

AN ACT concerning regulation.

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

ARTICLE 1.

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

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Aquifer" means saturated (with groundwater) soils and geologic materials that are sufficiently permeable to readily yield economically useful quantities (at least 70 gallons per minute) of fresh water to wells, springs, or streams under ordinary hydraulic gradients. "Aquifer" is limited to aquifers identified as major sand and gravel aquifers in the Illinois State Water Survey's Illinois Community Water Supply Wells map, Map Series 2006-01.

"Base fluid" means the continuous phase fluid type, including, but not limited to, water used in a high volume

horizontal hydraulic fracturing operation.

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

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

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

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

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

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

"Department" means the Illinois Department of Natural Resources.

"Diesel" means a substance having any one of the following Chemical Abstracts Service Registry numbers: 68334-30-5; 68476-34-6; 68476-30-2; 68476-31-3; 8008-20-6; or 68410-00-4.

"Diesel" includes any additional substances regulated by the United States Environmental Protection Agency as diesel fuel

used in hydraulic fracturing activities under the federal Safe Drinking Water Act.

"Director" means the Director of Natural Resources.

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

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

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

"Fresh water" means surface and subsurface water in its natural state that is suitable for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, that is capable of

supporting aquatic life, and contains less than 10,000 ppm total dissolved solids.

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

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

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

"High volume horizontal hydraulic fracturing operations" means all stages of a stimulation treatment of a horizontal well as defined by this Act by the pressurized application of more than 80,000 gallons per stage or more than 300,000 gallons total of hydraulic fracturing fluid and proppant to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas.

"High volume horizontal hydraulic fracturing permit" means the permit issued by the Department under this Act allowing high volume horizontal hydraulic fracturing operations to occur at a well site.

"High volume horizontal hydraulic fracturing treatment" shall have the same definition as "High volume horizontal

hydraulic fracturing operations".

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

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

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

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

"Hydraulic fracturing string" means any pipe or casing string used for the transport of hydraulic fracturing fluids during the conduct of the high volume horizontal hydraulic fracturing operations.

"Intake" means a pipe or other means to withdraw raw water

from a water source.

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

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

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

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

"Operator" means the individual or entity controlling the right to drill or produce a horizontal well in accordance with the requirements of the Illinois Oil and Gas Act.

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

"Perennial stream" means a stream that has continuous flow

in its stream bed during all of the calendar year.

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

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

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

"Pollution or diminution" means:

(1) in groundwater, any of the following:

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

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

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

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

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

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

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

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

"Public water supply" means all mains, pipes, and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, and storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use, and which serves at least 15 service connections or which regularly serves at least 25 persons at least 60 days per year.

"Register of Land and Water Reserves" means the list of areas registered in accordance with Section 16 of the Illinois

Natural Areas Preservation Act and Part 4010 of Title 17 of the Illinois Administrative Code.

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

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

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

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

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

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

"Water pollution" means any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the State, or the discharge of any contaminant into any water of the State, as will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other

legitimate uses, or to livestock, wild animals, birds, or fish or other aquatic life.

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

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

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

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

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

Section 1-10. Intergovernmental cooperation. The Department shall have the primary authority to administer the provisions of this Act. The Illinois State Geological Survey, the Illinois State Water Survey, the Office of the State Fire Marshal, and the Agency shall be advised of high volume

horizontal hydraulic fracturing permit applications received by the Department and lend assistance as required by the provisions of this Act.

Section 1-15. Powers and duties.

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

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

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

(d) For the purpose of determining compliance with the provisions of this Act and any orders or rules entered or adopted under this Act, the Department shall have the right at all times to go upon and inspect properties where high volume horizontal hydraulic fracturing operations are being or have been conducted.

(e) The Department shall make any inquiries as it may deem

proper to determine whether a violation of this Act or any orders or rules entered or adopted under this Act exists or is imminent. In the exercise of these powers, the Department shall have the authority to collect data; require testing and sampling; to make investigation and inspections; to examine properties, including records and logs; to examine, check, and test hydrocarbon wells; to hold hearings; to adopt administrative rules; and to take any action as may be reasonably necessary to enforce this Act.

(f) Except as otherwise provided, the Department may specify the manner in which all information required to be submitted under this Act is submitted.

Section 1-20. Applicability. Except as provided in Section 1-98 of this Act, this Act applies to all wells where high volume horizontal hydraulic fracturing operations are planned, have occurred, or are occurring in this State. The provisions of this Act shall be in addition to the provisions of the Illinois Oil and Gas Act. However, if there is a conflict, the provisions of the Illinois Oil and Gas Act are superseded by this Act.

Section 1-25. Setbacks and prohibitions.

(a) Except as otherwise provided in this Section, no well site where high volume horizontal hydraulic fracturing operations are proposed, planned, or occurring may be located

as follows. Unless specified otherwise, all distances shall be measured from the closest edge of the well site:

- (1) within 500 feet measured horizontally from any residence or place of worship unless the owner of the residence or the governing body of the place of worship otherwise expressly agrees in writing to a closer well location;
- (2) within 500 feet measured horizontally from the edge of the property line from any school, hospital, or licensed nursing home facility;
- (3) within 500 feet measured horizontally from the surface location of any existing water well or developed spring used for human or domestic animal consumption, unless the owner or owners of the well or developed spring otherwise expressly agrees or agree in writing to a closer well location;
- (4) within 300 feet measured horizontally from the center of a perennial stream or from the ordinary high water mark of any river, natural or artificial lake, pond, or reservoir;
- (5) within 750 feet of a nature preserve or a site on the Register of Land and Water Reserves;
- (6) within 1,500 feet of a surface water or groundwater intake of a public water supply; the distance from the public water supply as identified by the Department shall be measured as follows:

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

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

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

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

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

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

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

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

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

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

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

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

- (1) the name and address of the registrant and any parent, subsidiary, or affiliate thereof;
- (2) disclosure of all findings of a serious violation or an equivalent violation under federal or state laws or

regulations in the development or operation of an oil or gas exploration or production site via hydraulic fracturing by the applicant or any parent, subsidiary, or affiliate thereof within the previous 5 years; and

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

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

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

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

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

(3) a statement whether the proposed location of the well site is in compliance with the requirements of Section 1-25 of this Act and a plat, which shows the proposed surface location of the well site, providing the distance in feet, from the surface location of the well site to the

features described in subsection (a) of Section 1-25 of this Act;

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

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

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

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

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

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

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

(6) a detailed description of the proposed high volume horizontal hydraulic fracturing operations, including, but not limited to, the following:

(A) the formation affected by the high volume horizontal hydraulic fracturing operations, including,

but not limited to, geologic name and geologic description of the formation that will be stimulated by the operation;

(B) the anticipated surface treating pressure range;

(C) the maximum anticipated injection treating pressure;

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

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

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

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

(A) the total volume of water anticipated to be used in the hydraulic fracturing treatment of the well or the type and total volume of the base fluid anticipated to be used in the hydraulic fracturing

treatment, if something other than water;

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

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

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

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

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

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

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

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

(D) the methods to be used to minimize water

withdrawals as much as feasible; and

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

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

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

(12) a well site safety plan to address proper safety measures to be employed during high volume horizontal hydraulic fracturing operations for the protection of

persons on the site as well as the general public. Within 15 calendar days after submitting the permit application to the Department, the applicant must provide a copy of the plan to the county or counties in which hydraulic fracturing operations will occur. Within 5 calendar days of its receipt, the Department shall provide a copy of the well site safety plan to the Office of the State Fire Marshal;

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

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

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

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

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

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

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

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

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

(c) Where an application is made to conduct high volume horizontal fracturing operations at a well site located within the limits of any city, village, or incorporated town, the application shall state the name of the city, village, or incorporated town and be accompanied with a certified copy of the official consent for the hydraulic fracturing operations to

occur from the municipal authorities where the well site is proposed to be located. No permit shall be issued unless consent is secured and filed with the permit application. In the event that an amended location is selected, the original permit shall not be valid unless a new certified consent is filed for the amended location.

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

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

(f) Each application submitted under this Act shall be signed, under the penalty of perjury, by the applicant or the applicant's designee who has been vested with the authority to act on behalf of the applicant and has direct knowledge of the information contained in the application and its attachments. Any person signing an application shall also sign an affidavit

with the following certification:

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

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

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

(i) Upon receipt of a permit application, the Department shall have no more than 60 calendar days from the date it receives the permit application to approve, with any conditions the Department may find necessary, or reject the application

for the high volume horizontal hydraulic fracturing permit. The applicant may waive, in writing, the 60-day deadline upon its own initiative or in response to a request by the Department.

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

Section 1-40. Public notice.

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

(b) Within 5 calendar days after the Department's receipt of the permit application and notice to the applicant that the high volume horizontal hydraulic fracturing permit application was received, the Department shall provide the Agency, the Office of the State Fire Marshal, Illinois State Water Survey,

and Illinois State Geological Survey with notice of the application.

(c) The applicant shall provide the following public notice:

(1) Applicants shall mail specific public notice by U.S. Postal Service certified mail, return receipt requested, within 3 calendar days after submittal of the high volume horizontal hydraulic fracturing permit application to the Department, to all persons identified as owners of real property within 1,500 feet of the proposed well site, as disclosed by the records in the office of the recorder of the county or counties, and to each municipality and county in which the well site is proposed to be located.

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

If a well is proposed for high volume hydraulic fracturing operations in a county where there is no daily newspaper of general circulation, applicant shall provide

general public notice, by publication, once each week for 2 consecutive weeks, in a weekly newspaper of general circulation in that county beginning as soon as the publication schedule of the weekly newspaper permits, but in no case later than 10 days after submittal of the high volume hydraulic fracturing permit application to the Department.

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

- (A) the name and address of the applicant;
- (B) the date the application for a high volume horizontal hydraulic fracturing permit was filed;
- (C) the dates for the public comment period and a statement that anyone may file written comments about any portion of the applicant's submitted high volume horizontal hydraulic fracturing permit application with the Department during the public comment period;
- (D) the proposed well name, reference number assigned by the Department, and the address and legal description of the well site and its unit area;
- (E) a statement that the information filed by the applicant in their application for a high volume horizontal hydraulic fracturing permit is available from the Department through its website;
- (F) the Department's website and the address and

telephone number for the Department's Oil and Gas Division;

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

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

(e) If multiple applications are submitted at the same time for wells located on the same well site, the applicant may use one public notice for all applications provided the notice is clear that it pertains to multiple applications and conforms to the requirements of this Section. Notice shall not constitute standing for purposes of requesting a public hearing or for standing to appeal the decision of the Department in accordance with the Administrative Review Law.

Section 1-45. Public comment periods.

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

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

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

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

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

(a) When a permit application is submitted to conduct high volume horizontal hydraulic fracturing operations for the first time at a particular well site, any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit, may file written

objections to the permit application and may request a public hearing during the public comment period established under subsection (a) of Section 1-45 of this Act. The request for hearing shall contain a short and plain statement identifying the person and stating facts demonstrating that the person has an interest that is or may be adversely affected. The Department shall hold a public hearing upon a request under this subsection, unless the request is determined by the Department to (i) lack an adequate factual statement that the person is or may be adversely affected or (ii) be frivolous.

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

(c) The public hearing to be conducted under this Section shall comply with the contested case requirements of the

Illinois Administrative Procedure Act. The Department shall establish rules and procedures to determine whether any request for a public hearing may be granted in accordance with subsection (a) of this Section, and for the notice and conduct of the public hearing. These procedural rules shall include provisions for reasonable notice to (i) the public and (ii) all parties to the proceeding, which include the applicant, the persons requesting the hearing, and the persons granted the right to participate in the hearing pursuant to subsection (b) of this Section, for the qualifications, powers, and obligations of the hearing officer, and for reasonable opportunity for all the parties to provide evidence and argument, to respond by oral or written testimony to statements and objections made at the public hearing, and for reasonable cross-examination of witnesses. County boards and the public may present their written objections or recommendations at the public hearing. A complete record of the hearings and all testimony shall be made by the Department and recorded stenographically or electronically. The complete record shall be maintained and shall be accessible to the public on the Department's website until final release of the applicant's performance bond.

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

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

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

- (1) the well location restrictions of Section 1-25 of this Act have been satisfied;
- (2) the application meets the requirements of Section 1-35 of this Act;
- (3) the plans required to be submitted with the application under Section 1-35 of this Act are adequate and effective;
- (4) the proposed hydraulic fracturing operations will be conducted in a manner that will protect the public health and safety and prevent pollution or diminution of any water source;
- (5) the work plan required under Section 1-80 of this Act has been submitted to the Department;
- (6) the applicant or any parent, subsidiary, or affiliate thereof has not failed to abate a violation of this Act or the Illinois Oil and Gas Act;
- (7) the Class II injection wells to be used for disposal of hydraulic fracturing flowback comply with all applicable requirements for mechanical integrity testing,

including that the well has been tested within the previous 5 years; and

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

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

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

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

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

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

(c) The Department shall, by U.S. Mail and electronic transmission, provide the applicant with a copy of the high volume horizontal hydraulic fracturing permit as issued or its final administrative decision denying the permit to the applicant and shall, by U.S. Mail or electronic transmission,

provide a copy of the permit as issued or the final administrative decision to any person or unit of local government who received specific public notice under Section 1-40 of this Act or submitted comments or participated in any public hearing under Section 1-50 of this Act.

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

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

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

(a) Each permit issued by the Department under this Act shall require the permittee to comply with all provisions of this Act and all other applicable local, State, and federal laws, rules, and regulations in effect at the time the permit is issued. All plans submitted with the application under Section 1-35 shall be conditions of the permit.

(b) A permit issued under this Act shall continue in effect until plugging and restoration in compliance with this Act and

the Illinois Oil and Gas Act are completed to the Department's satisfaction. No permit may be transferred to another person without approval of the Department.

(c) No permit issued under this Act may be modified without approval of the Department. If the Department determines that the proposed modifications constitute a significant deviation from the terms of the original application and permit approval, or presents a serious risk to public health, life, property, aquatic life, or wildlife, the Department shall provide the opportunities for notice, comment, and hearing required under Sections 1-45 and 1-50 of this Act. The Department shall provide notice of the proposed modification and opportunity for comment and hearing to the persons who received specific public notice under Section 1-40 of this Act and shall publish the notice and the proposed modification on its website. The Department shall adopt rules regarding procedures for a permit modification.

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

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

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

(2) violating any condition of the permit;

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

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

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

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

(b) In every case in which a permit is suspended or revoked, the Department shall serve notice of its action, including a statement of the reasons for the action, either personally or by certified mail, receipt return requested, to the permittee.

(c) The order of suspension or revocation of a permit shall take effect upon issuance of the order. The permittee may request, in writing, within 30 days after the date of receiving the notice, a hearing. Except as provided under subsection (d) of this Section, in the event a hearing is requested, the order

shall remain in effect until a final order is entered pursuant to the hearing.

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

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

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

(g) The Department's decision to suspend or revoke a high volume horizontal hydraulic fracturing permit is subject to judicial review under the Administrative Review Law.

Section 1-65. Hydraulic fracturing permit; bonds.

(a) An applicant for a high volume horizontal hydraulic fracturing permit under this Act shall provide a bond, executed by a surety authorized to transact business in this State. The bond shall be in the amount of \$50,000 per permit or a blanket bond of \$500,000 for all permits. If the applicant is required

to submit a bond to the Department under the Illinois Oil and Gas Act, the applicant's submission of a bond under this Section shall satisfy the bonding requirements provided for in the Illinois Oil and Gas Act. In lieu of a bond, the applicant may provide other collateral securities such as cash, certificates of deposit, or irrevocable letters of credit under the terms and conditions as the Department may provide by rule.

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

(c) If, after notice and hearing, the Department determines that any of the requirements of this Act or rules adopted under this Act or the orders of the Department have not been complied with within the time limit set by any notice of violation issued under this Act, the permittee's bond or other collateral securities shall be forfeited. Forfeiture under this subsection shall not limit any duty of the permittee to mitigate or remediate harms or foreclose enforcement by the Department or the Agency. In no way will payment under this bond exceed the aggregate penalty as specified.

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

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

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

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

(b) Site preparation standards shall be as follows:

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

(2) Unless otherwise approved or directed by the Department, all topsoil stripped to facilitate the

construction of the well pad and access roads must be stockpiled, stabilized, and remain on site for use in either partial or final reclamation. In the event it is anticipated that the final reclamation shall take place in excess of one year from drilling the well the topsoil may be disposed of in any lawful manner provided the operator reclaims the site with topsoil of similar characteristics of the topsoil removed.

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

(4) The improvement, construction, or repair of a publicly owned highway or roadway, if undertaken by the owner, operator, permittee, or any other private entity, shall be performed using bidding procedures outlined in the Illinois Department of Transportation rules governing local roads and streets or applicable bidding requirements outlined in the Illinois Procurement Code as though the project were publicly funded.

(c) Site maintenance standards shall be as follows:

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

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

this Act.

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

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

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

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

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

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

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

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

- (A) secure the casing in the wellbore;
- (B) isolate and protect fresh groundwater;
- (C) isolate abnormally pressured zones, lost circulation zones, and any potential flow zones including hydrocarbon and fluid-bearing zones;
- (D) properly control formation pressure and any pressure from drilling, completion and production;
- (E) protect the casing from corrosion and degradation; and

(F) prevent gas flow in the annulus.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) After the setting and cementing of a casing string, except the conductor casing, and prior to further drilling, the casing string shall be tested with fresh water, mud, or brine to no less than 0.22 psi per foot of

casing string length or 1,500 psi, whichever is greater but not to exceed 70% of the minimum internal yield, for at least 30 minutes with less than a 5% pressure loss, except that any casing string that will have pressure exerted on it during stimulation of the well shall be tested to at least the maximum anticipated treatment pressure. If the pressure declines more than 5% or if there are other indications of a leak, corrective action shall be taken before conducting further drilling and high volume horizontal hydraulic fracturing operations. The operator shall contact the Department's District Office for any county in which the well is located at least 24 hours prior to conducting a pressure test to enable an inspector to be present when the test is done. A record of the pressure test must be maintained by the operator and must be submitted to the Department on a form prescribed by the Department prior to conducting high volume horizontal hydraulic fracturing operations. The actual pressure must not exceed the test pressure at any time during high volume horizontal hydraulic fracturing operations.

(17) Any hydraulic fracturing string used in the high volume horizontal hydraulic fracturing operations must be either strung into a production liner or run with a packer set at least 100 feet below the deepest cement top and must be tested to not less than the maximum anticipated treating pressure minus the annulus pressure applied between the

fracturing string and the production or immediate casing. The pressure test shall be considered successful if the pressure applied has been held for 30 minutes with no more than 5% pressure loss. A function-tested relief valve and diversion line must be installed and used to divert flow from the hydraulic fracturing string-casing annulus to a covered watertight steel tank in case of hydraulic fracturing string failure. The relief valve must be set to limit the annular pressure to no more than 95% of the working pressure rating of the casings forming the annulus. The annulus between the hydraulic fracturing string and casing must be pressurized to at least 250 psi and monitored.

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

pressure at any time during high volume horizontal hydraulic fracturing operations.

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

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

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

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

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

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

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

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

(a) General.

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

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

(3) The permittee shall notify the Department by phone, electronic communication, or letter, at least 48 hours prior to the commencement of high volume horizontal hydraulic fracturing operations.

(b) Integrity tests and monitoring.

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

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

(3) The pressure exerted on treating equipment including valves, lines, manifolds, hydraulic fracturing head or tree, casing and hydraulic fracturing string, if used, must not exceed 95% of the working pressure rating of

the weakest component. The high volume horizontal hydraulic fracturing treatment pressure must not exceed the test pressure of any given component at any time during high volume horizontal hydraulic fracturing operations.

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

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

(c) Fluid and waste management.

(1) For the purposes of storage at the well site and

except as provided in paragraph (2) of this subsection, hydraulic fracturing additives, hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water shall be stored in above-ground tanks during all phases of drilling, high volume horizontal hydraulic fracturing, and production operations until removed for proper disposal. For the purposes of centralized storage off site for potential reuse prior to disposal, hydraulic fracturing additives, hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water shall be stored in above-ground tanks.

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

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

(B) the pit lining system shall be designed to have

a capacity at least equivalent to 110% of the maximum volume of hydraulic fracturing flowback anticipated to be recovered;

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

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

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

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

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

(5) Hydraulic fracturing fluids and hydraulic fracturing flowback must be removed from the well site within 60 days after completion of high volume horizontal fracturing operations, except that any excess hydraulic

fracturing flowback captured for temporary storage in a reserve pit as provided in paragraph (2) of this subsection must be removed from the well site within 7 days.

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

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

(8) Hydraulic fracturing flowback may only be disposed of by injection into a Class II injection well that is below interface between fresh water and naturally

occurring Class IV groundwater. Produced water may be disposed of by injection in a permitted enhanced oil recovery operation. Hydraulic fracturing flowback and produced water may be treated and recycled for use in hydraulic fracturing fluid for high volume horizontal hydraulic fracturing operations.

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

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

(11) Drill cuttings, drilling fluids, and drilling wastes not containing oil-based mud or polymer-based mud may be stored in tanks or pits. Pits used to store cuttings, fluids, and drilling wastes from wells not using fresh water mud shall be subject to the construction standards identified in (2) of this Section. Drill cuttings not contaminated with oil-based mud or polymer-based mud may be disposed of onsite subject to the approval of the

Department. Drill cuttings contaminated with oil-based mud or polymer-based mud shall not be disposed of on site. Annular disposal of drill cuttings or fluid is prohibited.

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

(13) Secondary containment for tanks required under this subsection and additive staging areas is required.

Secondary containment measures may include, as deemed appropriate by the Department, one or a combination of the following: dikes, liners, pads, impoundments, curbs, sumps, or other structures or equipment capable of containing the substance. Any secondary containment must be sufficient to contain 110% of the total capacity of the single largest container or tank within a common containment area. No more than one hour before initiating any stage of the high volume horizontal hydraulic fracturing operations, all secondary containment must be visually inspected to ensure all structures and equipment are in place and in proper working order. The results of this inspection must be recorded and documented by the operator, and available to the Department upon request.

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

(15) Operators operating wells permitted under this Act must submit an annual report to the Department detailing the management of any produced water associated with the permitted well. The report shall be due to the Department no later than April 30th of each year and shall provide information on the operator's management of any

produced water for the prior calendar year. The report shall contain information relative to the amount of produced water the well permitted under this Act produced, the method by which the produced water was disposed, and the destination where the produced water was disposed in addition to any other information the Department determines is necessary by rule.

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

(e) Emissions controls.

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

(2) Except as otherwise provided in paragraph (8) of this subsection (e), permittees shall be responsible for managing gas and hydrocarbon fluids produced during the flowback period by routing recovered hydrocarbon fluids to one or more storage vessels or re-injecting into the well or another well, and routing recovered natural gas into a

flow line or collection system, re-injecting the gas into the well or another well, using the gas as an on-site fuel source, or using the gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

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

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

(A) routing the recovered fluids into storage vessels and (i) routing the recovered gas into a gas gathering line, collection system, or to a generator for onsite energy generation, providing that gas to the

surface owner of the well site for use for heat or energy generation, or (ii) using another method other than venting or flaring; and

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

(5) If the permittee establishes that it is technically infeasible or economically unreasonable to minimize emissions associated with the venting of hydrocarbon fluids and natural gas during production using the methods specified in paragraph (4) of this subsection (e), the Department shall require the permittee to capture and direct any natural gas produced during the production phase to a flare. Any flare used pursuant to this paragraph shall be equipped with a reliable continuous ignition source over the duration of production. In order to establish technical infeasibility or economic unreasonableness under this paragraph (5), the permittee must demonstrate, for each well site on an annual basis, that taking the actions listed in paragraph (4) of this subsection (e) are not cost effective based on a site-specific analysis. Permittees that use a flare during the production phase for operations other than emergency conditions shall file an updated site-specific analysis annually with the Department. The analysis shall be due one year from the date of the

previous submission and shall detail whether any changes have occurred that alter the technical infeasibility or economic unreasonableness of the permittee to reduce their emissions in accordance with paragraph (4) of this subsection (e).

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

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

(8) For each wildcat well, delineation well, or low

pressure well, permittees shall be responsible for minimizing the emissions associated with venting of hydrocarbon fluids and natural gas during the flowback period and production phase by capturing and directing the emissions to a completion combustion device during the flowback period and to a flare during the production phase, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device or flare may negatively impact waterways. Completion combustion devices and flares shall be equipped with a reliable continuous ignition source over the duration of the flowback period and the production phase, as applicable.

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

(10) Permittees shall employ practices for control of fugitive dust related to their operations. These practices shall include, but are not limited to, the use of speed restrictions, regular road maintenance, and restriction of construction activity during high-wind days. Additional management practices such as road surfacing, wind breaks

and barriers, or automation of wells to reduce truck traffic may also be required by the Department if technologically feasible and economically reasonable to minimize fugitive dust emissions.

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

(f) High volume horizontal hydraulic fracturing operations completion report. Within 60 calendar days after the conclusion of high volume horizontal hydraulic fracturing operations, the operator shall file a high volume horizontal hydraulic fracturing operations completion report with the Department. A copy of each completion report submitted to the Department shall be provided by the Department to the Illinois State Geological Survey. The completion reports required by this Section shall be considered public information and shall be made available on the Department's website. The high volume horizontal hydraulic fracturing operations completion report

shall contain the following information:

- (1) the permittee name as listed in the permit application;
- (2) the dates of the high volume horizontal hydraulic fracturing operations;
- (3) the county where the well is located;
- (4) the well name and Department reference number;
- (5) the total water volume used in the high volume horizontal hydraulic fracturing operations of the well, and the type and total volume of the base fluid used if something other than water;
- (6) each source from which the water used in the high volume horizontal hydraulic fracturing operations was drawn, and the specific location of each source, including, but not limited to, the name of the county and latitude and longitude coordinates;
- (7) the quantity of hydraulic fracturing flowback recovered from the well;
- (8) a description of how hydraulic fracturing flowback recovered from the well was disposed and, if applicable, reused;
- (9) a chemical disclosure report identifying each chemical and proppant used in hydraulic fracturing fluid for each stage of the hydraulic fracturing operations including the following:
  - (A) the total volume of water used in the hydraulic

fracturing treatment of the well or the type and total volume of the base fluid used in the hydraulic fracturing treatment, if something other than water;

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

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

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

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

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

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

(a) If the chemical disclosure information required by paragraph (8) of subsection (b) of Section 1-35 of this Act is not submitted at the time of permit application, then the

permittee, applicant, or person who will perform high volume horizontal hydraulic fracturing operations at the well shall submit this information to the Department in electronic format no less than 21 calendar days prior to performing the high volume horizontal hydraulic fracturing operations. The permittee shall not cause or allow any stimulation of the well if it is not in compliance with this Section. Nothing in this Section shall prohibit the person performing high volume horizontal hydraulic fracturing operations from adjusting or altering the contents of the fluid during the treatment process to respond to unexpected conditions, as long as the permittee or the person performing the high volume horizontal hydraulic fracturing operations notifies the Department by electronic mail within 24 hours of the departure from the initial treatment design and includes a brief explanation of the reason for the departure.

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

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

- (1) be authorized to do business in this State; and
- (2) maintain and disclose to the Department separate and up-to-date master lists of:

(A) the base fluid to be used during any high

volume horizontal hydraulic fracturing operations within this State;

(B) all hydraulic fracturing additives to be used during any high volume horizontal hydraulic fracturing operations within this State; and

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

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

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

(f) Where an applicant, permittee, or the person performing high volume horizontal hydraulic fracturing operations furnishes chemical disclosure information to the Department under this Section, Section 1-35, or Section 1-75 of this Act under a claim of trade secret, the applicant, permittee, or person performing high volume horizontal hydraulic fracturing operations shall submit redacted and un-redacted copies of the documents containing the information to the Department and the

Department shall use the redacted copies when posting materials on its website.

(g) Upon submission or within 5 calendar days of submission of chemical disclosure information to the Department under this Section, Section 1-35, or Section 1-75 of this Act under a claim of trade secret, the person that claimed trade secret protection shall provide a justification of the claim containing the following: a detailed description of the procedures used by the person to safeguard the information from becoming available to persons other than those selected by the person to have access to the information for limited purposes; a detailed statement identifying the persons or class of persons to whom the information has been disclosed; a certification that the person has no knowledge that the information has ever been published or disseminated or has otherwise become a matter of general public knowledge; a detailed discussion of why the person believes the information to be of competitive value; and any other information that shall support the claim.

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

(1) the information has not been published, disseminated, or otherwise become a matter of general

public knowledge; and

(2) the information has competitive value.

There is a rebuttable presumption that the information has not been published, disseminated, or otherwise become a matter of general public knowledge if the person has taken reasonable measures to prevent the information from becoming available to persons other than those selected by the person to have access to the information for limited purposes and the statement of justification contains a certification that the person has no knowledge that the information has ever been published, disseminated, or otherwise become a matter of general public knowledge.

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

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

(k) Except as otherwise provided in subsections (l) and (m) of this Section, the Department must maintain the confidentiality of chemical disclosure information furnished under this Section, Section 1-35, or Section 1-75 of this Act

under a claim of trade secret, until the Department receives official notification of a final order by a reviewing body with proper jurisdiction that is not subject to further appeal rejecting a grant of trade secret protection for that information.

(1) The Department shall adopt rules for the provision of information furnished under a claim of trade secret to a health professional who states a need for the information and articulates why the information is needed. The health professional may share that information with other persons as may be professionally necessary, including, but not limited to, the affected patient, other health professionals involved in the treatment of the affected patient, the affected patient's family members if the affected patient is unconscious, unable to make medical decisions, or is a minor, the Centers for Disease Control, and other government public health agencies. Except as otherwise provided in this Section, any recipient of the information shall not use the information for purposes other than the health needs asserted in the request and shall otherwise maintain the information as confidential. Information so disclosed to a health professional shall in no way be construed as publicly available. The holder of the trade secret may request a confidentiality agreement consistent with the requirements of this Section from all health professionals to whom the information is disclosed as soon as circumstances permit. The rules adopted by the Department shall also

establish procedures for providing the information in both emergency and non-emergency situations.

(m) In the event of a release of hydraulic fracturing fluid, a hydraulic fracturing additive, or hydraulic fracturing flowback, and when necessary to protect public health or the environment, the Department may disclose information furnished under a claim of trade secret to the relevant county public health director or emergency manager, the relevant fire department chief, the Director of the Illinois Department of Public Health, the Director of the Illinois Department of Agriculture, and the Director of the Illinois Environmental Protection Agency upon request by that individual. The Director of the Illinois Department of Public Health, and the Director of the Illinois Environmental Protection Agency, and the Director of the Illinois Department of Agriculture may disclose this information to staff members under the same terms and conditions as apply to the Director of Natural Resources. Except as otherwise provided in this Section, any recipient of the information shall not use the information for purposes other than to protect public health or the environment and shall otherwise maintain the information as confidential. Information disclosed to staff shall in no way be construed as publicly available. The holder of the trade secret information may request a confidentiality agreement consistent with the requirements of this Section from all persons to whom the information is disclosed as soon as circumstances permit.

Section 1-80. Water quality monitoring.

(a) Each applicant for a high volume horizontal hydraulic fracturing permit shall provide the Department with a work plan to ensure accurate and complete sampling and testing as required under this Section. The work plan shall ensure compliance with the requirements of this Section and include, at a minimum, the following:

- (1) information identifying all water sources within the range of testing under this Section;
- (2) a sampling plan and protocol, including notification to the Department at least 7 calendar days prior to sample collection;
- (3) the name and contact information of an independent third party under the supervision of a professional engineer or professional geologist that shall be designated to conduct sampling to establish a baseline as provided for under subsection (b) of this Section;
- (4) the name and contact information of an independent third party under the supervision of a professional engineer or professional geologist that shall be designated to conduct sampling to establish compliance with monitoring as provided within subsection (c) of this Section;
- (5) the name and contact information of an independent testing laboratory, certified to perform the required

laboratory method, to conduct the analysis required under subsections (b) and (c) of this Section;

(6) proof of access and the right to test within the area for testing prescribed within subsection (b) of this Section during the duration of high volume horizontal hydraulic fracturing operations covered under the permit application, and copies of any non-disclosure agreements made under subsection (d) of this Section; and

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

(b) Prior to conducting high volume horizontal hydraulic fracturing operations on a well, a permittee shall retain an independent third party, as required within paragraph (3) of subsection (a) of this Section, and shall conduct baseline water quality sampling of all water sources within 1,500 feet of the well site prior to any fracturing activities. Where (i) there are no groundwater wells within 1,500 feet of a well site, or access to groundwater wells within 1,500 feet of the well site has been denied under subsection (d) of this Section, and (ii) the proposed well site is located within 1,500 feet horizontally from any portion of an aquifer, the permittee shall conduct sampling of the aquifer at the closest groundwater well with access to the aquifer to which the

permittee has not been denied access under subsection (d) of this Section. Installation of a groundwater monitoring well is not required to satisfy the sampling requirements of this Section. The samples collected by the independent third party, under the supervision of a professional engineer or professional geologist, shall be analyzed by an independent testing laboratory in accordance with paragraph (4) of subsection (a) of this Section. Testing shall be done by collection of a minimum of 3 samples for each water source required to be tested under this Section. The permittee shall, within 7 calendar days after receipt of results of tests conducted under this subsection, submit the results to the Department or to the owner of the water source under a non-disclosure agreement under subsection (d) of this Section. The Department shall post the results on its website within 7 calendar days after receipt. The results shall, at a minimum, include a detailed description of the sampling and testing conducted under this subsection, the chain of custody of the samples, and quality control of the testing.

(c) After baseline tests are conducted under subsection (b) of this Section and following issuance of a permit by the Department, the permittee shall have all water sources which are subjected to sampling under subsection (b) of this Section sampled and tested in the same manner 6 months, 18 months, and 30 months after the high volume horizontal hydraulic fracturing operations have been completed. Sampling of a water source

under this subsection is not required if the water source was sampled under this subsection or subsection (b) within the previous month. The permittee shall notify the Department at least 7 calendar days prior to taking the sample. The permittee shall, within 7 calendar days after receipt of results of tests conducted under this subsection (c), submit the results to the Department or to the owner of the water source pursuant to a non-disclosure agreement under subsection (d) of this Section. The results shall include, at a minimum, a detailed description of the sampling and testing conducted under this subsection, the chain of custody of the samples, and quality control of the testing.

(d) Sampling of private water wells or ponds wholly contained within private property shall not be required where the owner of the private property declines, expressly and in writing, to provide access or permission for sampling. If the owner of the private property declines to provide proof of his or her refusal to allow access in writing, the operator shall provide the Department evidence as to the good faith efforts that were made to secure the required documentation. Permits issued under this Act cannot be denied if the owner of the private property declines to provide proof of his or her refusal to allow access in writing and the permittee provides evidence that good faith efforts were made to gain access for the purposes of conducting tests. The owners of private property may condition access or permission for sampling of a

private water well or pond wholly within the property or a portion of any perennial stream or river that flows through the property under a non-disclosure agreement, which must include the following terms and conditions:

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

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

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

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

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

(1) pH;

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

(3) chloride, sulfate, arsenic, barium, calcium,

chromium, iron, magnesium, selenium, cadmium, lead, manganese, mercury, and silver;

(4) BTEX; and

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

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

Section 1-83. Order authority.

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

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

(c) Any person conducting or who has conducted high volume

horizontal hydraulic fracturing operations shall supply any information requested by the Department to assist the Department. The Department shall give due consideration to any information submitted during the course of the investigation.

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

(e) Within 15 calendar days after a determination has been made regarding the pollution or diminution, the Department shall provide notice of its findings and the orders, if any, to all persons that use the water source for domestic, agricultural, industrial, or any other legitimate beneficial uses.

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

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

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

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

Section 1-85. Presumption of pollution or diminution.

(a) This Section establishes a rebuttable presumption for the purposes of evidence and liability under State law regarding claims of pollution or diminution of a water source and for use regarding the investigation and order authority under Section 1-83.

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

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

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

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

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

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

- (2) the pollution or diminution occurred prior to high volume horizontal hydraulic fracturing operations or more than 30 months after the completion of the high volume horizontal hydraulic fracturing operations; or
- (3) the pollution or diminution occurred as the result of an identifiable cause other than the high volume horizontal hydraulic fracturing operations.

Section 1-87. Water quality investigation and enforcement.

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

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

(c) A person who has reason to believe they have incurred contamination of a water source as a result of high volume horizontal hydraulic fracturing may notify the Agency and request an investigation be conducted. The Agency shall forward this request to the Department for consideration of an investigation under Section 1-83 of this Act. If the Agency is provided with notice under subsection (f) of Section 1-83, the Agency shall conduct an investigation to determine whether pollution or diminution is continuing to occur at the location subject to the order, as well as locations identified by the Department or at any other water source within 1,500 feet of the well site. Any person conducting or who has conducted high volume horizontal hydraulic fracturing operations shall supply any information requested to assist the Agency in its investigation. The Agency shall give due consideration to any information submitted during the course of the investigation.

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

(e) If an Agency investigation under Section 1-83 or subsection (c) of this Section confirms that the cause of the pollution, diminution, or water pollution is attributable to high volume horizontal hydraulic fracturing operations, in addition to any other relief available under law, the permittee shall be required to reimburse the costs and reasonable expenses incurred by the Agency for all activities related to

the investigation and cleanup. These costs shall include, but not be limited to, inspections, investigations, analyses, personnel, direct and indirect costs, studies, assessments, reports, and review and evaluation of that data, as well as costs under the Agency's review of whether the quality of a restored or replaced water supply meets or exceeds the quality of the water supply before it was affected by the permittee. Costs shall be reimbursed to the Agency by the permittee within 30 calendar days after receipt of a written request for reimbursement by the Agency. For all costs that remain unpaid following 30 calendar days after receipt of a written request for reimbursement, the Agency may institute a civil action for cost recovery under subsection (e) of Section 1-101 of this Act. Failure to reimburse the Agency within 30 calendar days after receipt of the written request for reimbursement is a violation of this Act. Reimbursement of costs collected under this subsection shall be deposited by the Agency into the Illinois Clean Water Fund.

Section 1-95. Plugging; restoration.

(a) The permittee shall perform and complete plugging of the well and restoration of the well site in accordance with the Illinois Oil and Gas Act and any and all rules adopted thereunder. The permittee shall bear all costs related to plugging of the well and reclamation of the well site. If the permittee fails to plug the well in accordance with this

Section, the owner of the well shall be responsible for complying with this Section.

(b) Prior to conducting high volume horizontal hydraulic fracturing operations at a well site, the permittee shall cause to be plugged all previously unplugged well bores within 750 feet of any part of the horizontal well bore that penetrated within 400 vertical feet of the formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations.

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

(d) Unless contractually agreed to the contrary by the permittee and surface owner, the permittee shall restore the

well site and production facility in accordance with the applicable restoration requirements in subsection (c) of this Section and shall remove all equipment and materials involved in site preparation, drilling, and high volume horizontal hydraulic fracturing operations, including tank batteries, rock and concrete pads, oil field debris, injection and flow lines at or above the surface, electric power lines and poles extending on or above the surface, tanks, fluids, pipes at or above the surface, secondary containment measures, rock or concrete bases, drilling equipment and supplies, and any and all other equipment, facilities, or materials used during any stage of site preparation work, drilling, or hydraulic fracturing operations at the well site. Work on the removal of equipment and materials at the well site shall begin within 6 months after plugging the final well on the well site and be completed no later than 12 months after the last producing well on the well site has been plugged. Roads installed as part of the oil and gas operation may be left in place if provided in the lease or pursuant to agreement with the surface owner, as applicable.

Section 1-96. Seismicity.

(a) For purposes of this Section, "induced seismicity" means an earthquake event that is felt, recorded by the national seismic network, and attributable to a Class II injection well used for disposal of flow-back and produced

fluid from hydraulic fracturing operations.

(b) The Department shall adopt rules, in consultation with the Illinois State Geological Survey, establishing a protocol for controlling operational activity of Class II injection wells in an instance of induced seismicity.

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

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

Section 1-97. Department mapping and reporting. On or before February 1, 2014, the Department shall, with the assistance of the Illinois State Geological Survey, submit a report to the General Assembly and Governor identifying the following in Illinois and include any recommendations for additional legislative or administrative action on these items:

(a) the location of resources of shale gas and oil, conventional gas and oil, and process materials, including sand and other naturally occurring geologic materials used in high

volume horizontal hydraulic fracturing operations;

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

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

Two years after the effective date of the first high volume horizontal hydraulic fracturing permit issued by the Department, and every 3 years thereafter, the Department shall prepare a report that examines the following:

- (1) the number of high volume horizontal hydraulic fracturing permits issued by the Department, on an annual basis;
- (2) a map showing the locations in this State where high volume horizontal hydraulic fracturing operations have been permitted by the Department;
- (3) identification of the latest scientific research, best practices, and technological improvements related to high volume horizontal hydraulic fracturing operations and methods to protect the environment and public health;
- (4) any confirmed environmental impacts in this State due to high volume horizontal hydraulic fracturing

operations, including, but not limited to, any reportable release of hydraulic fracturing flowback, hydraulic fracturing fluid, and hydraulic fracturing additive;

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

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

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

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

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

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

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

(11) any other information the Department deems relevant regarding its specific experiences implementing and administering the provisions of this Act and, generally, high volume horizontal hydraulic fracturing operations.

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

Section 1-98. Hydraulic fracturing completion reporting.

(a) For the purposes of this Section, "hydraulic fracturing operations" means all stages of a stimulation treatment of a horizontal well as defined by this Act by the pressurized application of more than 80,000 gallons but less than 300,001 gallons of hydraulic fracturing fluid and proppant to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas.

(b) Within 60 calendar days after the conclusion of hydraulic fracturing operations, the operator shall file a hydraulic fracturing operations completion report with the Department. The hydraulic fracturing operations completion report shall contain the following information:

- (1) the name and location of the well;
- (2) the total and per-stage gallons of hydraulic

fracturing fluid used at the well;

- (3) depth of the wellbore (including both total vertical depth and total measured depth);
- (4) length of horizontal wellbore;
- (5) the maximum surface treating pressure used;
- (6) the formation targeted;
- (7) the number of hydraulic fracturing stages; and
- (8) total perforated interval and individual perforation intervals.

Section 1-99. Task Force on Hydraulic Fracturing Regulation.

(a) There is hereby created the Task Force on Hydraulic Fracturing Regulation.

(b) The task force shall consist of the following members as follows:

- (1) Four legislators, appointed one each by the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives;
- (2) The Governor, or his or her representative;
- (3) The Director of the Illinois Environmental Protection Agency, or his or her representative;
- (4) The Director of the Illinois Department of Natural Resources, or his or her representative;
- (5) The Attorney General of the State of Illinois, or

his or her representative;

(6) The Director of the Illinois State Geological Survey, or his or her representative;

(7) Four representatives from environmental organizations, at least one of whom shall be a national environmental organization, at least one of whom shall be a Midwest regional environmental organization, and at least one of whom shall be an Illinois-based environmental organization, appointed by the Director of the Illinois Department of Natural Resources; and

(8) Four representatives from entities representing the interests of the oil and gas industry, at least one of whom shall represent companies whose activities are national in scope, at least one of whom shall represent companies whose activities are primarily limited to this State, at least one of whom shall represent an industry trade association, and at least one of whom shall represent a statewide labor federation representing more than one international union, appointed by the Director of the Illinois Department of Natural Resources.

(c) The Director of the Illinois Department of Natural Resources shall serve as chairperson of the task force, and the Department shall be responsible for administering its operations and ensuring that the requirements of this Section are met.

(d) The task force may consult with any persons or entities

it deems necessary to carry out its mandate.

(e) Members of the task force shall be appointed no later than 90 days after the effective date of this amendatory Act of the 98th General Assembly. The members of the task force shall receive no compensation for serving as members of the task force.

(f) The task force shall (1) prepare a report evaluating the scope of hydraulic fracturing activity in the State and (2) provide recommendations to the General Assembly as to whether further legislation is needed to regulate hydraulic fracturing in this State. In performing these tasks, the task force shall consider, at a minimum, the data collected by the Department under Section 1-98 of this Act and the Illinois Oil and Gas Act.

(g) The task force shall submit its report and recommendations specified in subsection (f) of this Section to the General Assembly on or before September 15, 2016.

(h) The task force, upon issuance of its report and recommendations, is dissolved and this Section is repealed.

Section 1-100. Criminal offenses; penalties.

(a) Except as otherwise provided in this Section, it shall be a Class A misdemeanor to knowingly violate this Act, its rules, or any permit or term or condition thereof, or knowingly to submit any false information under this Act or regulations adopted thereunder, or under any permit or term or condition

thereof. A person convicted or sentenced under this subsection

(a) shall be subject to a fine of not to exceed \$10,000 for each day of violation.

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

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

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

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

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

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

A person convicted or sentenced for any knowing violation of the requirements or prohibitions listed in this subsection

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

(c) Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Department or Agency as required by this Act, its rules, or any permit, term, or condition of a permit, commits a Class 4 felony, and each false, fictitious, or fraudulent statement or writing shall be considered a separate violation. In addition

to any other penalty prescribed by law, persons in violation of this subsection (c) is subject to a fine of not to exceed \$25,000 for each day of violation. A person who commits a second or subsequent knowing violation of this subsection (c) commits a Class 3 felony and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$50,000 for each day of violation.

(d) Any criminal action provided for under this Section shall be brought by the State's Attorney of the county in which the violation occurred or by the Attorney General and shall be conducted in accordance with the applicable provision of the Code of Criminal Procedure of 1963. For criminal conduct in this Section, the period for commencing prosecution shall not begin to run until the offense is discovered by or reported to a State or local agency having authority to investigate violations of this Act.

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

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

(b) Any person who violates any requirements or

prohibitions of provisions listed in this subsection (b) is subject to a civil penalty not to exceed \$100,000 for the violation and an additional civil penalty not to exceed \$20,000 for each day during which the violation continues. The following are violations are subject to the penalties of this subsection (b):

- (1) subsection (c) of Section 1-25 of this Act;
- (2) subsection (d) of Section 1-25 of this Act;
- (3) subsection (a) of Section 1-30 of this Act;
- (4) paragraph (9) of subsection (c) of Section 1-75 of this Act; or
- (5) subsection (a) of Section 1-87 of this Act.

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

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

Trust Fund Act.

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

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

(g) All final orders imposing civil penalties under this Section shall prescribe the time for payment of those penalties. If any penalty is not paid within the time

prescribed, interest on penalty at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, shall be paid for the period from the date payment is due until the date payment is received. However, if the time for payment is stayed during the pendency of an appeal, interest shall not accrue during stay.

Section 1-102. Other relief.

(a) Any person having an interest that is or may be adversely affected may commence a civil action on his or her own behalf to compel compliance with this Act against any governmental instrumentality or agency which is alleged to be in violation of the provisions of this Act or of any rule, order, or permit issued under this Act, or against any other person who is alleged to be in violation of this Act or of any rule, order, or permit issued under this Act. No action may be commenced under this subsection (a): (i) prior to 60 days after the plaintiff has given notice in writing of the alleged violation to the Department and to any alleged violator or (ii) if the State has commenced and is diligently prosecuting a civil action to require compliance with the provisions of this Act, or any rule, order, or permit issued under this Act.

(b) Any person having an interest that is or may be adversely affected may commence a civil action against the Department on his or her own behalf to compel compliance with this Act where there is alleged a failure of the Department to

perform any act or duty under this Act that is not discretionary with the Department. No action may be commenced under this subsection (b) prior to 60 days after the plaintiff has given notice in writing of the action to the Department, except that action may be brought immediately after the notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(c) The court, in issuing any final order in any action brought under this Section, may award costs of litigation (including attorney and expert witness fees) to any party, on the basis of the importance of the proceeding and the participation of the parties to the efficient and effective enforcement of this Act. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with Part 1 of Article XI of the Code of Civil Procedure.

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

(e) Any action brought under this Section may be brought

only in the county in which the high volume horizontal hydraulic fracturing operation complained of is located.

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

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

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

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

The Department shall maintain a detailed database that is readily accessible to the public on the Department's website. The database shall show each violation found by the Department regarding high volume horizontal hydraulic fracturing operations and the associated well owners, operators, and subcontractors. When the Department determines that any person has violated this Act, the Department shall provide notice by U.S. Postal Service certified mail, return receipt requested, of the Department's determination to all persons required to receive specific public notice under Section 1-40 of this Act within 7 calendar days after the determination. The Department

shall also post the notice on the Department's website. The notice shall include a detailed, plain language description of the violation and a detailed, plain language description of all known risks to public health, life, property, aquatic life, and wildlife resulting from the violation.

Section 1-110. Public information; website.

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

(b) To provide the public and concerned citizens with a centralized repository of information, the Department shall create and maintain a comprehensive website dedicated to providing information concerning high volume horizontal hydraulic fracturing operations. The website shall contain, assemble, and link the documents and information required by this Act to be posted on the Department's or other agencies' websites. The Department shall also create and maintain an online searchable database that provides information related to high volume horizontal hydraulic fracturing operations on wells that, at a minimum, include, for each well it permits, the identity of its operators, its waste disposal, its chemical disclosure information, and any complaints or violations under this Act. The website created under this Section shall allow

users to search for completion reports by well name and location, dates of fracturing and drilling operations, operator, and by chemical additives.

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

Section 1-123. Application of water well laws. Nothing in this Act shall be construed to affect the application of the Illinois Water Well Construction Code, the Illinois Water Well Pump Installation Code, the Water Well and Pump Installation Contractor's License Act, or any rules adopted thereunder to all water wells, closed loop wells, or monitoring wells, as those terms are defined in Section 3 of the Illinois Water Well Construction Code, that are located, drilled, constructed, or modified in connection with activities regulated by this Act.

Section 1-125. Administrative review. All final administrative decisions, including issuance or denial of a permit, made by the Department under this Act are subject to judicial review under the Administrative Review Law and its rules.

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

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

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

## ARTICLE 2.

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

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

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

"Construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintaining, landscaping, improving, drilling, testing, moving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the construction involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described performed or done on behalf of an operator in connection with and at the location of a well site subject to the tax imposed by this Act.

"Construction worker" means a person performing construction.

"Department" means the Illinois Department of Revenue.

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

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

"General prevailing rate of hourly wages" has the meaning ascribed to it in Section 2 of the Prevailing Wage Act, as determined by the Director of the Department of Labor under Section 9 of the Prevailing Wage Act for the county in which the construction occurs.

"Illinois construction worker" means a construction worker, as defined in this Section, domiciled in Illinois for 24 months prior to the date of the issuance of a high volume horizontal hydraulic fracturing permit for the well site on which the construction is performed.

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

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

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

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"Producer" means any person owning, controlling, managing, or leasing any oil or gas property or oil or gas well, and any

person who severs in any manner any oil or gas in this State, and shall include any person owning any direct and beneficial interest in any oil or gas produced, whether severed by such person or some other person on their behalf, either by lease, contract, or otherwise, including working interest owners, overriding royalty owners, or royalty owners.

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

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

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

"Severed" or "severing" means: (1) the production of oil through extraction or withdrawal of the same, whether such extraction or withdrawal is by natural flow, mechanical flow, forced flow, pumping, or any other means employed to get the oil from below the surface of the soil or water and shall include the withdrawal by any means whatsoever of oil upon which the tax has not been paid, from any surface reservoir, natural or artificial, or from a water surface; and (2) the

production of gas through the extraction or withdrawal of the same by any means whatsoever, from below the surface of the earth or water.

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

"Total workforce hours" means all hours worked by construction workers on a well site, beginning on the date an application for a permit to perform high volume horizontal hydraulic fracturing operations at the well is filed under Section 1-35 of the Hydraulic Fracturing Regulatory Act and ending on the date of first production following initial drilling or any reworking of the well.

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

"Well site" has the meaning ascribed to the term in Section

1-5 of the Hydraulic Fracturing Regulatory Act.

"Working interest" means any interest in or any right to the production of oil and gas, excluding royalty or overriding royalty interests.

Section 2-15. Tax imposed.

(a) For oil and gas removed on or after July 1, 2013, there is hereby imposed a tax upon the severance and production of oil or gas from a well on a production unit in this State permitted, or required to be permitted, under the Illinois Hydraulic Fracturing Regulatory Act, for sale, transport, storage, profit, or commercial use. The tax shall be applied equally to all portions of the value of each barrel of oil severed and subject to such tax and to the value of the gas severed and subject to such tax. For a period of 24 months from the month in which oil or gas was first produced from the well, the rate of tax shall be 3% of the value of the oil or gas severed from the earth or water in this State. Thereafter, the rate of the tax shall be as follows:

(1) For oil:

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

(B) where the average daily production from the well during the month is 25 or more barrels but less than 50 barrels, 4% of the value of the oil severed

from the earth or water;

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

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

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

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

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

(c) For the purposes of the tax imposed by this Act the amount of oil produced shall be measured or determined, in the case of oil, by tank tables, without deduction for overage or losses in handling. Allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed. For the purposes of the tax imposed by this Act the amount of gas produced shall be measured or determined, by meter readings showing 100% of the full volume expressed in cubic feet at a

standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased. Correction shall be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased.

(d) The following severance and production of gas shall be exempt from the tax imposed by this Act: gas injected into the earth for the purpose of lifting oil, recycling, or repressuring; gas used for fuel in connection with the operation and development for, or production of, oil or gas in the production unit where severed; and gas lawfully vented or flared; gas inadvertently lost on the production unit by reason of leaks, blowouts, or other accidental losses.

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

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

Section 2-17. Local Workforce Tax Rate Reduction.

(a) The rate of tax imposed on working interest owners of a well under Section 2-15 of this Act shall be reduced by 0.25% for the life of the well when a minimum of 50% of the total workforce hours on the well site are performed by Illinois construction workers being paid wages equal to or exceeding the general prevailing rate of hourly wages.

(b) When more than one well is drilled on a well site, total workforce hours shall be determined on a well-by-well basis.

(c) Any operator that intends to claim the reduction provided for in this Section on his or her behalf, or on the behalf of the working interest owners, shall be responsible for obtaining from all construction contractors working on a well site, records to document the claim for the reduction in tax rate. Operators shall, at a minimum, obtain from construction contractors, in writing, the total number of construction workers that performed work under the contract, the number of Illinois construction workers that performed work under the contract, whether oral or written, between the operator and the construction contractor, the hours worked by each construction worker and the wage paid to each construction worker for the hours of work performed on the well site. The operator shall obtain and retain any other records the Department determines are necessary to verify a claim for a reduction in the tax. The operator shall make the records available to the Department upon request.

For the purposes of this Section, each construction contractor, upon written request from the operator, shall retain the following records: each worker's name, address, and telephone number, if available, years of residency in Illinois, the type of work the worker performs, the hourly wages paid each worker, and the number of hours worked by each worker for

the term of the contract. The construction contractor shall retain any other records the Department determines are necessary to verify a claim for a reduction in the tax. The construction contractor shall make the records available to the operator and Department upon request. The operator and construction contractors shall retain the records for 3 years.

No later than the 6 months after the date of the first purchase of oil or gas from a well, the operator shall file with the Department, in the form and manner required by the Department, a report and documentation to support that the working interest owners qualify for the reduction in the rate of tax provided for in this Section. The report shall be signed by the operator, or an officer, employee, or agent of the contractor, and state under oath that he or she has examined the report and documentation and the report and documentation are true and accurate. The Department shall keep the records submitted in accordance with this subsection for a period of not less than 3 years from the date of filing.

(d) The Department shall notify the first purchaser and the operator when the working interest owners qualify for a reduction in the tax under this Section and state the amount of the reduction. The reduction shall be effective the date of first production. The first purchaser or operator may take a credit for any retroactive reduction in the tax rate on a return filed under Sections 2-45 and 2-50 of this Act.

(e) Reports shall be filed on forms furnished and

prescribed by the Department and shall contain any other information as the Department may reasonably require.

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

Section 2-25. Withholding of tax. Any purchaser who makes a monetary payment to a producer for his or her portion of the value of products from a production unit shall withhold from such payment the amount of tax due from the producer. Any purchaser who pays any tax due from a producer shall be entitled to reimbursement from the producer for the tax so paid and may take credit for such amount from any monetary payment

to the producer for the value of products. To the extent that a purchaser required to collect the tax imposed by this Act has actually collected that tax, such tax is held in trust for the benefit of the State of Illinois.

Section 2-30. Payment and collection of tax.

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

In the event the tax shall be withheld by a purchaser from payments due a producer and such purchaser fails to make payment of the tax to the State as required herein, the first purchaser shall be liable for the tax. However, in the event a first purchaser fails to pay the tax withheld from a producer's payment, the producer's interest remains subject to any lien filed pursuant to subsection (c) of this Section. A producer shall be entitled to bring an action against such purchaser to recover the amount of tax so withheld together with penalties

and interest which may have accrued by failure to make such payment. A producer shall be entitled to all attorney fees and court costs incurred in such action. To the extent that a producer liable for the tax imposed by this Act collects the tax, and any penalties and interest, from a purchaser, such tax, penalties, and interest are held in trust by the producer for the benefit of the State of Illinois.

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

- (1) name and address of the operator;
- (2) name of the production unit;
- (3) number assigned to the production unit by the first purchaser, if available;
- (4) legal description of the production unit; and
- (5) a statement by the operator that the production unit is exempt from the tax imposed by the Illinois Hydraulic Fracturing Tax Act.

If a first purchaser obtains an exemption certificate that contains the required information and reasonably relies on the

exemption certificate and it is subsequently determined by the Department that the production unit is subject to the tax imposed by this Act, the Department will collect any tax that is due from the operator and producers, and the first purchaser is relieved of any liability.

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

Section 2-35. Registration of purchasers. A person who engages in business as a purchaser of oil or gas in this State shall register with the Department. Application for a certificate of registration shall be made to the Department upon forms furnished by the Department and shall contain any reasonable information the Department may require. Upon receipt of the application for a certificate of registration in proper form, the Department shall issue to the applicant a certificate of registration.

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

Section 2-45. Purchaser's return and tax remittance. Each purchaser shall make a return to the Department showing the quantity of oil or gas purchased during the month for which the return is filed, the price paid therefore, total value, the name and address of the operator or other person from whom the same was purchased, a description of the production unit in the manner prescribed by the Department from which such oil or gas was severed and the amount of tax due from each production unit for each calendar month. All taxes due, or to be remitted, by

the purchaser shall accompany this return. The return shall be filed on or before the last day of the month after the calendar month for which the return is required. The Department may require any additional report or information it may deem necessary for the proper administration of this Act.

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

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

(a) If, on or after July 1, 2013, oil or gas is transported off the production unit where severed by the operator, used on the production unit where severed, or if the manufacture and conversion of oil and gas into refined products occurs on the production unit where severed, the operator is responsible for remitting the tax imposed under subsections (a) of Section 15, on or before the last day of the month following the end of the calendar month in which the oil and gas is removed from the production unit, and such payment shall be accompanied by a return to the Department showing the gross quantity of oil or

gas removed during the month for which the return is filed, the price paid therefore, and if no price is paid therefore, the value of the oil and gas, a description of the production unit from which such oil or gas was severed, and the amount of tax. The Department may require any additional information it may deem necessary for the proper administration of this Act.

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

(c) Any operator who makes a monetary payment to a producer for his or her portion of the value of products from a production unit shall withhold from such payment the amount of tax due from the producer. Any operator who pays any tax due from a producer shall be entitled to reimbursement from the producer for the tax so paid and may take credit for such amount from any monetary payment to the producer for the value of products. To the extent that an operator required to collect the tax imposed by this Act has actually collected that tax,

such tax is held in trust for the benefit of the State of Illinois.

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

(e) When the title to any oil or gas severed from the earth or water is in dispute and the operator of such oil or gas is withholding payments on account of litigation, or for any other reason, such operator is hereby authorized, empowered and required to deduct from the gross amount thus held the amount of the tax imposed and to make remittance thereof to the Department as provided in this Section.

(f) An operator required to file a return and pay the tax under this Section shall register with the Department. Application for a certificate of registration shall be made to the Department upon forms furnished by the Department and shall contain any reasonable information the Department may require.

Upon receipt of the application for a certificate of registration in proper form, the Department shall issue to the applicant a certificate of registration.

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

Section 2-55. Tax withholding and remittance when title to minerals disputed. When the title to any oil or gas severed from the earth or water is in dispute and the purchaser of such oil or gas is withholding payments on account of litigation, or for any other reason, such purchaser is hereby authorized, empowered and required to deduct from the gross amount thus held the amount of the tax imposed and to make remittance thereof to the Department as provided in this Act.

Section 2-60. Transporters. When requested by the Department, all transporters of oil or gas out of, within or across the State of Illinois shall be required to furnish the Department such information relative to the transportation of

such oil or gas as the Department may require. The Department shall have authority to inspect bills of lading, waybills, meter, or other charts, documents, books and records as may relate to the transportation of oil or gas in the hands of each transporter. The Department shall further be empowered to demand the production of such bills of lading, waybills, charts, documents, books, and records relating to the transportation of oil or gas at any point in the State of Illinois.

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

Section 2-70. Incorporation by reference. All of the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the "Retailers' Occupation Tax Act" which are not inconsistent with this Act, and all provisions of the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein.

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

ARTICLE 3.

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

(30 ILCS 105/5.826 new)

Sec. 5.826. The Mines and Minerals Regulatory Fund.

ARTICLE 9.

Section 99-999. Effective date. This Act takes effect upon becoming law.