

1 the surface location of any existing water well or
2 developed spring used for human or domestic animal
3 consumption, ~~unless the owner or owners of the well or~~
4 ~~developed spring otherwise expressly agrees or agree in~~
5 ~~writing to a closer well location;~~

6 (4) within 1,500 ~~300~~ feet measured horizontally from
7 the center of a perennial stream or from the ordinary high
8 water mark of any river, natural or artificial lake, pond,
9 or reservoir;

10 (5) within 1,500 ~~750~~ feet of a nature preserve, State
11 park, State sponsored or cataloged wetlands, or a site on
12 the Register of Land and Water Reserves;

13 (6) within 1,500 feet of a surface water or groundwater
14 intake of a public water supply; the distance from the
15 public water supply as identified by the Department shall
16 be measured as follows:

17 (A) For a surface water intake on a lake or
18 reservoir, the distance shall be measured from the
19 intake point on the lake or reservoir.

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

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

26 (7) within 1,500 feet of any part of all known previous

1 well bores, or of any part of any horizontal well bore that
2 penetrated within 400 vertical feet of the formation that
3 will be stimulated as part of high volume horizontal
4 hydraulic fracturing operations or horizontal drilling
5 with fracturing operations;

6 (8) within 3 miles of any nuclear power plant, uranium
7 processing facility, high level radioactive waste storage
8 facility, or low level radioactive waste storage facility,
9 as measured by a straight line from the closed edge of the
10 property on which the nuclear power plant, uranium
11 processing facility, or low level radioactive waste
12 storage facility is located, to the closest edge of the
13 well pad;

14 (9) within 1,500 feet of any farm building, outlying
15 farm building, or enclosed area for housing or feeding farm
16 animals used for production, including, but not limited to,
17 barns, coops, stables, feedlots, confinements and dairy
18 operations; and

19 (10) within 1,500 feet of any part of a closed or
20 operating coal mine shaft or mineral chamber.

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

24 (b) Notwithstanding any other provision of this Section,
25 the owner of an existing water well, developed spring,
26 artificial lake, pond, or reservoir used for human or domestic

1 animal consumption ~~a water source~~ identified in paragraph (3)
2 or (4) of subsection (a) of this Section that is wholly
3 contained within the owner's property, and wholly owned by the
4 owner of the property without lien, may expressly agree in
5 writing to a closer well location.

6 (c) It is unlawful to inject or discharge hydraulic
7 fracturing fluid, fracturing fluid, flowback, produced water,
8 BTEX, diesel, or petroleum distillates into fresh water.

9 (d) It is unlawful to perform any high volume horizontal
10 hydraulic fracturing operations or horizontal drilling with
11 fracturing operations by knowingly or recklessly injecting
12 diesel.

13 (e) No compressors, dehydrators, condensate tanks,
14 processing plants or stations, pumping stations, open waste
15 pits, flares or critical oil, liquid natural gas, or natural
16 gas infrastructure shall be located closer than 1,500 feet to
17 any residence, habitable structure, dwelling, non-residential
18 place of business, place of assembly or place of worship, edge
19 of the property line from any school, hospital, or licensed
20 nursing home facility, nature preserve, State park, or a site
21 on the Register of Land and Water Reserves.

22 (f) No Class II injection well for use in disposal of any
23 hydraulic fracturing or fracturing wastewater, flowback, or
24 produced water from any oil, liquid natural gas, or natural gas
25 extraction processes shall be located within 10 miles, as
26 measured by a straight line from the closest edge of the

1 property to the closest edge of the Class II injection well
2 site, of any nuclear power plant, uranium processing facility,
3 high level radioactive waste storage facility, or low level
4 radioactive waste storage facility.

5 (Source: P.A. 98-22, eff. 6-17-13.)

6 (225 ILCS 732/1-35)

7 Sec. 1-35. High volume horizontal hydraulic fracturing or
8 horizontal drilling with fracturing operations permit
9 application.

10 (a) Every applicant for a permit under this Act shall first
11 register with the Department at least 30 days before applying
12 for a permit. The Department shall make available a
13 registration form within 90 days after the effective date of
14 this Act. The registration form shall require the following
15 information:

16 (1) the name and address of the registrant and any
17 parent, subsidiary, or affiliate thereof;

18 (2) disclosure of all findings of a serious violation
19 or an equivalent violation under federal or state laws or
20 regulations in the development or operation of an oil or
21 gas exploration or production site via hydraulic
22 fracturing or horizontal drilling with fracturing
23 operations by the applicant or any parent, subsidiary, or
24 affiliate thereof within the previous 5 years; and

25 (3) proof of insurance to cover injuries, damages, or

1 loss related to pollution or diminution in the amount of at
2 least \$5,000,000, from an insurance carrier authorized,
3 licensed, or permitted to do this insurance business in
4 this State that holds at least an A- rating by A.M. Best &
5 Co. or any comparable rating service.

6 A registrant must notify the Department of any change in
7 the information identified in paragraphs (1), (2), or (3) of
8 this subsection (a) at least annually or upon request of the
9 Department.

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

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

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

17 (3) a statement whether the proposed location of the
18 well site is in compliance with the requirements of Section
19 1-25 of this Act and a plat, which shows the proposed
20 surface location of the well site, providing the distance
21 in feet, from the surface location of the well site to the
22 features described in subsection (a) of Section 1-25 of
23 this Act;

24 (4) a detailed description of the proposed well to be
25 used for the high volume horizontal hydraulic fracturing
26 operations or horizontal drilling with fracturing

1 operations including, but not limited to, the following
2 information:

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

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

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

8 (D) the angle and direction of any nonvertical
9 portion of the wellbore until the well reaches its
10 total target depth or its actual final depth; and

11 (E) the estimated length and direction of the
12 proposed horizontal lateral or wellbore;

13 (5) the estimated depth and elevation, according to the
14 most recent publication of the Illinois State Geological
15 Survey of Groundwater for the location of the well, of the
16 lowest potential fresh water along the entire length of the
17 proposed wellbore;

18 (6) a detailed description of the proposed high volume
19 horizontal hydraulic fracturing operations or horizontal
20 drilling with fracturing operations, including, but not
21 limited to, the following:

22 (A) the formation affected by the high volume
23 horizontal hydraulic fracturing operations or
24 horizontal drilling with fracturing operations,
25 including, but not limited to, geologic name and
26 geologic description of the formation that will be

1 stimulated by the operation;

2 (B) the anticipated surface treating pressure
3 range;

4 (C) the maximum anticipated injection treating
5 pressure;

6 (D) the estimated or calculated fracture pressure
7 of the producing and confining zones; and

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

10 (7) a plat showing all known previous wellbores ~~well~~
11 ~~bores~~ within 1,500 ~~750~~ feet of any part of the horizontal
12 wellbore ~~well bore~~ that penetrated within 400 vertical feet
13 of the formation that will be stimulated as part of the
14 high volume horizontal hydraulic fracturing operations or
15 horizontal drilling with fracturing operations;

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

22 (A) the total volume of water anticipated to be
23 used in the hydraulic fracturing treatment of the well
24 or the type and total volume of the base fluid
25 anticipated to be used in the hydraulic fracturing or
26 fracturing treatment, if something other than water;

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

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

11 (D) the anticipated concentration in the base
12 fluid, in percent by mass, of each chemical to be
13 intentionally added to the base fluid;

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

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

18 (A) the source of the water, such as surface or
19 groundwater, anticipated to be used for water
20 withdrawals, and the anticipated withdrawal location;

21 (B) the anticipated volume and rate of each water
22 withdrawal from each withdrawal location;

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

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

1 (E) the methods to be used for surface water
2 withdrawals to minimize adverse impact to aquatic
3 life.

4 Where a surface water source is wholly contained within
5 a single property, and the owner of the property expressly
6 agrees in writing to its use for water withdrawals, the
7 applicant is not required to include this surface water
8 source in the fresh water withdrawal and management plan;~~;~~

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

23 (12) a well site safety plan to address proper safety
24 measures to be employed during high volume horizontal
25 hydraulic fracturing operations or horizontal drilling
26 with fracturing operations for the protection of persons on

1 the site as well as the general public. Within 15 calendar
2 days after submitting the permit application to the
3 Department, the applicant must provide a copy of the plan
4 to the county or counties in which hydraulic fracturing
5 operations or horizontal drilling with fracturing
6 operations will occur. Within 5 calendar days of its
7 receipt, the Department shall provide a copy of the well
8 site safety plan to the Office of the State Fire Marshal;

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

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

20 (15) a traffic management plan that identifies the
21 anticipated roads, streets, and highways that will be used
22 for access to and egress from the well site. The traffic
23 management plan will include a point of contact to discuss
24 issues related to traffic management. Within 15 calendar
25 days after submitting the permit application to the
26 Department, the applicant must provide a copy of the

1 traffic management plan to the county or counties in which
2 the well site is located, and within 5 calendar days of its
3 receipt, the Department shall provide a copy of the traffic
4 management plan to the Office of the State Fire Marshal;

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

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

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

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

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

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

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

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

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

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

1 information contained in the application and its attachments.
2 Any person signing an application shall also sign an affidavit
3 with the following certification:

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

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

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

25 (i) Upon receipt of a permit application, the Department
26 shall have no more than 60 calendar days from the date it

1 receives the permit application to approve, with any conditions
2 the Department may find necessary, or reject the application
3 for the high volume horizontal hydraulic fracturing permit. The
4 applicant may waive, in writing, the 60-day deadline upon its
5 own initiative or in response to a request by the Department.

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

16 (Source: P.A. 98-22, eff. 6-17-13; revised 11-12-13.)