



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5716

by Rep. Will Guzzardi

#### SYNOPSIS AS INTRODUCED:

225 ILCS 725/1	from Ch. 96 1/2, par. 5401
225 ILCS 725/6	from Ch. 96 1/2, par. 5409
225 ILCS 725/8e new	
225 ILCS 732/1-5	
225 ILCS 732/1-35	
225 ILCS 732/1-90 new	

Amends the Illinois Oil and Gas Act and the Hydraulic Fracturing Regulatory Act. Requires as part of the permit application for drilling or hydraulic fracturing operations the written consent of each owner of a mineral interest affected by the removal of minerals in the conduct of the proposed operations and each surface owner affected by the removal of minerals in the conduct of the proposed operations, unless he or she is the mineral interest owner as well providing consent as such. Provides notwithstanding any other provision of statutory or common law, a person shall not drill, conduct hydraulic fracturing operations, or remove minerals as a result of any means regulated by the Acts including, but not limited to, horizontal drilling, without the express, written consent of each owner of a mineral interest affected by the operations or removal of minerals in the conduct of the operations. Provides for enforcement by the Department of Natural Resources with penalties and cessation of operations for violations, and payment of treble the full market value of the mineral resource extracted in violation of this Act to the owner of the mineral interest.

LRB100 19013 MRW 34267 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Oil and Gas Act is amended by  
5 changing Sections 1 and 6 and by adding Section 8e as follows:

6 (225 ILCS 725/1) (from Ch. 96 1/2, par. 5401)

7 Sec. 1. Unless the context otherwise requires, the words  
8 defined in this Section have the following meanings as used in  
9 this Act.

10 "Person" means any natural person, corporation,  
11 association, partnership, governmental agency or other legal  
12 entity, receiver, trustee, guardian, executor, administrator,  
13 fiduciary or representative of any kind.

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

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

21 "Mineral interest" means the right to extract, modify, and  
22 sell minerals, including underground hydrocarbons, that  
23 underlie a defined parcel of real property.

1 "Pool" means a natural, underground reservoir containing  
2 in whole or in part, a natural accumulation of oil or gas, or  
3 both. Each productive zone or stratum of a general structure,  
4 which is completely separated from any other zone or stratum in  
5 the structure, is deemed a separate "pool" as used herein.

6 "Field" means the same general surface area which is  
7 underlaid or appears to be underlaid by one or more pools.

8 "Permit" means the Department's written authorization  
9 allowing a well to be drilled, deepened, converted, or operated  
10 by an owner.

11 "Permittee" means the owner holding or required to hold the  
12 permit, and who is also responsible for paying assessments in  
13 accordance with Section 19.7 of this Act and, where applicable,  
14 executing and filing the bond associated with the well as  
15 principal and who is responsible for compliance with all  
16 statutory and regulatory requirements pertaining to the well.

17 When the right and responsibility for operating a well is  
18 vested in a receiver or trustee appointed by a court of  
19 competent jurisdiction, the permit shall be issued to the  
20 receiver or trustee.

21 "Orphan Well" means a well for which: (1) no fee assessment  
22 under Section 19.7 of this Act has been paid or no other bond  
23 coverage has been provided for 2 consecutive years; (2) no oil  
24 or gas has been produced from the well or from the lease or  
25 unit on which the well is located for 2 consecutive years; and  
26 (3) no permittee or owner can be identified or located by the

1 Department. Orphaned wells include wells that may have been  
2 drilled for purposes other than those for which a permit is  
3 required under this Act if the well is a conduit for oil or  
4 salt water intrusions into fresh water zones or onto the  
5 surface which may be caused by oil and gas operations.

6 "Owner" means the person who has the right to drill into  
7 and produce from any pool, and to appropriate the production  
8 either for the person or for the person and another, or others,  
9 or solely for others, excluding the mineral owner's royalty if  
10 the right to drill and produce has been granted under an oil  
11 and gas lease. An owner may also be a person granted the right  
12 to drill and operate an injection (Class II UIC) well  
13 independent of the right to drill for and produce oil or gas.  
14 When the right to drill, produce, and appropriate production is  
15 held by more than one person, then all persons holding these  
16 rights may designate the owner by a written operating agreement  
17 or similar written agreement. In the absence of such an  
18 agreement, and subject to the provisions of Sections 22.2 and  
19 23.1 through 23.16 of this Act, the owner shall be the person  
20 designated in writing by a majority in interest of the persons  
21 holding these rights.

22 "Department" means the Department of Natural Resources.

23 "Director" means the Director of Natural Resources.

24 "Mining Board" means the State Mining Board in the  
25 Department of Natural Resources, Office of Mines and Minerals.

26 "Mineral Owner's Royalty" means the share of oil and gas

1 production reserved in an oil and gas lease free of all costs  
2 by an owner of the minerals whether denominated royalty or  
3 overriding royalty.

4 "Waste" means "physical waste" as that term is generally  
5 understood in the oil and gas industry, and further includes:

6 (1) the locating, drilling, and producing of any oil or  
7 gas well or wells drilled contrary to the valid order,  
8 rules and regulations adopted by the Department under the  
9 provisions of this Act;

10 (2) permitting the migration of oil, gas, or water from  
11 the stratum in which it is found, into other strata,  
12 thereby ultimately resulting in the loss of recoverable  
13 oil, gas or both;

14 (3) the drowning with water of any stratum or part  
15 thereof capable of producing oil or gas, except for  
16 secondary recovery purposes;

17 (4) the unreasonable damage to underground, fresh or  
18 mineral water supply, workable coal seams, or other mineral  
19 deposits in the operations for the discovery, development,  
20 production, or handling of oil and gas;

21 (5) the unnecessary or excessive surface loss or  
22 destruction of oil or gas resulting from evaporation,  
23 seepage, leakage or fire, especially such loss or  
24 destruction incident to or resulting from the escape of gas  
25 into the open air in excessive or unreasonable amounts,  
26 provided, however, it shall not be unlawful for the

1 operator or owner of any well producing both oil and gas to  
2 burn such gas in flares when such gas is, under the other  
3 provisions of this Act, lawfully produced, and where there  
4 is no market at the well for such escaping gas; and where  
5 the same is used for the extraction of casinghead gas, it  
6 shall not be unlawful for the operator of the plant after  
7 the process of extraction is completed, to burn such  
8 residue in flares when there is no market at such plant for  
9 such residue gas;

10 (6) permitting unnecessary fire hazards;

11 (7) permitting unnecessary damage to or destruction of  
12 the surface, soil, animal, fish or aquatic life or property  
13 from oil or gas operations.

14 "Drilling Unit" means the surface area allocated by an  
15 order or regulation of the Department to the drilling of a  
16 single well for the production of oil or gas from an individual  
17 pool.

18 "Enhanced Recovery Method" means any method used in an  
19 effort to recover hydrocarbons from a pool by injection of  
20 fluids, gases or other substances to maintain, restore or  
21 augment natural reservoir energy, or by introducing immiscible  
22 or miscible gases, chemicals, other substances or heat or by  
23 in-situ combustion, or by any combination thereof.

24 "Surface owner" has the meaning as defined in Section 1 of  
25 the Severed Mineral Interest Act.

26 "Well-Site Equipment" means any production-related

1 equipment or materials specific to the well, including motors,  
2 pumps, pump jacks, tanks, tank batteries, separators,  
3 compressors, casing, tubing, and rods.

4 (Source: P.A. 99-78, eff. 7-20-15.)

5 (225 ILCS 725/6) (from Ch. 96 1/2, par. 5409)

6 Sec. 6. The Department shall have the authority to conduct  
7 hearings and to make such reasonable rules as may be necessary  
8 from time to time in the proper administration and enforcement  
9 of this Act, including the adoption of rules and the holding of  
10 hearings for the following purposes:

11 (1) To require the drilling, casing and plugging of  
12 wells to be done in such a manner as to prevent the  
13 migration of oil or gas from one stratum to another; to  
14 prevent the intrusion of water into oil, gas or coal  
15 strata; to prevent the pollution of fresh water supplies by  
16 oil, gas or salt water.

17 (2) To require the person desiring or proposing to  
18 drill, deepen or convert any well for the exploration or  
19 production of oil or gas, for injection or water supply in  
20 connection with enhanced recovery projects, for the  
21 disposal of salt water, brine, or other oil or gas field  
22 wastes, or for input, withdrawal, or observation in  
23 connection with the storage of natural gas or other liquid  
24 or gaseous hydrocarbons before commencing the drilling,  
25 deepening or conversion of any such well, to make

1 application to the Department upon such form as the  
2 Department may prescribe and to comply with the provisions  
3 of this Section. The drilling, deepening or conversion of  
4 any well is hereby prohibited until such application is  
5 made and the applicant is issued a permit therefor as  
6 provided by this Act. Each application for a well permit  
7 shall include the following: (A) the ~~The~~ exact location of  
8 the well, (B) the name and address of the manager,  
9 operator, contractor, driller, or any other person  
10 responsible for the conduct of drilling operations, (C) the  
11 proposed depth of the well, (C-3) written consent of each  
12 owner of a mineral interest affected by the removal of  
13 minerals in the conduct of the proposed drilling  
14 operations, (C-5) written consent of each surface owner  
15 affected by the removal of minerals in the conduct of the  
16 proposed drilling operations, unless he or she is the  
17 mineral interest owner as well providing consent under  
18 subparagraph (C-3) of this paragraph (2), (D) lease  
19 ownership information, and (E) such other relevant  
20 information as the Department may deem necessary or  
21 convenient to effectuate the purposes of this Act.

22 Additionally, each applicant who has not been issued a  
23 permit that is of record on the effective date of this  
24 amendatory Act of 1991, or who has not thereafter made  
25 payments of assessments under Section 19.7 of this Act for  
26 at least 2 consecutive years preceding the application,



1 shall execute, as principal, and file with the Department a  
2 bond, executed by a surety authorized to transact business  
3 in this State, in an amount estimated to cover the cost of  
4 plugging the well and restoring the well site, but not to  
5 exceed \$5000, as determined by the Department for each  
6 well, or a blanket bond in an amount not to exceed \$100,000  
7 for all wells, before drilling, deepening, converting, or  
8 operating any well for which a permit is required that has  
9 not previously been plugged and abandoned in accordance  
10 with the Act. The Department shall release the bond if the  
11 well, or all wells in the case of a blanket bond, is not  
12 completed but is plugged and the well site restored in  
13 accordance with the Department's rules or is completed in  
14 accordance with the Department's rules and the permittee  
15 pays assessments to the Department in accordance with  
16 Section 19.7 of this Act for 2 consecutive years.

17 In lieu of a surety bond, the applicant may provide  
18 cash, certificates of deposit, or irrevocable letters of  
19 credit under such terms and conditions as the Department  
20 may provide by rule.

21 The sureties on all bonds in effect on the effective  
22 date of this amendatory Act of 1991 shall remain liable as  
23 sureties in accordance with their undertakings until  
24 released by the Department from further liability under the  
25 Act. The principal on each bond in effect on the effective  
26 date of this amendatory Act of 1991 shall be released from

1 the obligation of maintaining the bond if either the well  
2 covered by a surety bond has been plugged and the well site  
3 restored in accordance with the Department's rules or the  
4 principal of the surety has paid the initial assessment in  
5 accordance with Section 19.7 and no well or well site  
6 covered by the surety bond is in violation of the Act.

7 No permit shall be issued to a corporation incorporated  
8 outside of Illinois until the corporation has been  
9 authorized to do business in Illinois.

10 No permit shall be issued to an individual,  
11 partnership, or other unincorporated entity that is not a  
12 resident of Illinois until that individual, partnership,  
13 or other unincorporated entity has irrevocably consented  
14 to be sued in Illinois.

15 (3) To require the person assigning, transferring, or  
16 selling any well for which a permit is required under this  
17 Act to notify the Department of the change of ownership.  
18 The notification shall be on a form prescribed by the  
19 Department, shall be executed by the current permittee and  
20 by the new permittee, or their authorized representatives,  
21 and shall be filed with the Department within 30 days after  
22 the effective date of the assignment, transfer or sale.  
23 Within the 30 day notification period and prior to  
24 operating the well, the new permittee shall pay the  
25 required well transfer fee and, where applicable, file with  
26 the Department the bond required under subsection (2) of

1           this Section.

2           (4) To require the filing with the State Geological  
3 Survey of all geophysical logs, a well drilling report and  
4 drill cuttings or cores, if cores are required, within 90  
5 days after drilling ceases; and to file a completion report  
6 with the Department within 30 days after the date of first  
7 production following initial drilling or any reworking, or  
8 after the plugging of the well, if a dry hole. A copy of  
9 each completion report submitted to the Department shall be  
10 delivered to the State Geological Survey. The Department  
11 and the State Geological Survey shall keep the reports  
12 confidential, if requested in writing by the permittee, for  
13 2 years after the date the permit is issued by the  
14 Department. This confidentiality requirement shall not  
15 prohibit the use of the report for research purposes,  
16 provided the State Geological Survey does not publish  
17 specific data or identify the well to which the completion  
18 report pertains.

19           (5) To prevent "blowouts", "caving" and "seepage" in  
20 the same sense that conditions indicated by such terms are  
21 generally understood in the oil and gas business.

22           (6) To prevent fires.

23           (7) To ascertain and identify the ownership of all oil  
24 and gas wells, producing leases, refineries, tanks,  
25 plants, structures, and all storage and transportation  
26 equipment and facilities.

1           (8) To regulate the use of any enhanced recovery method  
2           in oil pools and oil fields.

3           (9) To regulate or prohibit the use of vacuum.

4           (10) To regulate the spacing of wells, the issuance of  
5           permits, and the establishment of drilling units.

6           (11) To regulate directional drilling of oil or gas  
7           wells.

8           (12) To regulate the plugging of wells.

9           (13) To require that wells for which no logs or  
10           unsatisfactory logs are supplied shall be completely  
11           plugged with cement from bottom to top.

12           (14) To require a description in such form as is  
13           determined by the Department of the method of well plugging  
14           for each well, indicating the character of material used  
15           and the positions and dimensions of each plug.

16           (15) To prohibit waste, as defined in this Act.

17           (16) To require the keeping of such records, the  
18           furnishing of such relevant information and the  
19           performance of such tests as the Department may deem  
20           necessary to carry into effect the purposes of this Act.

21           (17) To regulate the disposal of salt or  
22           sulphur-bearing water and any oil field waste produced in  
23           the operation of any oil or gas well.

24           (18) To prescribe rules, conduct inspections and  
25           require compliance with health and safety standards for the  
26           protection of persons working underground in connection

1 with any oil and gas operations. For the purposes of this  
2 paragraph, oil and gas operations include drilling or  
3 excavation, production operations, plugging or filling in  
4 and sealing, or any other work requiring the presence of  
5 workers in shafts or excavations beneath the surface of the  
6 earth. Rules promulgated by the Department may include  
7 minimum qualifications of persons performing tasks  
8 affecting the health and safety of workers underground,  
9 minimum standards for the operation and maintenance of  
10 equipment, and safety procedures and precautions, and  
11 shall conform, as nearly as practicable, to corresponding  
12 qualifications, standards and procedures prescribed under  
13 the Coal Mining Act.

14 (19) To deposit the amount of any forfeited surety bond  
15 or other security in the Plugging and Restoration Fund, a  
16 special fund in the State treasury which is hereby created;  
17 to deposit into the Fund any amounts collected, reimbursed  
18 or recovered by the Department under Sections 19.5, 19.6  
19 and 19.7 of this Act; to accept, receive, and deposit into  
20 the Fund any grants, gifts or other funds which may be made  
21 available from public or private sources and all earnings  
22 received from investment of monies in the Fund; and to make  
23 expenditures from the Fund for the purposes of plugging,  
24 replugging or repairing any well, and restoring the site of  
25 any well, determined by the Department to be abandoned or  
26 ordered by the Department to be plugged, replugged,

1 repaired or restored under Sections 8a, 19 or 19.1 of this  
2 Act, including expenses in administering the Fund.

3 For the purposes of this Act, the State Geological Survey  
4 shall co-operate with the Department in making available its  
5 scientific and technical information on the oil and gas  
6 resources of the State, and the Department shall in turn  
7 furnish a copy to the State Geological Survey of all drilling  
8 permits as issued, and such other drilling and operating data  
9 received or secured by the Department which are pertinent to  
10 scientific research on the State's mineral resources.

11 (Source: P.A. 86-205; 86-364; 86-1177; 87-744.)

12 (225 ILCS 725/8e new)

13 Sec. 8e. Mineral interest owner consent.

14 (a) Notwithstanding any other provision of statutory or  
15 common law, a person shall not drill or remove minerals as a  
16 result of any means regulated by this Act including, but not  
17 limited to, horizontal drilling, without the express, written  
18 consent of each owner of a mineral interest affected by the  
19 drilling or removal of minerals in the conduct of the drilling  
20 operations.

21 (b) Any person who violates or refuses to comply with any  
22 of the provisions of this Section shall be subject to the  
23 provisions of Sections 8a and 19.1 of this Act.

24 (c) If the Department finds that a person or permittee has  
25 violated this Section, in addition to permanent cessation of

1 the operations in violation of this Section and any civil or  
2 other penalty assessed by the Department, the person or  
3 permittee shall be ordered to pay treble the full market value  
4 of the mineral resource extracted in violation of this Act to  
5 the owner of the mineral interest.

6 (d) Nothing in this Section shall be construed to prohibit  
7 any owner of a mineral interest from initiating a civil cause  
8 of action in any court with jurisdiction for an alleged  
9 violation of this Section for compensatory or punitive damages,  
10 or both.

11 Section 10. The Hydraulic Fracturing Regulatory Act is  
12 amended by changing Sections 1-5 and 1-35 and by adding Section  
13 1-90 as follows:

14 (225 ILCS 732/1-5)

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

17 "Agency" means the Illinois Environmental Protection  
18 Agency.

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

21 "Aquifer" means saturated (with groundwater) soils and  
22 geologic materials that are sufficiently permeable to readily  
23 yield economically useful quantities (at least 70 gallons per  
24 minute) of fresh water to wells, springs, or streams under

1 ordinary hydraulic gradients. "Aquifer" is limited to aquifers  
2 identified as major sand and gravel aquifers in the Illinois  
3 State Water Survey's Illinois Community Water Supply Wells map,  
4 Map Series 2006-01.

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

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

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

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

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

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

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

26 "Department" means the Illinois Department of Natural



1 Resources.

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

5 "Diesel" includes any additional substances regulated by the  
6 United States Environmental Protection Agency as diesel fuel  
7 used in hydraulic fracturing activities under the federal Safe  
8 Drinking Water Act.

9 "Director" means the Director of Natural Resources.

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

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

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

1 or when the well is producing continuously to the flow line or  
2 to a storage vessel for collection, whichever occurs first.

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

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

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

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

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

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

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

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

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

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

25 "Hydraulic fracturing fluid" means the mixture of the base  
26 fluid and all the hydraulic fracturing additives, used to

1 perform high volume horizontal hydraulic fracturing.

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

6 "Intake" means a pipe or other means to withdraw raw water  
7 from a water source.

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

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

20 "Mineral interest" means the right to extract, modify, and  
21 sell minerals, including underground hydrocarbons, that  
22 underlie a defined parcel of real property.

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

25 "Oil" means natural crude oil or petroleum and other  
26 hydrocarbons, regardless of gravity, which are produced at the

1 well in liquid form by ordinary production methods or by the  
2 use of an oil and gas separator and which are not the result of  
3 condensation of gas after it leaves the underground reservoir.

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

7 "Owner" shall have the same meaning as provided in Section  
8 1 of the Illinois Oil and Gas Act.

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

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

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

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

20 "Pollution or diminution" means:

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

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

24 (B) detection of any constituent in item (i) of  
25 subparagraph (A) of paragraph (3) of subsection (a) of  
26 35 Ill. Adm. Code 620.310 equal to or above the listed

1 preventive response criteria in any Class I, Class II,  
2 or Class III groundwater;

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

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

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

13 (2) in surface water, exceeding any applicable numeric  
14 or narrative standard in 35 Ill. Adm. Code Part 302 or Part  
15 304.

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

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

25 "Public water supply" means all mains, pipes, and  
26 structures through which water is obtained and distributed to

1 the public, including wells and well structures, intakes and  
2 cribs, pumping stations, treatment plants, reservoirs, and  
3 storage tanks and appurtenances, collectively or severally,  
4 actually used or intended for use for the purpose of furnishing  
5 water for drinking or general domestic use, and which serves at  
6 least 15 service connections or which regularly serves at least  
7 25 persons at least 60 days per year.

8 "Register of Land and Water Reserves" means the list of  
9 areas registered in accordance with Section 16 of the Illinois  
10 Natural Areas Preservation Act and Part 4010 of Title 17 of the  
11 Illinois Administrative Code.

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

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

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

20 "Surface owner" has the meaning as defined in Section 1 of  
21 the Severed Mineral Interest Act.

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

24 "Total water volume" means the total quantity of water from  
25 all sources used in the high volume horizontal hydraulic  
26 fracturing operations, including surface water, groundwater,

1 produced water, or recycled water.

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

5 "Water pollution" means any alteration of the physical,  
6 thermal, chemical, biological, or radioactive properties of  
7 any waters of the State, or the discharge of any contaminant  
8 into any water of the State, as will or is likely to create a  
9 nuisance or render the waters harmful, detrimental, or  
10 injurious to public health, safety, or welfare, or to domestic,  
11 commercial, industrial, agricultural, recreational, or other  
12 legitimate uses, or to livestock, wild animals, birds, or fish  
13 or other aquatic life.

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

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

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

25 "Wildcat well" means a well outside known fields or the  
26 first well drilled in an oil or gas field where no other oil



1 and gas production exists.

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

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

7 (225 ILCS 732/1-35)

8 Sec. 1-35. High volume horizontal hydraulic fracturing  
9 permit application.

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

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

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

24 (3) proof of insurance to cover injuries, damages, or  
25 loss related to pollution or diminution in the amount of at

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (A) the formation affected by the high volume  
20 horizontal hydraulic fracturing operations, including,  
21 but not limited to, geologic name and geologic  
22 description of the formation that will be stimulated by  
23 the operation;

24 (B) the anticipated surface treating pressure  
25 range;

26 (C) the maximum anticipated injection treating

1 pressure;

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

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

6 (7) a plat showing all known previous wellbores within  
7 750 feet of any part of the horizontal wellbore that  
8 penetrated within 400 vertical feet of the formation that  
9 will be stimulated as part of the high volume horizontal  
10 hydraulic fracturing operations;

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

17 (A) the total volume of water anticipated to be  
18 used in the hydraulic fracturing treatment of the well  
19 or the type and total volume of the base fluid  
20 anticipated to be used in the hydraulic fracturing  
21 treatment, if something other than water;

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

1 applicable;

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

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

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

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

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

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

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

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

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

25 Where a surface water source is wholly contained within  
26 a single property, and the owner of the property expressly

1 agrees in writing to its use for water withdrawals, the  
2 applicant is not required to include this surface water  
3 source in the fresh water withdrawal and management plan;

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

17 (12) a well site safety plan to address proper safety  
18 measures to be employed during high volume horizontal  
19 hydraulic fracturing operations for the protection of  
20 persons on the site as well as the general public. Within  
21 15 calendar days after submitting the permit application to  
22 the Department, the applicant must provide a copy of the  
23 plan to the county or counties in which hydraulic  
24 fracturing operations will occur. Within 5 calendar days of  
25 its receipt, the Department shall provide a copy of the  
26 well site safety plan to the Office of the State Fire

1 Marshal;

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

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

13 (15) a traffic management plan that identifies the  
14 anticipated roads, streets, and highways that will be used  
15 for access to and egress from the well site. The traffic  
16 management plan will include a point of contact to discuss  
17 issues related to traffic management. Within 15 calendar  
18 days after submitting the permit application to the  
19 Department, the applicant must provide a copy of the  
20 traffic management plan to the county or counties in which  
21 the well site is located, and within 5 calendar days of its  
22 receipt, the Department shall provide a copy of the traffic  
23 management plan to the Office of the State Fire Marshal;

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

1 the county or counties;

2 (16.3) the written consent of each owner of a mineral  
3 interest affected by the removal of minerals in the conduct  
4 of the proposed hydraulic fracturing operations;

5 (16.5) written consent of each surface owner affected  
6 by the conduct of the proposed hydraulic fracturing  
7 operations, unless he or she is the mineral interest owner  
8 as well providing consent under paragraph (16.3) of this  
9 subsection (b);

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

16 (Source: P.A. 98-22, eff. 6-17-13; 98-756, eff. 7-16-14;  
17 99-139, eff. 7-24-15.)

18 (225 ILCS 732/1-90 new)

19 Sec. 1-90. Mineral interest owner consent.

20 (a) Notwithstanding any other provision of statutory or  
21 common law, a person shall not conduct hydraulic fracturing  
22 operations or remove minerals as a result of any means  
23 regulated by this Act including, but not limited to, horizontal  
24 wells, without the express, written consent of each owner of a  
25 mineral interest affected by the hydraulic fracturing

1 operations or removal of minerals in the conduct of the  
2 hydraulic fracturing operations.

3 (b) Any person who violates or refuses to comply with any  
4 of the provisions of this Section shall be subject to the  
5 provisions of Sections 8a and 19.1 of the Illinois Oil and Gas  
6 Act.

7 (c) If the Department finds that a person or permittee has  
8 violated this Section, in addition to permanent cessation of  
9 the operations in violation of this Section and any civil or  
10 other penalty assessed by the Department, the person or  
11 permittee shall be ordered to pay treble the full market value  
12 of the mineral resource extracted in violation of this Act to  
13 the owner of the mineral interest.

14 (d) Nothing in this Section shall be construed to prohibit  
15 any owner of a mineral interest from initiating a civil cause  
16 of action in any court with jurisdiction for an alleged  
17 violation of this Section for compensatory or punitive damages,  
18 or both.