



Rep. John E. Bradley

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LRB098 04424 MGM 60142 a

1 AMENDMENT TO SENATE BILL 649

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 649 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Hydraulic Fracturing Regulatory Act is  
5 amended by changing Sections 1-15, 1-50, 1-55, 1-77, and 1-96  
6 and by adding Sections 1-23, 1-136, 1-136.01, 1-136.02,  
7 1-136.03, 1-136.04, 1-136.05, 1-136.06, 1-136.07, 1-136.08,  
8 1-136.09, 1-136.10, 1-136.11, 1-136.12 1-136.13, 1-136.14,  
9 1-136.15, 1-136.16, 1-136.17, 1-136.18, 1-136.19, 1-136.20,  
10 1-136.21, 1-136.22, 1-136.23, 1-136.24, 1-136.25, 1-136.26,  
11 1-136.27, 1-136.28, 1-136.29, 1-136.30, 1-136.31, 1-136.32,  
12 1-136.33, 1-136.34, 1-136.35, 1-136.36, 1-136.37, 1-136.38,  
13 1-136.38a, 1-136.39, 1-136.40, 1-136.41, 1-136.42, 1-136.43,  
14 1-136.44, 1-136.45, 1-136.46, 1-136.47, 1-136.48, 1-136.49,  
15 1-136.50, 1-136.51, 1-136.52, 1-136.53, 1-136.53a, 1-136.54,  
16 1-136.55, 1-136.56, 1-136.57, 1-136.58, 1-136.59, 1-136.60,  
17 1-136.61, 1-136.62, 1-136.63, 1-136.64, 1-136.65, 1-136.66,

1 and 1-136.67 as follows:

2 (225 ILCS 732/1-15)

3 Sec. 1-15. Powers and duties.

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

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

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

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

24 (e) The Department shall make any inquiries as it may deem  
25 proper to determine whether a violation of this Act or any

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

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

12 (Source: P.A. 98-22, eff. 6-17-13; revised 11-18-13.)

13 (225 ILCS 732/1-23 new)

14 Sec. 1-23. Northern Illinois moratorium. No person shall,  
15 within 2 years after the effective date of this amendatory Act  
16 of the 98th General Assembly, conduct high volume horizontal  
17 hydraulic fracturing operations at a well site that is located  
18 in a county with a population of at least 500,000 or a county  
19 immediately adjacent thereto.

20 (225 ILCS 732/1-50)

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

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

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

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

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

3 (c) The public hearing to be conducted under this Section  
4 shall comply with the ~~contested case~~ requirements of Section  
5 1-136.11 of this Act ~~the Illinois Administrative Procedure Act.~~  
6 ~~The Department shall establish rules and procedures to~~  
7 ~~determine whether any request for a public hearing may be~~  
8 ~~granted in accordance with subsection (a) of this Section, and~~  
9 ~~for the notice and conduct of the public hearing. These~~  
10 ~~procedural rules shall include provisions for reasonable~~  
11 ~~notice to (i) the public and (ii) all parties to the~~  
12 ~~proceeding, which include the applicant, the persons~~  
13 ~~requesting the hearing, and the persons granted the right to~~  
14 ~~participate in the hearing pursuant to subsection (b) of this~~  
15 ~~Section, for the qualifications, powers, and obligations of the~~  
16 ~~hearing officer, and for reasonable opportunity for all the~~  
17 ~~parties to provide evidence and argument, to respond by oral or~~  
18 ~~written testimony to statements and objections made at the~~  
19 ~~public hearing, and for reasonable cross examination of~~  
20 ~~witnesses.~~ County boards and the public may present their  
21 written objections or recommendations at the public hearing. A  
22 complete record of the hearings and all testimony shall be made  
23 by the Department and recorded stenographically or  
24 electronically. The complete record shall be maintained and  
25 shall be accessible to the public on the Department's website  
26 until final release of the applicant's performance bond.

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

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

6 (225 ILCS 732/1-55)

7 Sec. 1-55. High volume horizontal hydraulic fracturing  
8 permit; conditions; restriction; modifications.

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

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

20 (c) No permit issued under this Act may be modified without  
21 approval of the Department. If the Department determines that  
22 the proposed modifications constitute a significant deviation  
23 from the terms of the original application and permit approval,  
24 or presents a serious risk to public health, life, property,  
25 aquatic life, or wildlife, the Department shall provide the

1 opportunities for notice, comment, and hearing required under  
2 Sections 1-45 and 1-50 of this Act. The Department shall  
3 provide notice of the proposed modification and opportunity for  
4 comment and hearing to the persons who received specific public  
5 notice under Section 1-40 of this Act and shall publish the  
6 notice and the proposed modification on its website. ~~The~~  
7 ~~Department shall adopt rules regarding procedures for a permit~~  
8 ~~modification.~~

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

10 (225 ILCS 732/1-77)

11 Sec. 1-77. Chemical disclosure; trade secret protection.

12 (a) If the chemical disclosure information required by  
13 paragraph (8) of subsection (b) of Section 1-35 of this Act is  
14 not submitted at the time of permit application, then the  
15 permittee, applicant, or person who will perform high volume  
16 horizontal hydraulic fracturing operations at the well shall  
17 submit this information to the Department in electronic format  
18 no less than 21 calendar days prior to performing the high  
19 volume horizontal hydraulic fracturing operations. The  
20 permittee shall not cause or allow any stimulation of the well  
21 if it is not in compliance with this Section. Nothing in this  
22 Section shall prohibit the person performing high volume  
23 horizontal hydraulic fracturing operations from adjusting or  
24 altering the contents of the fluid during the treatment process  
25 to respond to unexpected conditions, as long as the permittee

1 or the person performing the high volume horizontal hydraulic  
2 fracturing operations notifies the Department by electronic  
3 mail within 24 hours of the departure from the initial  
4 treatment design and includes a brief explanation of the reason  
5 for the departure.

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

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

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

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

15 (A) the base fluid to be used during any high  
16 volume horizontal hydraulic fracturing operations  
17 within this State;

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

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

25 (d) Persons performing high volume horizontal hydraulic  
26 fracturing operations are prohibited from using any base fluid,



1 hydraulic fracturing additive, or chemical not listed on their  
2 master lists disclosed under paragraph (2) of subsection (c) of  
3 this Section.

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

8 (f) Where an applicant, permittee, or the person performing  
9 high volume horizontal hydraulic fracturing operations  
10 furnishes chemical disclosure information to the Department  
11 under this Section, Section 1-35, or Section 1-75 of this Act  
12 under a claim of trade secret, the applicant, permittee, or  
13 person performing high volume horizontal hydraulic fracturing  
14 operations shall submit redacted and un-redacted copies of the  
15 documents containing the information to the Department and the  
16 Department shall use the redacted copies when posting materials  
17 on its website.

18 (g) Upon submission or within 5 calendar days of submission  
19 of chemical disclosure information to the Department under this  
20 Section, Section 1-35, or Section 1-75 of this Act under a  
21 claim of trade secret, the person that claimed trade secret  
22 protection shall provide a justification of the claim  
23 containing the following: a detailed description of the  
24 procedures used by the person to safeguard the information from  
25 becoming available to persons other than those selected by the  
26 person to have access to the information for limited purposes;

1 a detailed statement identifying the persons or class of  
2 persons to whom the information has been disclosed; a  
3 certification that the person has no knowledge that the  
4 information has ever been published or disseminated or has  
5 otherwise become a matter of general public knowledge; a  
6 detailed discussion of why the person believes the information  
7 to be of competitive value; and any other information that  
8 shall support the claim.

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

14 (1) the information has not been published,  
15 disseminated, or otherwise become a matter of general  
16 public knowledge; and

17 (2) the information has competitive value.

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

1 knowledge.

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

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

12 (k) Except as otherwise provided in subsections (l) and (m)  
13 of this Section, the Department must maintain the  
14 confidentiality of chemical disclosure information furnished  
15 under this Section, Section 1-35, or Section 1-75 of this Act  
16 under a claim of trade secret, until the Department receives  
17 official notification of a final order by a reviewing body with  
18 proper jurisdiction that is not subject to further appeal  
19 rejecting a grant of trade secret protection for that  
20 information.

21 (l) ~~A The Department shall adopt rules for the provision of~~  
22 ~~information furnished under a claim of trade secret to a health~~  
23 ~~professional who states a need for the information and~~  
24 ~~articulates why the information is needed. The health~~  
25 professional may share ~~that~~ information furnished under a claim  
26 of trade secret with other persons as may be professionally

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

19 (m) In the event of a release of hydraulic fracturing  
20 fluid, a hydraulic fracturing additive, or hydraulic  
21 fracturing flowback, and when necessary to protect public  
22 health or the environment, the Department may disclose  
23 information furnished under a claim of trade secret to the  
24 relevant county public health director or emergency manager,  
25 the relevant fire department chief, the Director of the  
26 Illinois Department of Public Health, the Director of the

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

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

18 (225 ILCS 732/1-96)

19 Sec. 1-96. Seismicity.

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

25 (b) (Blank). ~~The Department shall adopt rules, in~~

1 ~~consultation with the Illinois State Geological Survey,~~  
2 ~~establishing a protocol for controlling operational activity~~  
3 ~~of Class II injection wells in an instance of induced~~  
4 ~~seismicity.~~

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

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

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

16 (225 ILCS 732/1-136 new)

17 Sec. 1-136. Applicability of Sections 1-136.01 through  
18 1-136.67.

19 (a) Sections 1-136.01 through 1-136.67 (this Part) apply to  
20 all horizontal wells in which any single stage of a hydraulic  
21 fracturing stimulation treatment using more than 80,000  
22 gallons of hydraulic fracturing fluid, or in which the total  
23 amount of all stages of a hydraulic fracturing stimulation  
24 treatment using more than 300,000 gallons of hydraulic  
25 fracturing fluid, to initiate or propagate fractures in a

1 geologic formation to enhance extraction or production of oil  
2 or gas are planned, have occurred, or are occurring in this  
3 State. For any horizontal well at which fracturing occurred  
4 before June 17, 2013, the operator shall only be required to  
5 file a high volume horizontal hydraulic fracturing operations  
6 completion report and comply with Section 1-136.58.

7 (b) Section 1-136.67 applies to all horizontal wells in  
8 which the total amount of all stages of a hydraulic fracturing  
9 stimulation treatment using more than 80,000 gallons but less  
10 than 300,001 gallons in the application of hydraulic fracturing  
11 fluid to initiate or propagate fractures in a geologic  
12 formation to enhance extraction or production of oil or gas are  
13 planned, have occurred, or are occurring in this State.

14 (c) This Part shall be in addition to all other provisions  
15 of the Hydraulic Fracturing Regulatory Act. This part is  
16 intended to supplement and provide procedures for requirements  
17 of the Act. However, if there is a conflict between anything  
18 contained in the Act and this Part, the provisions of the Act  
19 shall prevail.

20 (225 ILCS 732/1-136.01 new)

21 Sec. 1-136.01. Definitions. For the purposes of this Part,  
22 unless the context otherwise requires:

23 "Affected patient" means a person receiving health care  
24 services from a health professional for an illness or injury  
25 which the health professional reasonably believes was caused by

1 exposure to any chemicals used in high volume horizontal  
2 hydraulic fracturing operations that are subject to a claim of  
3 trade secret by a permittee or contractor.

4 "API" means the American Petroleum Institute, which is a  
5 national trade association that develops and publishes  
6 equipment and operating standards for the oil and natural gas  
7 industry.

8 "Applicant" means any person registered with the  
9 Department under to Section 1-136.04 that has filed an  
10 application in accordance with this Act.

11 "Application" means a filing by an applicant to the  
12 Department seeking a high volume horizontal hydraulic  
13 fracturing permit under Section 1-136.05 or a modification  
14 under Section 1-136.15 of this Part.

15 "Base fluid" means the continuous phase fluid type,  
16 including, but not limited to, water or nitrogen gas used in a  
17 high volume horizontal hydraulic fracturing operation. "Base  
18 fluid" includes both hydrocarbon and non-hydrocarbon fluids in  
19 gas or liquid form used in high volume horizontal hydraulic  
20 fracturing operations.

21 "Emergency health care situation" means when a health  
22 professional believes that access to information about high  
23 volume horizontal hydraulic fracturing treatment chemicals may  
24 assist in determining the appropriate health care services to  
25 administer to any person to prevent or mitigate death,  
26 seriously bodily harm, or acute physical discomfort that is



1 either imminent or potentially irreversible.

2 "Flowback" means the process of allowing fluids to flow  
3 from the well following a hydraulic fracturing stimulation  
4 treatment, either in preparation for a subsequent phase of  
5 hydraulic fracturing stimulation treatment or in preparation  
6 for cleanup and returning the well to production.

7 "Flowback period" means the period of time when hydraulic  
8 fracturing fluid flows back to the surface from a well  
9 following a hydraulic fracturing stimulation treatment, either  
10 in preparation for a subsequent phase of hydraulic fracturing  
11 stimulation treatment or in preparation for cleanup and placing  
12 the well into production. "Flowback period" begins when the  
13 hydraulic fracturing fluid returns to the surface following a  
14 hydraulic fracturing stimulation treatment. "Flowback period"  
15 ends with either the well shut in, or when the well is  
16 producing continuously to the flow line or to a storage vessel  
17 for collection, whichever occurs first.

18 "GPS" means Global Positioning System.

19 "Health care services" means any services included in the  
20 furnishing to any individual of medical care, or the  
21 hospitalization incident to the furnishing of such care, as  
22 well as the furnishing to any person of any and all other  
23 services for the purpose of preventing, alleviating, curing, or  
24 healing human illness or injury, including home health and  
25 pharmaceutical services and products.

26 "Hearing officer" means the presiding officer at the public

1 hearing and other hearings referenced in this Part. The term  
2 also includes administrative law judge.

3 "Hydraulic fracturing" means the pressurized application  
4 of hydraulic fracturing fluid to initiate or propagate  
5 fractures in a geologic formation to enhance extraction or  
6 production of oil or gas.

7 "Hydraulic fracturing stimulation treatment" shall have  
8 the same meaning as "hydraulic fracturing" or "stimulation  
9 treatment".

10 "IEMA" means the Illinois Emergency Management Agency.

11 "Inspector" means a well inspector from the Department's  
12 Office of Oil and Gas Resource Management.

13 "Material Safety Data Sheet" or "MSDS" means a document  
14 provided by chemical or industrial manufacturers that contains  
15 information on chemicals. An MSDS includes: nature of the  
16 chemical, precautions to take in using the chemical, conditions  
17 of safe use, clean-up procedure for a release, and recommended  
18 disposal procedures.

19 "Medium volume hydraulic fracturing operations" means a  
20 stimulation treatment of a horizontal well by the pressurized  
21 application of more than 80,000 gallons but less than 300,001  
22 gallons in total of hydraulic fracturing fluid to initiate or  
23 propagate fractures in a geologic formation to enhance  
24 extraction or production of oil or gas.

25 "Non-emergency health care situation" means a situation  
26 that is not an emergency health care situation in which a

1 health professional believes that access to information about  
2 high volume horizontal hydraulic fracturing treatment  
3 chemicals may assist in determining the appropriate health care  
4 services to administer to a patient.

5 "Ordinary high water mark" means the boundary of a water  
6 source delineated by the highest water level that has been  
7 maintained for a sufficient period of time to leave evidence  
8 upon the landscape. For rivers, the ordinary high water mark is  
9 the elevation of the top of the bank of the channel; and for  
10 natural or artificial lakes, ponds or reservoirs, the ordinary  
11 high water mark is the operating elevation of the normal  
12 operating pool.

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

18 "Real property" means the surface, subsurface or mineral  
19 rights of land.

20 "Real property interest" means ownership in the surface,  
21 subsurface or mineral rights of land.

22 "Real property surface interest" means ownership in only  
23 the surface rights of land.

24 "Recycled water" means water in hydraulic fracturing flow  
25 back from a hydraulic fracturing operation or produced water  
26 that is physically or chemically treated for use as the base

1 fluid or a component of hydraulic fracturing fluid.

2 "Register of Land and Water Reserves" means the list of  
3 areas registered under Section 16 of the Illinois Natural Areas  
4 Preservation Act and 17 Ill. Adm. Code 4010.

5 "Registrant" means any person that registers with the  
6 Department to apply for high volume horizontal hydraulic  
7 fracturing permits under Section 1-136.04 of this Part.

8 "Stage" means the application of an individual hydraulic  
9 fracturing stimulation treatment to a predetermined interval  
10 of the wellbore that is conducted as part of a series of  
11 individual hydraulic fracturing stimulation treatments in a  
12 sequential manner to the same wellbore.

13 "Stimulation treatment" shall have the same definition as  
14 "hydraulic fracturing".

15 "Well" means the entire length of any drill hole, including  
16 all horizontal wellbores, required to be permitted under the  
17 Illinois Oil and Gas Act.

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

23 "Wholly contained" means a surface confines of a private  
24 water well or a surface water resource located entirely within  
25 the real property surface interest of the landowner.

1 (225 ILCS 732/1-136.02 new)

2 Sec. 1-136.02. Incorporated materials.

3 (a) The following documents are incorporated or referenced  
4 in various Sections of this Part:

5 (1) ANSI/API Specification 10A, Specification for  
6 Cements and Materials for Well Cementing, December 2010  
7 (API Spec 10A).

8 (2) API Specification 5CT, Specification for Casing  
9 and Tubing, July 2011 (API Spec 5CT).

10 (3) ANSI/API Recommended Practice 5A3, Recommended  
11 Practice on Thread Compounds for Casing, Tubing, Line Pipe,  
12 and Drill Stem Elements, November 2009 (API RP 5A3).

13 (4) ANSI/API Specification 10D, Specification for  
14 Bow-String Casing Centralizers, September 2002, Reaffirmed  
15 August 2010 (API Spec 10D).

16 (5) API Technical Report 10TR4, Selection of  
17 Centralizers for Primary Cementing Operations, May 2008  
18 (API Spec 10TR4).

19 (6) ANSI/API Recommended Practice 10D-2, Recommended  
20 Practice for Centralizer Placement and Stop-collar  
21 Testing, August 2004, Reaffirmed July 2010 (API RP 10D-2).

22 (7) API Specification 16D, Specification for Control  
23 Systems for Drilling Well Control Equipment and Control  
24 Systems for Diverter Equipment, July 2004, 2-Year  
25 Extension May 2010 (API Spec 16D).

26 (b) All incorporations by reference in this Part refer to

1 the standards on the date specified and do not include any  
2 additions or deletions subsequent to the date specified.

3 (c) All materials incorporated by reference are available  
4 for inspection and copying at the Department of Natural  
5 Resources.

6 (225 ILCS 732/1-136.03 new)

7 Sec. 1-136.03. Permit requirements.

8 (a) A person may not conduct high volume horizontal  
9 hydraulic fracturing operations, drill, deepen, convert a  
10 horizontal well in this State where high volume horizontal  
11 hydraulic fracturing operations are planned or occurring, or  
12 convert a vertical well into a horizontal well where high  
13 volume horizontal hydraulic fracturing operations are planned  
14 in this State, unless the person is registered with the  
15 Department, has been issued a permit by the Department under  
16 this Part, and has obtained all applicable authorizations  
17 required by the Illinois Oil and Gas Act.

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

22 (c) A permittee may not conduct high volume horizontal  
23 hydraulic fracturing operations that deviate from the terms of  
24 the permit, unless the permittee obtains a modification of the  
25 permit under Section 1-136.15.

1       (d) A person may not operate a well where high volume  
2 horizontal hydraulic fracturing operations were previously  
3 permitted or conducted pursuant to a permit issued to another,  
4 unless the person is registered with the Department and obtains  
5 a transfer of the permit under Section 1-136.16.

6           (225 ILCS 732/1-136.04 new)

7       Sec. 1-136.04. Registration procedures.

8       (a) Every applicant for a permit under this Act shall first  
9 register with the Department at least 30 days before applying  
10 for a permit, using a registration form provided by the  
11 Department.

12       (b) The registration form shall require the following  
13 information:

14           (1) the name and address of the registrant, the  
15 registrant's legal status (individual, partnership,  
16 corporation, or other), and the name, address, and legal  
17 status of any parent, subsidiary, or affiliate of the  
18 registrant;

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

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

7           (c) The registration form shall be signed by the registrant  
8           or the registrant's designee who has been vested with the  
9           authority to act on behalf of the registrant. The signature of  
10           the registrant or the registrant's designee constitutes a  
11           certificate that the registrant has read the registration form  
12           and that, to the best of the registrant's knowledge,  
13           information and belief, the information set forth in the form  
14           is true and accurate.

15           (d) The registration form shall be submitted to the  
16           Department electronically via the Department's website or  
17           mailed to the Office of Oil and Gas Resource Management.

18           (e) Within 21 days after the receipt of a registration  
19           form, if the Department determines that the registration form  
20           is compliant with the requirements of subsections (b) and (c)  
21           of this Section and the person submitting the registration form  
22           is properly registered as a permittee under the Illinois Oil  
23           and Gas Act, then the registration form shall be accepted and  
24           the Department will provide the registrant with:

25           (1) a statement that the registrant is registered with  
26           the Department for purposes of applying for high volume



1 horizontal hydraulic fracturing permits under this Act;

2 (2) the date the registration was accepted; and

3 (3) a high volume horizontal hydraulic fracturing  
4 registration number to be used when applying for high  
5 volume horizontal hydraulic fracturing permits under this  
6 Part.

7 (f) Within 21 days after receipt of a registration form, if  
8 the Department determines that the registration form is  
9 deficient relative to the requirements of subsections (b) and  
10 (c) of this Section, or the person submitting the registration  
11 form is not properly registered as a permittee under the  
12 Illinois Oil and Gas Act, then the registration shall not be  
13 accepted and the Department will notify the registrant with a  
14 statement of the deficiencies. The registrant shall not be  
15 considered registered for purposes of applying for high volume  
16 horizontal hydraulic fracturing permits under this Section  
17 until the deficiencies have been cured, the registration form  
18 resubmitted and a Department determination under subsection  
19 (e) of this Section has been made.

20 (g) A registrant shall notify the Department of any change  
21 in the information identified in subsection (b) of this Section  
22 at least annually or within 90 days of any change in the name  
23 or address of the registrant, the registrant's legal status  
24 (individual, partnership, corporation, or other), and the  
25 name, address, or legal status of any parent, subsidiary, or  
26 affiliate of the registrant.

1       (h) All registrants shall resubmit the registration form  
2 under subsections (c) and (d) of this Section beginning  
3 September 1, 2016 and by September 1 of every even numbered  
4 year thereafter.

5           (225 ILCS 732/1-136.05 new)

6       Sec. 1-136.05. Permit application requirements.

7       (a) Every applicant for a permit under this Section must  
8 submit the following information to the Department on an  
9 application form provided by the Department:

10       (1) The name, email address, and address of the  
11 applicant, the name and address of any parent, subsidiary,  
12 or affiliate of the applicant, and the applicant's high  
13 volume horizontal hydraulic fracturing registration  
14 number.

15       (2) The proposed well name, well location, and legal  
16 description per the Public Land Survey System of the well,  
17 well site, and its unit area. The well location shall be  
18 surveyed by an Illinois licensed land surveyor or Illinois  
19 registered professional engineer and the description of  
20 the surveyed well location shall also include the legal  
21 description, the GPS latitude and longitude location, and  
22 ground elevation of the well. The GPS location shall be  
23 recorded as degrees and decimal degrees recorded to 6  
24 decimal places in the North American Datum 1983 projection  
25 and shall be accurate to within 3 feet. The reported GPS

1 location is required to be an actual GPS field measurement  
2 and not a calculated or conversion measurement.

3 (3) A statement of whether the proposed location of the  
4 well site is in compliance with the setback requirements of  
5 this Part and a plat map, which shows the proposed surface  
6 location of the well site, providing the distance in feet  
7 from the surface location of the well site to the features  
8 described in subsection (a) of Section 1-25 of this Act and  
9 a statement explaining how the size of the well site is  
10 sufficient to conduct all aspects of high volume horizontal  
11 hydraulic fracturing operations within its boundaries.

12 (4) A detailed description of the directional drilling  
13 plan for the proposed well to be used for the high volume  
14 horizontal hydraulic fracturing operations, including, but  
15 not limited to, the following information:

16 (A) the approximate total true vertical and  
17 measured depth to which the well is to be drilled or  
18 deepened;

19 (B) the proposed angle and direction (heading) of  
20 the well;

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

23 (D) the planned depth at which the well enters the  
24 formation that will be stimulated as part of the high  
25 volume horizontal hydraulic fracturing operations;

26 (E) the angle and direction of any nonvertical

1 portion of the well until the well reaches its total  
2 target depth or its actual final depth;

3 (F) the planned horizontal deviation and direction  
4 (heading) of the proposed horizontal portion of the  
5 well; and

6 (G) the planned bottom hole location of the well.

7 (5) The estimated depth and elevation, according to the  
8 most recent publication of the Illinois State Geological  
9 Survey of Groundwater for the location of the well or any  
10 other relevant information known to the applicant, of the  
11 lowest potential fresh water along the entire length of the  
12 proposed well.

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

16 (A) the formations affected by the high volume  
17 horizontal hydraulic fracturing operations, including,  
18 but not limited to, geologic name and geologic  
19 description of the formations that will be stimulated  
20 by the operation;

21 (B) the anticipated surface treating pressure  
22 range;

23 (C) the maximum anticipated injection treating  
24 pressure;

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

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

3           (F) the anticipated type, source, and volume of the  
4           base fluid anticipated to be used in the high volume  
5           horizontal hydraulic fracturing treatment; for high  
6           volume horizontal hydraulic fracturing treatments  
7           using hydrocarbon or non-hydrocarbon fluids in gas and  
8           or liquid form as an element of the hydraulic  
9           fracturing fluid, the applicant shall calculate the  
10           total estimated fluid volume that will be used for the  
11           hydraulic fracturing treatment at downhole conditions;  
12           the proposed volume shall be based on the anticipated  
13           downhole pressure and temperature.

14           (7) Scaled plat maps, diagrams, and cross-sections  
15           that include the following:

16           (A) A scaled top-view diagram showing the well  
17           location on the well site, direction of drilling below  
18           the surface entry point into the formation to be  
19           stimulated, and total depth;

20           (B) a scaled map showing the proposed unit,  
21           including the unit boundaries and the location of the  
22           proposed well, well pad, well site, access road, and  
23           any other operating facilities;

24           (C) a plat map showing the well location and all  
25           known previous wellbores within 750 feet of any part of  
26           the horizontal wellbore that penetrated within 400

1           vertical feet of the formation that will be stimulated  
2           as part of the high volume horizontal hydraulic  
3           fracturing operations; if existing wellbores are  
4           present within the prescribed radius, then also  
5           include the following information for each wellbore:  
6           well name, if known, estimated location, and permit  
7           number, if known; and

8           (D) a scaled cross-section of the wellbore from the  
9           surface through total depth providing the information  
10           required in paragraph (4) and (5) of subsection (a) of  
11           this Section, and showing the formations to be  
12           stimulated described in subparagraph (A) of paragraph  
13           (6) of subsection (a) of this Section.

14           (8) Unless the applicant documents why the information  
15           is not available at the time the application is submitted  
16           (in which case the applicant shall comply with Sections  
17           1-136.34 and 1-136.37), a chemical disclosure report  
18           identifying each chemical and proppant anticipated to be  
19           used in hydraulic fracturing fluid for each stage of the  
20           high volume horizontal hydraulic fracturing operations,  
21           including the following:

22           (A) for each stage, the total volume of water  
23           anticipated to be used in the high volume horizontal  
24           hydraulic fracturing treatment of the well or the type  
25           and total volume of the base fluid anticipated to be  
26           used in the high volume horizontal hydraulic

1 fracturing treatment, if something other than water;

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

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

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

15 (9) A self-certification explaining the applicant's  
16 compliance with the Water Use Act of 1983 and applicable  
17 regional water supply plans.

18 (10) If fresh water is anticipated to be used in the  
19 high volume horizontal hydraulic fracturing treatment, a  
20 water source management plan that shall include the  
21 following information:

22 (A) the name and location (county, latitude,  
23 longitude) of the source of the fresh water, such as  
24 surface or groundwater, anticipated to be used for  
25 water withdrawals, and the anticipated withdrawal  
26 location;

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

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

6           (D) the methods to be used to minimize fresh water  
7           withdrawals as much as feasible; and

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

11          Where a surface water source is wholly contained within a  
12          single property, and the landowner of the property expressly  
13          agrees in writing to its use for fresh water withdrawals, the  
14          applicant is not required to include this surface water source  
15          in the fresh water withdrawal and management plan. For this  
16          exception to apply, the water use agreement with the landowner  
17          of the property must be provided with the permit application.  
18          Any confidential provisions of a water use agreement may be  
19          redacted by the applicant.

20          If recycled water is anticipated to be used in the high  
21          volume horizontal hydraulic fracturing treatment, describe the  
22          source of the recycled water and the anticipated volume to be  
23          used.

24          If water other than fresh water or recycled water is  
25          anticipated to be used in the high volume horizontal hydraulic  
26          fracturing treatment, describe the source of such other water



1 and the anticipated volume to be used.

2 (11) A hydraulic fracturing fluids and flowback plan  
3 for the handling, storage, and transportation and  
4 disposal, recycling, or reuse of hydraulic fracturing  
5 fluids and hydraulic fracturing flowback consistent with  
6 the requirements of this Part. 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 or the  
9 facilities where the hydraulic fracturing flowback will be  
10 reused or recycled. The plan shall describe the capacity of  
11 the tanks to be used for the capture and storage of all the  
12 anticipated hydraulic fracturing flowback and of the lined  
13 reserve pit to be used, if necessary, to temporarily store  
14 any flowback in excess of the capacity of the tanks.  
15 Identification of the Class II injection well or wells  
16 shall be by name, identification number, and specific  
17 location and shall include the date of the most recent  
18 mechanical integrity test for each Class II injection well.

19 (12) A well site safety plan to:

20 (A) address proper safety measures to be employed  
21 during high volume horizontal hydraulic fracturing  
22 operations for the protection of persons on the well  
23 site and the general public that complies with federal  
24 and State law;

25 (B) (blank);

26 (C) identify the location of where MSDS

1           information related to any hazardous materials that  
2           will be stored on site will be available for review by  
3           all appropriate regulatory agencies and emergency  
4           responders;

5           (D) provide contact information for all  
6           appropriate emergency responders; and

7           (E) provide contact information of the applicant  
8           to be used by emergency responders.

9           (13) A containment plan describing the containment  
10          practices and equipment to be used and the area of the well  
11          site where containment systems will be employed that  
12          complies with Sections 1-136.43, 1-136.44, and 1-136.45.

13          (14) A casing and cementing plan that describes the  
14          casing and cementing practices to be employed, including  
15          the size of each string of pipe, the starting point, and  
16          depth to which each string is to be set and the extent to  
17          which each string is to be cemented that complies with  
18          Sections 1-136.24 and 1-136.27.

19          (15) A traffic management plan that identifies the  
20          anticipated roads, streets, and highways that will be used  
21          to facilitate the well site construction, drilling  
22          operations, high volume horizontal hydraulic fracturing  
23          operations, production, and continued operations of the  
24          well site. The traffic management plan shall include the  
25          following:

26                (A) a scaled map of the proposed routes the

1           applicant intends to use to construct the well site,  
2           perform high volume horizontal hydraulic fracturing  
3           operations, production and continued operations, for  
4           at least a 10 mile radius around the well site,  
5           identifying all the different highway jurisdictions;

6           (B) (blank);

7           (C) contact information for the applicant's  
8           representative with knowledge of the traffic  
9           management plan; and

10           (D) contact information for a representative of  
11           each impacted highway or road authority;

12           (16) Landowner and permittee information that includes  
13           the following:

14           (A) the names and addresses of all landowners of  
15           any real property surface interest in land within 1,500  
16           feet of the proposed well site as disclosed by the  
17           records in the office of the recorder of the county or  
18           counties;

19           (B) the names and addresses of all persons with an  
20           oil and gas lease on land within 1,500 feet of the  
21           proposed well site as disclosed by the records in the  
22           office of the recorder of the county or counties; and

23           (C) the names and addresses of all permittees under  
24           the Act or the Illinois Oil and Gas Act on land within  
25           1,500 feet of the proposed well site.

26           (17) Drafts of the specific public notice and general

1       public notice as required by Section 1-136.09 using the  
2       forms provided by the Department.

3       (18) Plugging and restoration plans, including the  
4       following:

5               (A) a plan for the pre-high volume horizontal  
6               hydraulic fracturing operations plugging of previously  
7               abandoned unplugged or insufficiently plugged wells  
8               under Section 1-136.59. For any wellbores identified  
9               in subparagraph (A) of paragraph (7) of subsection (a)  
10              of this Section, this plan shall provide evidence  
11              demonstrating that the wellbore contains an adequate  
12              volume of cement and is constructed and plugged in a  
13              manner that will prevent the migration of fluids into  
14              fresh water from the borehole or that the wellbores  
15              will be plugged under Section 1-136.59;

16              (B) a plan for restoration of lands used by the  
17              permittee other than the well site and production  
18              facility under Section 1-136.60; and

19              (C) a plan for the plugging of the well and the  
20              restoration of the well site to be in compliance with  
21              62 Ill. Adm. Code 240.Subpart K and Sections 1-136.58  
22              and 1-136.61 of this Part;

23       (19) Proof of insurance by the applicant, and any  
24       contractor performing high volume horizontal hydraulic  
25       fracturing operations at the proposed well, that each is  
26       insured to cover injuries, damages, or loss related to

1 pollution in the amount of at least \$5,000,000.

2 (20) Certification that the applicant's registration  
3 information provided under Section 1-136.04 is accurate  
4 and up to date.

5 (21) A plan for compliance with the requirement that  
6 the access road to the well site must be located in  
7 accordance with access rights either obtained by agreement  
8 with the surface landowner or pursuant to the Drilling  
9 Operations Act and located as far as practical from  
10 occupied structures, places of assembly and property lines  
11 of unleased property as required by Section 1-136.20.

12 (22) A plan for compliance with the requirement to  
13 preserve topsoil as required by Section 1-136.20.

14 (23) A plan for compliance with the requirement to  
15 implement practices to control fugitive dust as required by  
16 Section 1-136.20.

17 (24) The work plan to ensure accurate and complete  
18 water quality sampling and testing as set forth in  
19 subsection (a) of Section 1-136.29, reviewed and certified  
20 by a professional engineer or professional geologist.

21 (25) (Blank).

22 (26) (Blank).

23 (27) A violations report indicating whether the  
24 applicant or any parent, subsidiary, or affiliate of the  
25 applicant has pending Notices of Violations or Director's  
26 Decisions under this Act, this Part, the Illinois Oil and

1       Gas Act, or the administrative rules adopted under that  
2       Act.

3       (28) (Blank).

4       (b) When an application is made to conduct high volume  
5       horizontal hydraulic fracturing operations at a well site  
6       located within the limits of any city, village, or incorporated  
7       town, the application shall state the name of the city,  
8       village, or incorporated town and be accompanied with a  
9       certified copy of the official consent for the high volume  
10       horizontal hydraulic fracturing operations to occur from the  
11       municipal authorities where the well site is proposed to be  
12       located. No permit shall be issued unless consent is secured  
13       and filed with the permit application. In the event that a  
14       modification to the permit is subsequently sought for an  
15       amended location or any other significant permit deviation, a  
16       new certified consent is required for the amended location.

17       (c) The permit application shall be accompanied by a bond  
18       or equivalent financial instrument as required by subsection  
19       (a) of Section 1-136.06.

20       (d) Each application for a permit under this Part shall  
21       include payment of a non-refundable fee of \$13,500. Checks  
22       shall be made payable to the Department of Natural Resources.

23       (e) Each application submitted under this Part 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 and  
5 under penalty of refusal, suspension, or revocation of a  
6 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 (f) The applicant shall submit his or her application to  
10 the Department in both electronic and one hard copy format at  
11 the same time. The electronic format shall be searchable and  
12 provided to the Department on compact disc, DVD, or Universal  
13 Serial Bus (USB) compatible storage devices. The permittee  
14 shall also provide to the Department, in electronic and hard  
15 copy format, a duplicate set of any pages containing names or  
16 addresses of individuals in which the names and addresses,  
17 except those provided under paragraph (1) and (26) of  
18 subsection (a) of this Section, are redacted for purposes of  
19 confidentiality. Review of the permit application shall not be  
20 considered for the purposes of Section 1-136.07 if the  
21 Department is unable to access the submitted electronic format.

22 (g) The application for a high volume horizontal hydraulic  
23 fracturing permit may be submitted as a combined permit  
24 application with the permittee's application to drill on a form  
25 prescribed by the Department. The combined application must  
26 include the information required in this Section. The

1 submission of a combined permit application under this  
2 subsection shall not be interpreted to relieve the applicant or  
3 the Department from complying with the requirements of this  
4 Part, the Act, the Illinois Oil and Gas Act and the rules  
5 adopted under that Act.

6 (225 ILCS 732/1-136.06 new)

7 Sec. 1-136.06. Permit bonds or other collateral  
8 securities.

9 (a) No person shall be allowed to construct, drill,  
10 operate, perform high volume horizontal hydraulic fracturing  
11 operations, or produce from a well for which a permit is  
12 necessary under this Part if that well is not covered and  
13 protected by a bond or other collateral securities as required  
14 by this Section.

15 (b) All applicants for a permit under this Part and persons  
16 requesting permit transfers shall provide a bond at the time of  
17 filing an application for a permit under Section 1-136.05 or at  
18 the time of filing a request for a transfer of permit under  
19 Section 1-136.16. The bond shall be in the amount of \$50,000  
20 per permit or a blanket bond of \$500,000 for all permits. All  
21 bonds must meet the following requirements during the permit  
22 application process and through the entire term of an issued  
23 permit until the bond is released as provided by subsection (d)  
24 of this Section:

25 (1) Bonds shall be signed by the permittee as principal



1       and by a good and sufficient corporate surety legally  
2       authorized to transact business as a surety in this State.

3       (2) Each bond shall provide that the bond shall not be  
4       cancelled by the surety without at least 90 days' notice to  
5       the Department. Notice shall be served upon the Department  
6       in writing by registered or certified mail to the Illinois  
7       Department of Natural Resources, Attention: Office of Oil  
8       and Gas Resource Management.

9       (3) Within the 90-day notice period and before the bond  
10       is cancelled, the permittee shall deliver to the Department  
11       a replacement bond. If the replacement bond is not  
12       delivered, all activities covered by the bond shall cease  
13       at the expiration of the 90-day notice period.

14       (4) If the authority to transact business in this State  
15       of any surety upon which a bond is filed with the  
16       Department is suspended or revoked, the permittee, within  
17       30 days after receiving notice of the suspension or  
18       revocation, shall notify the Department and shall make  
19       substitution by providing a bond or other security as  
20       required by this Section. Upon the permittee's failure to  
21       make the substitution of bond or other security, all  
22       activities covered by the bond shall cease until  
23       substitution has been made.

24       (c) In lieu of a bond, the permittee may provide other  
25       collateral securities such as cash, certificates of deposit, or  
26       irrevocable letters of credit under the following terms and

1 conditions:

2 (1) Monetary deposits in the form of cashier's or  
3 certified check or wire transfers of funds to a dedicated  
4 fund established by the Department in the State Treasurer's  
5 Office.

6 (2) Certificates of deposit shall be payable to the  
7 permittee and assigned to the Department, both in writing  
8 submitted to the Department and upon the records of the  
9 bank issuing the certificates. If assigned, the Department  
10 will require the banks issuing these certificates to waive  
11 all rights of setoff or liens against the certificates.

12 (3) The Department will not accept an individual  
13 certificate of deposit in an amount in excess of the  
14 maximum insurable amount determined by the Federal Deposit  
15 Insurance Corporation.

16 (4) Any interest accruing on a certificate of deposit  
17 shall be for the benefit of the permittee except that  
18 accrued interest shall first be applied to any prepayment  
19 penalty when a certificate of deposit is forfeited by the  
20 Department.

21 (5) The certificate of deposit, if a negotiable  
22 instrument, shall be placed in the Department's  
23 possession. If the certificate of deposit is not a  
24 negotiable instrument, a withdrawal receipt, endorsed by  
25 the permittee, shall be placed in the Department's  
26 possession.

1           (6) A letter of credit may only be issued by a bank  
2           organized or authorized to do business in the United States  
3           (issuing bank). If the issuing bank does not have an office  
4           for collection in this State, there shall be a confirming  
5           bank designated that is authorized to accept, negotiate and  
6           pay the letter upon presentment in this State.

7           (7) Letters of credit shall be irrevocable during their  
8           terms. A letter of credit shall be forfeited and shall be  
9           collected by the Department if not replaced by other  
10           suitable bond or other collateral securities at least 30  
11           days before its expiration date.

12           (8) The letter of credit shall be payable to the  
13           Department upon demand, in part or in full, upon receipt  
14           from the Department of a notice of forfeiture issued in  
15           under subsection (e) of this Section.

16           (9) The Department may not accept a letter of credit in  
17           excess of 10% of the issuing bank's total capital and  
18           surplus accounts, as certified by the President of the bank  
19           providing the letter of credit and as evidenced by the most  
20           recent quarterly Call Report provided to the Federal  
21           Deposit Insurance Corporation.

22           (10) A letter of credit shall provide on its face that  
23           the Department, its lawful assigns, or the attorneys for  
24           the Department or its assigns may sue, waive notice and  
25           process, appear on behalf of, and confess judgment against  
26           the issuing bank (and any confirming bank) in the event

1       that the letter of credit is dishonored. The letter of  
2       credit shall be deemed to be made in Sangamon County,  
3       Illinois, for the purpose of enforcement and any actions  
4       thereon shall be enforceable in the courts of this State,  
5       and shall be construed under Illinois law.

6       (d) The bond or other collateral securities shall remain in  
7       force until the well is plugged, abandoned and restored, or  
8       transferred. Upon plugging, abandoning and restoring, or  
9       transferring a well to the satisfaction of the Department and  
10       in accordance with the Illinois Oil and Gas Act, the bond or  
11       other collateral securities shall be promptly released by the  
12       Department. Upon the release by the Department of the bond or  
13       other collateral securities, any cash or collateral securities  
14       deposited shall be returned by the Department to the applicant  
15       or permittee who deposited it.

16       (e) If, after notice and the opportunity for hearing, the  
17       Department determines that any of the requirements of this Act  
18       or this Part or the orders of the Department have not been  
19       complied with within the time limit set by any notice of  
20       violation issued thereunder, the permittee's bond or other  
21       collateral securities shall be subject to forfeiture pursuant  
22       to the following:

23               (1) A permittee's failure to comply with the  
24               Department's order finding a violation of this Act or this  
25               Part constitutes grounds for bond forfeiture.

26               (2) The Department shall send written notification by

1 certified mail with return receipt requested, to the  
2 permittee and the surety on the bond, if any, informing  
3 them of the determination to forfeit the bond under  
4 paragraph (1) of this subsection (e).

5 (3) The Department may allow a surety to correct the  
6 violation if the surety can demonstrate an ability to  
7 complete the corrective work in accordance with the  
8 requirements of this Part. No surety liability shall be  
9 released until the successful correction of the violation  
10 ordered by the Department.

11 (4) In the event forfeiture of the bond or other  
12 collateral securities is warranted by paragraph (1) of this  
13 subsection (e), the Department shall afford the permittee  
14 the right to a hearing, if the hearing is requested in  
15 writing by the permittee within 30 days after the bond  
16 forfeiture notification is received under paragraph (2) of  
17 this subsection (e). If the permittee does not request a  
18 hearing within the 30-day period, the determination to  
19 forfeit the bond shall be a final administrative decision.  
20 If a hearing is requested by the permittee, the hearing  
21 shall be scheduled within 30 days after the receipt of the  
22 request for hearing, and shall be conducted by a Hearing  
23 Officer.

24 (5) At the bond forfeiture hearing, the Department  
25 shall present evidence and has the burden of proof to  
26 support its determination to forfeit the bond under

1 paragraph (1) of this subsection (e). The permittee may  
2 present evidence contesting the Department's  
3 determination. The Hearing Officer may administer oaths  
4 and affirmations, subpoena witnesses and written or  
5 printed materials, compel attendance of witnesses or  
6 production of those materials, compel discovery, and take  
7 evidence.

8 (6) Within 30 days after the close of the record for  
9 the bond forfeiture hearing, the Hearing Officer shall  
10 issue recommended findings of fact, recommended  
11 conclusions of law and recommendations as to the  
12 disposition of the case.

13 (7) The Director or his or her designee shall review  
14 the administrative record in a contested case, in  
15 conjunction with the Hearing Officer's recommended  
16 findings of fact, recommended conclusions of law, and  
17 recommendations as to the disposition of the case. The  
18 Director or designee shall then issue the Department's  
19 final administrative decision affirming, vacating, or  
20 modifying the Hearing Officer's decision.

21 (8) Payment under this bond may not exceed the  
22 aggregate administrative penalty as specified in the  
23 Notice of Violation or Director's Decision.

24 (9) Forfeiture under this subsection (e) shall not  
25 limit any duty of the permittee to mitigate or remediate  
26 harms or foreclose enforcement by the Department or the

1       Agency.

2       (f) When any bond or other collateral security is forfeited  
3 under the provisions of this Part, the Department shall collect  
4 the forfeiture without delay. The surety shall have 30 days to  
5 submit payment for the bond after receipt of notice by the  
6 permittee or the Department of the forfeiture.

7       (g) If the permittee's bond is subject to forfeiture and  
8 used for anything other than plugging and restoration of the  
9 well and well site, the permittee shall have 30 days from the  
10 date of the Department's determination to forfeit the bond to  
11 replace the bond. Failure to replace the bond within this time  
12 shall result in the immediate cessation of activities covered  
13 by the bond and permit.

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

17       (225 ILCS 732/1-136.07 new)

18       Sec. 1-136.07. Permit application receipt and department  
19 review.

20       (a) All registrants who anticipate filing a permit  
21 application with the Department shall notify the Office of Oil  
22 and Gas Resource Management at least 5 business days before the  
23 anticipated date of filing by both email and by telephone to  
24 advise the Office of the anticipated permit filing. The  
25 registrant shall provide the name of the applicant and the name

1 and telephone number of an applicant contact person in case the  
2 Office has any questions.

3 (b) Upon receipt of a permit application, the Department  
4 shall provide notice to the applicant that the permit  
5 application was received and of the following:

6 (1) the review number assigned by the Department to the  
7 permit application;

8 (2) the date of receipt of the permit application;

9 (3) the dates of the public comment period on the permit  
10 application; and

11 (4) the date, time, and address of the public hearing  
12 and the name of the Hearing Officer scheduled to preside  
13 over the public hearing for the permit application that  
14 will apply should a request for public hearing be filed.

15 (c) Any application received by the Office after 12:00 p.m.  
16 (Central Standard Time) will be considered received on the  
17 following business day.

18 (d) Upon receipt of a permit application, the Department  
19 shall have no more than 60 calendar days from the date it  
20 receives the permit application to approve, with any conditions  
21 the Department may find necessary, or reject the application  
22 for the high volume horizontal hydraulic fracturing permit. The  
23 applicant may waive, in writing, the 60-day deadline upon its  
24 own initiative or in response to a request by the Department.

25 (e) If, during the review period, the Department determines  
26 that the permit application is not complete under this Act,



1 does not meet the requirements of Section 1-136.05, or requires  
2 additional information, the Department shall notify the  
3 applicant in writing of the application's deficiencies and  
4 allow the applicant to correct the deficiencies and provide the  
5 Department any information requested to complete the  
6 application.

7 (f) If the applicant fails to provide adequate supplemental  
8 information, the Department may reject the application.

9 (g) If the deficiency identified by the Department is of an  
10 administrative or ministerial nature, including errors caused  
11 by a revised business address for the applicant or correction  
12 of typographical errors, notice of the corrected information  
13 that is provided by the applicant shall be posted on the  
14 Department's website along with the application.

15 (h) If the deficiency identified by the Department is of a  
16 substantive nature that may affect determinations the  
17 Department must make or that could be of interest to the  
18 public, the Department may accept supplemental information  
19 provided by the applicant and post it on the Department's  
20 website if the information is provided within the first 30 days  
21 of the 60-day review period and no less than 7 days prior to a  
22 public hearing on the permit application.

23 (i) If the supplemental information is not provided within  
24 the timeframe set forth in subsection (h) of this Section, the  
25 Department shall either deny the permit for providing  
26 incomplete information in a permit application or request that

1 the applicant waive the 60-day deadline.

2 (j) If the applicant refuses to waive the deadline, the  
3 Department shall deny the permit application.

4 (225 ILCS 732/1-136.08 new)

5 Sec. 1-136.08. Public and governmental notice by the  
6 Department.

7 (a) Within 5 calendar days after the Department's receipt  
8 of the high volume horizontal hydraulic fracturing permit  
9 application, the Department shall post notice of its receipt  
10 and a copy of the permit application on its website. Except for  
11 the names and addresses provided in the permit application  
12 under paragraphs (1) and (26) of subsection (a) of Section  
13 1-136.05, all other names and addresses of individuals provided  
14 in the permit application shall be considered confidential and  
15 shall not be posted on the Department's website. The notice  
16 shall include:

17 (1) the date the application was received by the  
18 Department;

19 (2) the dates of the public comment period for the  
20 permit application;

21 (3) directions for interested parties to submit  
22 comments or objections;

23 (4) the review numbers assigned by the Department to  
24 the permit application;

25 (5) the tentative date, time, and address of the public

1 hearing and the name of the Hearing Officer scheduled to  
2 preside over the public hearing on the permit application  
3 should a request for public hearing be filed; and

4 (6) directions, including the date by which the request  
5 must be filed to be considered, on how and when to request  
6 a public hearing on the permit application for any person  
7 having an interest that is or may be adversely affected,  
8 any government agency that is or may be affected, or the  
9 county board of a county to be affected under a proposed  
10 permit.

11 (b) Within 5 calendar days after the Department's receipt  
12 of the permit application, the Department shall provide the  
13 Agency, the Office of the State Fire Marshal, Illinois State  
14 Water Survey, and Illinois State Geological Survey with notice  
15 of the application.

16 (c) Within 5 calendar days after the Department's receipt  
17 of the permit application, the Department shall provide a copy  
18 of the permit application's well site safety plan to the Office  
19 of the State Fire Marshal.

20 (d) Within 5 calendar days after the Department's receipt  
21 of the permit application, the Department shall provide a copy  
22 of the permit application's containment plan to the Office of  
23 the State Fire Marshal.

24 (e) Within 5 calendar days after the Department's receipt  
25 of the permit application, the Department shall provide a copy  
26 of the permit application's traffic management plan to the

1 Office of the State Fire Marshal.

2 (f) If the Department receives a valid request for a public  
3 hearing from a person, government agency, or county board that  
4 is determined to be adversely affected as defined in Section  
5 245.270, at least 10 calendar days before the date of the  
6 tentative public hearing date, the Department shall publish  
7 formal notice of the public hearing in a newspaper of general  
8 circulation published in, or as near possible to, the county  
9 where the proposed well site will be located. The notice shall  
10 include:

11 (1) the date, time, and place of the public hearing;

12 (2) the name and mailing address of the Hearing Officer  
13 scheduled to preside over the public hearing;

14 (3) the purpose of the public hearing and the name of  
15 the applicant;

16 (4) the legal description, per the Public Land Survey  
17 System, of the proposed well site and unit area;

18 (5) the review number for the permit application; and

19 (6) a statement that any person having an interest that  
20 is or may be adversely affected, any government agency that  
21 is or may be affected, or the county board of a county to  
22 be affected under a proposed permit may file a request for  
23 public hearing on the permit application under Section  
24 1-136.11.

1       Sec. 1-136.09. Public and governmental notice by the permit  
2 applicant.

3       (a) The applicant shall provide the following public and  
4 governmental notice:

5           (1) Applicants shall mail specific public notice by  
6 U.S. Postal Service certified mail with return receipt  
7 requested, within 3 calendar days after submittal of the  
8 high volume horizontal hydraulic fracturing permit  
9 application to the Department to:

10           (A) all persons identified as landowners of any  
11 real property surface interest in land within 1,500  
12 feet of the proposed well site as disclosed by the  
13 records in the office of the recorder of the county or  
14 counties;

15           (B) all persons identified as persons with an oil  
16 and gas lease within 1,500 feet of the proposed well  
17 site as disclosed by the records in the office of the  
18 recorder of the county or counties;

19           (C) all permittees under this Act or the Illinois  
20 Oil and Gas Act in land within 1,500 feet of the  
21 proposed well site as disclosed by the records in the  
22 office of the recorder of the county or counties; and

23           (D) the governing body of each municipality in  
24 which the well is proposed to be located; and

25           (E) the county board of each county in which the  
26 well is proposed to be located.

1           (2) Except as otherwise provided in this paragraph (2),  
2           applicants shall provide general public notice by  
3           publication, once each week for 2 consecutive weeks,  
4           beginning no later than 3 calendar days after submittal of  
5           the high volume horizontal hydraulic fracturing permit  
6           application to the Department, in a newspaper of general  
7           circulation published in or, if necessary, as near possible  
8           to each county where the well proposed for high volume  
9           horizontal hydraulic fracturing operations is proposed to  
10           be located. If a well is proposed for high volume  
11           horizontal hydraulic fracturing operations in a county  
12           where there is no daily newspaper of general circulation,  
13           the applicant shall provide general public notice, by  
14           publication, once each week for 2 consecutive weeks, in a  
15           weekly newspaper of general circulation in that county  
16           beginning as soon as the publication schedule of the weekly  
17           newspaper permits, but in no case later than 10 days after  
18           submittal of the high volume horizontal hydraulic  
19           fracturing permit application to the Department.

20           (3) Within 15 calendar days after submitting the permit  
21           application to the Department, the applicant must provide a  
22           copy of the permit application's well site safety plan to  
23           the county or counties and all local fire departments with  
24           jurisdictions covering all or part of the well site in  
25           which high volume horizontal hydraulic fracturing  
26           operations will occur.

1           (4) Within 15 calendar days after submitting the permit  
2           application to the Department, the applicant must provide a  
3           copy of the permit application's traffic management plan to  
4           the county or counties in which the well site is located  
5           and any impacted highway authorities identified in the  
6           traffic management plan under paragraph (15) of subsection  
7           (a) of Section 1-136.05.

8           (5) The specific and general public notices required  
9           under paragraphs (1) and (2) of subsection (a) of this  
10           Section shall be on forms provided by the Department and  
11           shall contain the following information:

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

13                   (B) the date the application for a high volume  
14           horizontal hydraulic fracturing permit was received by  
15           the Department;

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

22                   (D) the proposed well name, review number assigned  
23           by the Department, address of the well site, and legal  
24           description per the Public Land Survey System of the  
25           well, well site, and its unit area; the well location  
26           shall be surveyed by an Illinois licensed land surveyor

1           or Illinois registered professional engineer and the  
2           description of the surveyed well location shall also  
3           include the legal description, the GPS latitude and  
4           longitude location, and ground elevation of the well;  
5           the GPS location shall be recorded as degrees and  
6           decimal degrees recorded to 6 decimal places in the  
7           North American Datum 1983 projection and shall be  
8           accurate to within 3 feet; the reported GPS location is  
9           required to be an actual GPS field measurement and not  
10          a calculated or conversion measurement;

11           (E) a statement that the information filed by the  
12           applicant in its application for a high volume  
13           horizontal hydraulic fracturing permit is available  
14           from the Department through its website;

15           (F) the Department's website and the address and  
16           telephone number for the Department's Office of Oil and  
17           Gas Resource Management; and

18           (G) a statement that any person having an interest  
19           that is or may be adversely affected, any government  
20           agency that is or may be affected, or the county board  
21           of a county to be affected under a proposed permit, may  
22           file written objections to a permit application and may  
23           request a public hearing under Section 1-136.11.

24           (b) After providing the public notice as required under  
25           subsection (a) of this Section, the applicant shall supplement  
26           its permit application by providing the Department with a



1 certification and documentation that the applicant fulfilled  
2 the public notice requirements of this Section no later than 21  
3 days after the Department's receipt of the permit application.

4 (c) If multiple applications are submitted at the same time  
5 for wells located on the same well site, the applicant may use  
6 one public notice for all applications provided the notice is  
7 clear that it pertains to multiple well applications and  
8 conforms to the requirements of this Section.

9 (225 ILCS 732/1-136.10 new)

10 Sec. 1-136.10. Public comment periods.

11 (a) The initial public comment period shall begin 7  
12 calendar days after the Department's receipt of the permit  
13 application and last for 30 calendar days. During the initial  
14 public comment period, any person may file written comments to  
15 the Department concerning any portion of the permit application  
16 and any issue relating to the applicant's compliance with the  
17 requirements of this Act, this Part, the Illinois Oil and Gas  
18 Act, and the administrative rules adopted under that Act.

19 (b) When a public hearing is conducted under Section  
20 1-136.11, the Department may, in its discretion, provide for an  
21 additional public comment period to allow for comments in  
22 response only to evidence and testimony presented at the  
23 hearing. The additional public comment period shall begin on  
24 the day after the close of the evidence at the public hearing  
25 and last for not more than 15 days, taking into consideration

1 that the Department shall have no more than 60 days from the  
2 date it receives the permit application to approve or reject  
3 the permit application.

4 (c) Written public comments may be filed via mail or  
5 electronically. Written public comments may be mailed to the  
6 Department of Natural Resources, Attention: Oil and Gas  
7 Regulatory Staff. Written public comments may be sent  
8 electronically to the Department based on the information  
9 provided in the Department's notice posted on its website.

10 (d) All public comments must include the review number  
11 assigned by the Department to the permit application and must  
12 be received by the Office of Oil and Gas Resource Management by  
13 5:00 p.m. on the last day of the applicable public comment  
14 period to be eligible for Department consideration during the  
15 permit review process set forth in this Part.

16 (e) The Department may request that the applicant respond  
17 to any substantive public comments, objections, and  
18 recommendations obtained during the public comment periods.

19 (225 ILCS 732/1-136.11 new)

20 Sec. 1-136.11. Public hearings.

21 (a) Participation in public hearings shall comply with the  
22 following:

23 (1) When a permit application to conduct high volume  
24 horizontal hydraulic fracturing operations for the first  
25 time at a particular well site is received by the

1       Department, any person having an interest that is or may be  
2       adversely affected, any government agency that is or may be  
3       affected, or the county board of a county to be affected  
4       under a proposed permit, may file a written request for  
5       public hearing. For purposes of this Part:

6               (A) To qualify as a person having an interest that  
7               is or may be adversely affected, a person must be:

8                       (i) a landowner or tenant with a real property  
9                       surface interest in or resident on land located  
10                      within 1,500 feet of the proposed well site that is  
11                      the subject of the permit application;

12                     (ii) a person with an oil and gas lease in land  
13                     located within 1,500 feet of the proposed well site  
14                     that is the subject of the permit application;

15                     (iii) a permittee under this Act or the  
16                     Illinois Oil and Gas Act in land located within  
17                     1,500 feet of the proposed well site that is the  
18                     subject of the permit application;

19                     (iv) a person identified as receiving specific  
20                     notice under Section 1-136.08 or 1-136.09; or

21                     (v) any other person who can directly  
22                     demonstrate in writing within the request for  
23                     public hearing that the person actually has an  
24                     interest that is or may be adversely affected by  
25                     granting the permit at issue at the public hearing.

26               (B) To qualify as a government agency that is or

1           may be affected, a government agency must be identified  
2           as receiving specific notice or a copy of any plan  
3           under Section 1-136.08 or 1-136.09.

4           (C) To qualify as a county board of a county to be  
5           affected under a proposed permit, a county board must  
6           represent a county:

7                   (i) in which the well site or the well that is  
8                   the subject of the permit application, in whole or  
9                   in part, is proposed to be located; or

10                   (ii) identified as receiving specific notice  
11                   in Section 1-136.08 or 1-136.09.

12           (2) The request for hearing shall be sent to the  
13           Department by electronic mail or certified mail, with  
14           return receipt requested. All requests for hearing shall be  
15           received by the Department before 5 p.m. on the last day of  
16           the initial public comment period established under  
17           Section 1-136.10.

18           (3) The request for hearing shall contain a short and  
19           plain statement:

20                   (A) stating the permit review number;

21                   (B) identifying the person, government agency, or  
22                   county, including name, address, email (if available),  
23                   and contact telephone number, and:

24                   (i) if a person, stating facts demonstrating  
25                   that the person has an interest that is or may be  
26                   adversely affected by the proposed permit as

1 defined in subparagraph (A) of paragraph (1) of  
2 subsection (a) of this Section;

3 (ii) if a government agency, stating facts  
4 demonstrating that the government agency is or may  
5 be affected by the proposed permit as defined in  
6 subparagraph (B) of paragraph (1) of subsection  
7 (a) of this Section; and

8 (iii) if a county, stating facts demonstrating  
9 that it will be affected by the proposed permit as  
10 defined in subparagraph (C) of paragraph (1) of  
11 subsection (a) of this Section;

12 (C) identifying each objection to, or concern  
13 with, the permit application;

14 (D) explaining the specific fact or facts upon  
15 which each objection or concern is based;

16 (E) referencing each statute Section or rule upon  
17 which each objection or concern is based, if known;

18 (F) listing all witnesses that will or may be  
19 called at the hearing, including his or her name,  
20 address, and phone number and a summary of his or her  
21 expected testimony, if known; if any witness will be  
22 used as an expert, documentation of his or her relevant  
23 qualifications, if known.

24 (4) Failure to comply with subparagraph (C), (D), (E),  
25 or (F) shall not constitute grounds to deny a hearing  
26 request.

1           (4.5) The Department may assign a hearing date at the  
2           time a permit application is accepted by the Department,  
3           subject to cancellation if no request for hearing is  
4           approved.

5           (5) The Department shall hold a public hearing upon a  
6           request for hearing under this subsection (a), unless the  
7           request is determined by the Department, within 7 days of  
8           receiving it, to:

9                   (A) lack an adequate factual statement for finding  
10                   that the person is or may be adversely affected, that  
11                   the government agency is or may be affected, or that  
12                   the county is affected by the proposed permit; or

13                   (B) be frivolous by presenting grounds that are  
14                   readily recognizable as devoid in merit.

15           (6) Prior to, but not less than 2 business days before  
16           the commencement of a public hearing under this Section,  
17           any person who could have requested the hearing under  
18           paragraph (1) of this subsection (a) may petition the  
19           Department to participate in the hearing in the same manner  
20           as the party requesting the hearing. The petition shall be  
21           in writing and meet the requirements for requests for  
22           hearing set forth in paragraph (3) of this subsection (a).  
23           The petitioner shall serve the petition by electronic mail  
24           or certified mail, with return receipt requested, upon the  
25           Department, the Hearing Officer, and the applicant. The  
26           petitioner shall be allowed to participate in the hearing

1       in the same manner as the party requesting the hearing if  
2       the petition meets the requirements set forth in paragraph  
3       (4) of this subsection (a).

4       (b) The procedures and location of the public hearing shall  
5       comply with the following:

6               (1) A public hearing conducted under this Section shall  
7               comply with the requirements of this Section.

8               (2) All public hearings under this Part shall be held  
9               in the county where the well site is located.

10              (3) The Department may establish a regular hearing  
11              schedule in each county and consolidate hearings on permit  
12              applications for wells to be located in that county.

13              (c) (1) All public hearings shall be conducted by a Hearing  
14              Officer designated by the Director. Hearing Officers shall be  
15              licensed to practice law in the State of Illinois with at least  
16              5 years of experience. Hearing Officers may be employees of the  
17              Department or work for the Department pursuant to contract.

18              (2) The Hearing Officer shall take all necessary action  
19              and shall have all powers necessary to avoid delay, to  
20              maintain order, to develop a clear and complete record, and  
21              to conduct a fair hearing, including the following:

22                      (A) to administer oaths and affirmations;

23                      (B) to receive relevant evidence;

24                      (C) to regulate the course of the hearing and the  
25                      conduct of the parties and their counsel;

26                      (D) to consider and rule upon procedural requests;

1           and

2                   (E) to examine witnesses and direct witnesses to  
3                   testify, limit the number of times any witness may  
4                   testify, limit repetitive or cumulative testimony, and  
5                   set reasonable limits on the amount of time each  
6                   witness may testify.

7           (3) Ex parte contacts between the parties and the  
8           Hearing Officer concerning the merits of a proceeding are  
9           prohibited. This Section does not prohibit communications  
10           concerning the hearing status or advice concerning  
11           compliance with procedural requirements.

12           (d) (1) A Hearing Officer, on his or her own motion or that  
13           of a party, may be disqualified in a proceeding due to bias or  
14           conflict of interest. However, the fact that a Hearing Officer  
15           is an employee of or under contract with the Department does  
16           not alone serve as a basis for conflict of interest.

17           (2) A motion for disqualification filed under this  
18           Section shall:

19                   (A) be in writing;

20                   (B) contain a statement of supporting grounds;

21                   (C) be filed with the Director and served upon all  
22                   parties and the Hearing Officer; and

23                   (D) be filed not less than 2 business days before  
24                   the scheduled date of the public hearing.

25           (3) Unless the Director orders otherwise, the Hearing  
26           Officer and any party to a proceeding in which a motion is



1 filed under this Section may file a response.

2 (4) The Director shall rule on all motions filed under  
3 this Section immediately or as expeditiously as possible.

4 If a motion filed under this Section is granted, the  
5 Director shall appoint a new Hearing Officer for the  
6 proceeding.

7 (e) A hearing may be rescheduled for due cause by the  
8 Hearing Officer upon his or her own motion. The public hearing  
9 shall be rescheduled as quickly as possible, taking into  
10 consideration that the Department shall have no more than 60  
11 days from the date it receives the permit application to  
12 approve or reject the permit application.

13 (f) If any party, after a proper request for public  
14 hearing, fails to appear at the hearing, and absent an  
15 emergency situation beyond the party's control, that party's  
16 request for public hearing shall be dismissed. If other proper  
17 requests for public hearing remain, the public hearing shall  
18 proceed with any remaining parties. If the party failing to  
19 appear is the applicant, the hearing may not proceed and,  
20 absent an emergency situation beyond the applicant's control,  
21 the Department shall reject the permit application.

22 (g) The conduct of a hearing shall comply with the  
23 following:

24 (1) Taking into consideration that the Department  
25 shall have no more than 60 days after the date it receives  
26 the permit application to approve or reject the permit

1       application, pre-hearing conferences are not expected and  
2       may only be scheduled on request of a party if the Hearing  
3       Officer determines that good cause is provided to do so and  
4       delay of the public hearing shall not result. Any  
5       pre-hearing conference may be conducted via telephone.

6       (2) Every person, government agency, or county filing a  
7       request for hearing or petition to participate at the  
8       public hearing shall enter an appearance in writing.

9       (3) All parties in the hearing shall have the right to  
10       be represented by an attorney. Parties that are individuals  
11       do not need to be represented by an attorney. Parties  
12       required by Illinois law to be represented by an attorney  
13       in the courts of this State must be represented by an  
14       attorney at the public hearing.

15       (4) The Hearing Officer shall allow all parties to  
16       present statements, testimony, evidence, and argument, as  
17       may be relevant to the hearing.

18       (5) The Department shall appear at any hearing held  
19       under this Section and shall be given the opportunity to  
20       question parties or to provide evidence necessary to reach  
21       a decision on the request for hearing or petition to  
22       participate. The Department's role shall be to assist in  
23       creating a complete and accurate record at the public  
24       hearing.

25       (6) The following shall be addressed prior to receiving  
26       evidence at the discretion of the Hearing Officer:

1           (A) Preliminary exhibits offered by the parties,  
2           including documents necessary to present the issues to  
3           be heard, notices, proof of the notice of hearing,  
4           proof of publication, and the application at issue.

5           (B) Rulings on any pending motions.

6           (C) Any other preliminary matters appropriate for  
7           disposition prior to presentation of evidence may be  
8           addressed.

9           (h) The presentation of evidence at a public hearing shall  
10          comply with the following:

11           (1) The Illinois Rules of Evidence shall not apply to  
12           these proceedings. The Hearing Officer shall only accept  
13           evidence that is relevant to the hearing.

14           (2) Official notice may be taken of any material fact  
15           not appearing in evidence in the record if the circuit  
16           courts of this State could take judicial notice of that  
17           fact. In addition, notice may be taken of generally  
18           recognized technical or scientific facts within the  
19           Department's specialized knowledge.

20           (3) The parties requesting the public hearing shall  
21           present their evidence and testimony first. If there are  
22           parties that petitioned to participate in the hearing, they  
23           will then present their evidence and testimony. The Hearing  
24           Officer shall determine whether the Department or the  
25           applicant presents additional evidence and in what order.  
26           The Hearing Officer shall determine whether to allow

1 rebuttal evidence. All witnesses are subject to  
2 cross-examination. The Hearing Officer may allow opening  
3 statements and closing arguments.

4 (i) A complete record of the public hearings and all  
5 testimony shall be made by the Department and recorded  
6 stenographically or electronically. Any person testifying or  
7 presenting evidence shall be required to do so under oath.

8 (j) After the close of evidence at any public hearing held  
9 under this Section, the record of proceedings shall be  
10 maintained by the Department and its contents utilized in  
11 making a decision on the issuance of the permit.

12 (225 ILCS 732/1-136.12 new)

13 Sec. 1-136.12. Permit decision.

14 (a) The Department shall have no more than 60 calendar days  
15 from the date it receives the permit application to approve,  
16 with any conditions the Department may find necessary, or  
17 reject the application for the high volume horizontal hydraulic  
18 fracturing permit. The applicant may waive, in writing, the  
19 60-day deadline upon its own initiative or in response to a  
20 request by the Department.

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

24 (1) the application for the high volume horizontal  
25 hydraulic fracturing permit, including all documentation

1 required by Section 1-136.05;

2 (2) all written comments received during the public  
3 comment periods and, if applicable, the complete record  
4 from the public hearing held under Section 1-136.11;

5 (3) all supplemental information provided by the  
6 applicant in response to:

7 (A) any public comments;

8 (B) the requirements of this Part; and

9 (C) Department requests for information; and

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

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

20 (1) the well site location restrictions of Section  
21 1-136.19 of this Part have been satisfied;

22 (2) the application meets the requirements of Section  
23 1-136.05 of this Part;

24 (3) the plans required to be submitted with the  
25 application under Section 1-136.05 of this Part are  
26 adequate and effective to comply with this Act, this Part,

1       the Illinois Oil and Gas Act, and the administrative rules  
2       adopted under the Illinois Oil and Gas Act;

3       (4) the high volume horizontal hydraulic fracturing  
4       operations, as proposed, will be conducted in a manner that  
5       will protect the public health and safety and prevent  
6       pollution or diminution of any water source;

7       (5) the water quality monitoring work plan required  
8       under Section 1-136.29 of this Part has been submitted to  
9       the Department;

10       (6) the applicant or any parent, subsidiary, or  
11       affiliate of the applicant has not failed to abate a  
12       violation of this Act, this Part, the Illinois Oil and Gas  
13       Act, or the administrative rules adopted under the Illinois  
14       Oil and Gas Act;

15       (7) the Class II injection wells to be used for  
16       disposal of hydraulic fracturing flowback comply with all  
17       applicable requirements for internal and external  
18       mechanical integrity testing as required in 62 Ill. Adm.  
19       Code 240.760 and 240.770, including that the well has been  
20       tested within the previous 5 years; the Class II injection  
21       wells to be used for disposal of hydraulic fracturing  
22       flowback must be shown to be in compliance with 62 Ill.  
23       Adm. Code 240.360 at the time of the issuance of the high  
24       volume horizontal hydraulic fracturing permit;

25       (8) there is no good cause to deny the permit under  
26       Section 1-136.13; and

1           (9) The registration and permitting procedures set  
2           forth in Sections 1-136.04, 1-136.05, 1-136.06, 1-136.07,  
3           1-136.08, 1-136.09, 1-136.10, and 1-136.11 have been  
4           satisfied.

5           (d) The Department shall, by United States mail and  
6           electronic transmission, provide the applicant with a copy of  
7           the high volume horizontal hydraulic fracturing permit as  
8           issued or its final administrative decision denying the permit  
9           to the applicant. The Department shall, by United States mail  
10           or electronic transmission, provide a copy of the permit as  
11           issued or the final administrative decision denying the permit  
12           to any person or unit of local government who received specific  
13           public notice under Section 1-136.08 or 1-136.09 or  
14           participated in any public hearing under Section 1-136.11.

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

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

25           (g) The complete administrative record of the permit  
26           decision shall be maintained and shall be accessible to the

1 public on the Department's Internet website until final release  
2 of the applicant's bond under subsection (d) of Section  
3 1-136.06.

4 (225 ILCS 732/1-136.13 new)

5 Sec. 1-136.13. Permit denial. In addition to failing to  
6 meet the requirements of paragraphs (1) through (7) of  
7 subsection (c) of Section 1-136.12, the Department may also  
8 refuse to issue a high volume horizontal hydraulic fracturing  
9 permit for one or more of the following causes:

10 (1) the applicant provided incorrect, misleading,  
11 incomplete, or materially untrue information in a permit  
12 application or any document required to be filed with the  
13 Department during the permit application process;

14 (2) the applicant used fraudulent, coercive, or  
15 dishonest practices, or demonstrating incompetence,  
16 untrustworthiness, or financial irresponsibility in the  
17 conduct of business in this State or elsewhere;

18 (3) the applicant has had a high volume horizontal  
19 hydraulic fracturing permit, or its equivalent, revoked in  
20 any other state, province, district, or territory for  
21 incurring a material or major violation or using fraudulent  
22 or dishonest practices; or

23 (4) an emergency condition exists under which conduct  
24 of the high volume horizontal hydraulic fracturing  
25 operations would pose a significant hazard to public



1       health, aquatic life, wildlife, or the environment.

2           (225 ILCS 732/1-136.14 new)

3       Sec. 1-136.14. Permit conditions.

4       (a) Each permit issued by the Department shall require the  
5 permittee to comply with all provisions of this Act, this Part,  
6 the Illinois Oil and Gas Act, the rules adopted under the  
7 Illinois Oil and Gas Act, and all other applicable local,  
8 State, and federal laws, and rules in effect at the time the  
9 permit is issued.

10       (b) The permit application and all plans, maps, and  
11 diagrams submitted with the application shall be incorporated  
12 into and be conditions of the permit.

13       (c) The Department shall include any additional terms or  
14 conditions on the permit that, based on its review of the  
15 permit application, the Department determines to be necessary  
16 to ensure the goals and requirements of this Act and this Part.

17       (d) A permit, and all conditions to the permit, issued  
18 under this Part shall last until plugging and restoration in  
19 compliance with this Part, this Act, the Illinois Oil and Gas  
20 Act, and the rules adopted under the Illinois Oil and Gas Act  
21 are completed to the Department's satisfaction.

22       (e) The permittee shall also be responsible for adjusting  
23 to field conditions as necessary during well drilling and  
24 construction, high volume horizontal hydraulic fracturing  
25 operations, and hydraulic fracturing flowback periods to

1 ensure the safety of people, property, wildlife, and the  
2 environment as long as the actions are adequate and effective  
3 to comply with this Act, this Part, the Illinois Oil and Gas  
4 Act, and the rules adopted under the Illinois Oil and Gas Act.  
5 The actions shall be reported to the Department's district  
6 office within 72 hours for the Department's determination  
7 whether the actions require the filing of an application for  
8 permit modification under Section 1-136.15.

9 (f) A permit and all conditions thereto shall continue in  
10 full force and effect until the permit is released by the  
11 Department under Section 1-136.17.

12 (225 ILCS 732/1-136.15 new)

13 Sec. 1-136.15. Permit modifications.

14 (a) No permit issued under this Part may be modified  
15 without the approval of the Department under this Section.

16 (b) Applications for permit modification shall be made on a  
17 Department permit application form and shall specifically  
18 identify the applicant, the well, and each proposed deviation  
19 to the original permit.

20 (1) Sections of a permit modification application that  
21 are not the subject of a proposed deviation from an  
22 original permit are not required to be completed. All  
23 sections of a permit modification application that are not  
24 completed shall be considered to incorporate the original  
25 permit (and original permit application) as the content of

1 the permit modification application for those sections.

2 (2) Each permit modification application submitted  
3 under this Part shall be signed, under the penalty of  
4 perjury, by the applicant or the applicant's designee who  
5 has been vested with the authority to act on behalf of the  
6 applicant and has direct knowledge of the information  
7 contained in the permit modification application and its  
8 attachments. Any person signing a permit modification  
9 application shall also sign an affidavit with the following  
10 certification:

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

17 (c) If a permit modification application proposes to move  
18 the well, including the horizontal wellbore, add new horizontal  
19 wellbores, or add length to any existing or planned horizontal  
20 wellbores in a way that any address of a different person, any  
21 different municipality, or any different county would receive  
22 notice if the proposed modification application were a new  
23 permit application, the permit modification shall be  
24 considered a significant deviation from the original  
25 application and permit. The permit modification application  
26 for a significant deviation shall be accompanied by a

1 non-refundable fee of \$13,500, as set forth in Section  
2 1-136.05, and shall be reviewed and approved or rejected as if  
3 it were a completely new permit application under the permit  
4 application procedures set forth in this Part.

5 (d) All other permit modification applications may be filed  
6 as an insignificant permit deviation and accompanied by a  
7 non-refundable \$2,500 permit modification fee. However, the  
8 Department has the discretion to determine that the permit  
9 modification is a significant deviation based on the content of  
10 the application. The permit modification application for an  
11 insignificant permit deviation shall be reviewed and approved  
12 or rejected under the following procedures:

13 (1) The Department's record of decision shall include  
14 the original permit record of decision, information  
15 provided by the application for permit modification under  
16 subsection (b) of this Section, and any other additional  
17 information provided by the permittee in response to  
18 requests by the Department.

19 (2) The Department shall approve or reject the proposed  
20 insignificant permit modifications within 90 days after  
21 receipt of the permit modification application based on the  
22 requirements of subsection (c) of Section 1-136.12. The  
23 Department's decision to approve or reject the proposed  
24 insignificant permit modifications shall be considered a  
25 final administrative decision subject to judicial review  
26 under the Administrative Review Law and the rules adopted

1       under that Law.

2           (3) Approval of an insignificant permit modification  
3       shall result in a modified permit that shall be considered  
4       a permit under this Part and subject to all conditions and  
5       requirements for permits under this Act and this Part.

6           (4) The Department shall, by United States mail and  
7       electronic transmission, provide the applicant with a copy  
8       of the modified permit as issued or its final  
9       administrative decision rejecting the modification  
10       request.

11           (5) The applicant shall, by U.S. Mail or electronic  
12       transmission, provide a copy of the modified permit as  
13       issued to any person or unit of local government who  
14       received specific public notice under Section 1-136.09 or  
15       participated in any public hearing under Section 1-136.11  
16       for the original permit or any significant modifications of  
17       that permit. The applicant shall notify the Department  
18       within 30 days after receipt of the modified permit that it  
19       has complied with this paragraph (5).

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

25           (7) The complete record shall be maintained and shall  
26       be accessible to the public on the Department's Internet

1 website until final release of the applicant's bond.

2 (e) If, upon review of the permit modification application,  
3 the Department determines there is a significant potential a  
4 permit modification presents a serious risk to public health,  
5 life, property, aquatic life, or wildlife the Department may  
6 determine that the modification shall be considered a  
7 significant deviation from the original application and  
8 permit.

9 (1) The Department shall notify the applicant of its  
10 determination to treat the permit modification application  
11 as a significant deviation in writing with justification  
12 supporting the decision.

13 (2) To allow the Department to proceed with processing  
14 the permit modification application, the applicant shall  
15 be required to submit a non-refundable fee of \$13,500. Upon  
16 receipt of the full application fee, the permit  
17 modification application shall be reviewed and approved or  
18 rejected by the Department as if it were a completely new  
19 permit application under the permit application procedures  
20 set forth in this Part.

21 (225 ILCS 732/1-136.16 new)

22 Sec. 1-136.16. Permit transfers.

23 (a) No permit may be transferred to another person without  
24 approval of the Department.

25 (b) A request for permit transfer shall be made on a

1 Department form and be signed by the current permittee and the  
2 proposed new permittee or by individuals authorized to sign for  
3 them.

4 (c) Each request for permit transfer shall include a \$1,000  
5 non-refundable fee. The check shall be made payable to the  
6 Department.

7 (d) The Department shall approve a permit transfer, with  
8 any conditions the Department may find necessary, only if:

9 (1) the proposed new permittee certifies that its  
10 registration information provided under Section 1-136.04  
11 is accurate and up to date;

12 (2) the permit for the well issued under the Illinois  
13 Oil and Gas Act is approved for transfer to the proposed  
14 new permittee under the requirements for permit transfers  
15 under the Illinois Oil and Gas Act administrative rules;

16 (3) the proposed new permittee provides proof of  
17 insurance to cover injuries, damages, or loss related to  
18 pollution in the amount of at least \$5,000,000;

19 (4) there is no good cause to deny the permit transfer  
20 under subsection (a) of Section 1-136.13;

21 (5) the request for permit transfer is accompanied by a  
22 bond as required by Section 1-136.06;

23 (6) there are no outstanding unabated violations by  
24 either the current or proposed new permittee of this Part,  
25 this Act, the Illinois Oil and Gas Act, or the  
26 administrative rules adopted under that Act, as specified

1 in a final administrative decision by the Department.

2 (e) The Department shall approve or deny a request for  
3 permit transfer in writing within 90 days after receiving the  
4 request for permit transfer.

5 If the request for permit transfer is approved, the current  
6 permittee shall transfer a copy of the well file to the new  
7 permittee, the new permittee shall be the permittee of record  
8 for the permit, and the bond of the current permittee shall be  
9 released by the Department under subsection (d) of Section  
10 1-136.06.

11 If the request for permit transfer is denied, then the  
12 current permittee shall continue to be the permittee of record  
13 for the permit.

14 (f) A current or proposed new permittee may request a  
15 hearing to challenge the Department's decision if a hearing is  
16 requested in writing within 30 days after the date of the  
17 transfer or denial notice. All requests for hearing shall be  
18 mailed to the Department of Natural Resources, Attention:  
19 Office of Oil and Gas Resource Management. All requests for  
20 hearing shall be accompanied by documents evidencing the basis  
21 for objection. If no hearing is requested in this time period,  
22 the permit transfer decision shall be a final administrative  
23 decision of the Department. If a hearing is requested by the  
24 current or new permittee:

25 (1) A pre-hearing conference may be held within 60 days  
26 after the receipt of the request for hearing. A pre-hearing



1 conference shall be scheduled in order to:

2 (A) simplify the factual and legal issues  
3 presented by the hearing request;

4 (B) receive stipulations and admissions of fact  
5 and of the contents and authenticity of documents;

6 (C) exchange lists of witnesses the parties intend  
7 to have testify and copies of all documents the parties  
8 intend to introduce into evidence at the hearing;

9 (D) set a hearing date; and

10 (E) discuss and resolve such other matters as may  
11 tend to expedite the disposition of the hearing request  
12 and to assure a just conclusion.

13 Pre-hearing conferences may be held by telephone  
14 conference if that procedure is acceptable to all parties.

15 (2) All hearings under this Section shall be conducted  
16 by a Hearing Officer and shall be held in the Department's  
17 offices located in Springfield, Illinois.

18 (3) At the permit transfer hearing, the Department  
19 shall present evidence in support of its determination  
20 under subsection (e) of this Section. Both the current and  
21 the new permittee may present evidence contesting the  
22 Department's determination under subsection (e) of this  
23 Section. The Hearing Officer may administer oaths and  
24 affirmations, subpoena witnesses and written or printed  
25 materials, compel attendance of witnesses or production of  
26 those materials, compel discovery, and take evidence.

1           (4) Within 30 days after the close of the record for  
2           the permit transfer hearing, the Hearing Officer shall  
3           issue findings of fact, conclusions of law, and  
4           recommendations as to the disposition of the case.

5           (5) The Director or his or her designee shall review  
6           the administrative record in conjunction with the Hearing  
7           Officer's findings of fact, conclusions of law, and  
8           recommendations as to the disposition of the case. The  
9           Director or designee shall then issue the Department's  
10           final administrative decision affirming, vacating, or  
11           modifying the Hearing Officer's decision, which shall be  
12           subject to judicial review under the Administrative Review  
13           Law and the rules adopted under that Law.

14           (6) Failure to request a hearing under this subsection  
15           (f) shall constitute a waiver of all legal rights to  
16           contest the permit transfer decision.

17           (225 ILCS 732/1-136.17 new)

18           Sec. 1-136.17. Permit release. A permit issued under this  
19           Part shall be released by the Department upon the Department's  
20           satisfaction that the plugging of the well and restoration of  
21           the well site is completed in compliance with the permittee's  
22           Plugging and Restoration Plan under paragraph (18) of  
23           subsection (a) of Section 136.05, Section 1-136.61, this Act,  
24           the Illinois Oil and Gas Act, and the administrative rules  
25           adopted under that Act.

1 (225 ILCS 732/1-136.18 new)

2 Sec. 1-136.18. Judicial review. All final administrative  
3 decisions, including issuance or denial of a permit, made by  
4 the Department under this Part are subject to judicial review  
5 under the Administrative Review Law and rules adopted under  
6 that Law.

7 (225 ILCS 732/1-136.19 new)

8 Sec. 1-136.19. Setback requirements.

9 (a) Except as otherwise provided in this Section, no well  
10 site may be located as follows:

11 (1) within 500 feet measured horizontally from any  
12 residence or place of worship unless the landowner of the  
13 residence or the governing body of the place of worship  
14 otherwise expressly agrees in writing to a closer well site  
15 location; this agreement shall be signed and dated by the  
16 landowner of the residence or an authorized representative  
17 of the governing body of the place of worship; a copy of  
18 the agreement shall be submitted to the Department as part  
19 of the permit application;

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

23 (3) within 500 feet measured horizontally from the  
24 surface location of any existing water well or developed

1 spring used for human or domestic animal consumption,  
2 unless the landowner or landowners of the well or developed  
3 spring otherwise expressly agrees or agree in writing to a  
4 closer well site location; this agreement shall be signed  
5 and dated by the landowner; a copy of the agreement shall  
6 be submitted to the Department as part of the permit  
7 application;

8 (4) within 300 feet measured horizontally from the  
9 center of a perennial stream or from the ordinary high  
10 water mark of any river, natural or artificial lake, pond,  
11 or reservoir, unless the landowner of a water source that  
12 is wholly contained within the landowner's property  
13 expressly, in writing, waives the setback requirements and  
14 agrees to a closer well site location; this agreement shall  
15 be signed and dated by the landowner; a copy of the  
16 agreement shall be submitted to the Department as part of  
17 the permit application.

18 (5) within 750 feet of a boundary line of a nature  
19 preserve or a site on the Register of Land and Water  
20 Reserves; or

21 (6) within 1,500 feet of a surface water or groundwater  
22 intake of a public water supply; the distance from the  
23 public water supply as identified by the Department shall  
24 be measured as follows:

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

1           intake point on the lake or reservoir.

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

5           (C) For a groundwater source, the distance shall be  
6           measured from the surface location of the groundwater  
7           wellhead or the ordinary high water mark of the spring.  
8           The distance restrictions under this subsection (a)  
9           shall be determined as conditions exist at the time of  
10           the submission of the permit application under Section  
11           1-136.05.

12           (b) Unless specified otherwise, all distances shall be  
13           measured to the closest edge of the well site.

14           (225 ILCS 732/1-136.20 new)

15           Sec. 1-136.20. Access roads, public roads, and topsoil  
16           conditions.

17           (a) The access road to the well site shall be located in  
18           accordance with access rights either obtained by agreement with  
19           the surface landowner or under the Drilling Operations Act and  
20           located as far as practical from occupied structures, places of  
21           assembly, and property lines of unleased property.

22           (b) The improvement, construction, or repair of a publicly  
23           owned highway or roadway, if undertaken by the owner, operator,  
24           permittee, or any other private entity, shall be performed  
25           using bidding procedures outlined in the Illinois Department of

1 Transportation rules governing local roads and streets or  
2 applicable bidding requirements outlined in the Illinois  
3 Procurement Code as though the project were publicly funded.

4 (c) Permittees shall employ practices for control of  
5 fugitive dust related to their operations. These practices  
6 shall include, but are not limited to, the use of speed  
7 restrictions, regular road maintenance, and restriction of  
8 construction activity during high-wind days. Additional  
9 management practices such as road surfacing, wind breaks and  
10 barriers, or automation of wells to reduce truck traffic may  
11 also be required by the Department, in consultation with the  
12 Agency as the Department deems appropriate, if technologically  
13 feasible and economically reasonable to minimize fugitive dust  
14 emissions.

15 (d) Unless otherwise approved or directed by the  
16 Department, all topsoil and subsoil stripped to facilitate the  
17 construction of the well pad, well site, and access roads shall  
18 be stockpiled, stabilized to prevent erosion, and remain on  
19 site. As used in this subsection, "topsoil" means the uppermost  
20 layer of soil with the darkest color, or the highest content of  
21 organic matter. The topsoil shall be segregated from the  
22 subsoil. All soils shall remain on site for use in either  
23 partial or final restoration and reclamation under Sections  
24 1-136.58 through 1-136.61. In the event it is anticipated that  
25 the final reclamation shall take place in excess of one year  
26 from drilling the well, the topsoil may be disposed of in any

1 lawful manner provided the permittee reclaims the site with  
2 topsoil of similar characteristics of the topsoil removed.

3 (225 ILCS 732/1-136.21 new)

4 Sec. 1-136.21. General conditions and requirements.

5 (a) All wells shall be constructed, and casing and  
6 cementing activities shall be conducted, in a manner that shall  
7 provide for control of the well at all times, prevent the  
8 migration of oil, gas, and other fluids into the fresh water  
9 and coal seams, and prevent pollution or diminution of fresh  
10 water.

11 (b) At any time, the Department, as it deems necessary, may  
12 require construction activities in addition to those required  
13 by this Part, including but not limited to, the installation of  
14 an additional cemented casing string or strings in the well.

15 (225 ILCS 732/1-136.22 new)

16 Sec. 1-136.22. Well drilling, storage, and disposal of  
17 drilling waste.

18 (a) Drill cuttings, drilling fluids, and drilling wastes  
19 shall be stored and disposed of pursuant to the requirements of  
20 this Section and the requirements of the rules adopted under  
21 the Illinois Oil and Gas Act when not in conflict with this  
22 Section. Drill cuttings, drilling fluids, and drilling wastes  
23 not containing oil-based mud or polymer-based mud may be stored  
24 in tanks or pits.

1       (b) Pits used to store drill cuttings, drilling fluids, and  
2 drilling wastes from wells not using fresh water mud shall be  
3 subject to the construction standards identified in Section  
4 1-136.45.

5       (c) Drill cuttings not contaminated with oil-based mud or  
6 polymer-based mud may be disposed of on property subject to the  
7 written approval of the Department and the surface landowner.

8       (d) Drill cuttings contaminated with oil-based mud or  
9 polymer-based mud shall be disposed of in an Agency permitted  
10 special waste landfill or other offsite location in accordance  
11 with applicable law.

12       (e) Disposal of drill cuttings or fluid down the annulus of  
13 any well is prohibited.

14       (225 ILCS 732/1-136.23 new)

15       Sec. 1-136.23. Cement requirements.

16       (a) All cementing activities for well construction shall  
17 meet the requirements of this Section. Cement shall conform to  
18 the industry standards set forth in the document referenced in  
19 paragraph (1) of subsection (a) of Section 1-136.02.

20       (b) Cement slurry shall be prepared to minimize its free  
21 water content in accordance with the industry standards set  
22 forth in the document referenced in paragraph (1) of subsection  
23 (a) of Section 1-136.02.

24       (c) Cement activities shall be designed and constructed in  
25 a manner to:



1           (1) secure the casing in the wellbore;

2           (2) isolate and protect fresh groundwater;

3           (3) isolate abnormally pressured zones, lost  
4 circulation zones, and any potential flow zones, including  
5 hydrocarbon and fluid-bearing zones;

6           (4) properly control formation pressure and any  
7 pressure from drilling, completion and production;

8           (5) protect the casing from corrosion and degradation;

9           and

10          (6) prevent gas flow in the annulus.

11          (d) For all cementing activities, the cement shall be  
12 pumped at a rate and in a flow regime that inhibits channeling  
13 of the cement in the annulus.

14          (e) Cement shall be placed behind all surface,  
15 intermediate, and production casing pursuant to the  
16 requirements of Sections 1-136.24 and 1-136.27 respectively.

17          (f) After the cement is placed behind the casing, the  
18 permittee shall wait on cement to set until the cement achieves  
19 a calculated compressive strength of at least 500 pounds per  
20 square inch, and a minimum of 8 hours before the casing is  
21 disturbed in any way, including installation of a blowout  
22 preventer.

23          (g) Cement compressive strength tests shall be performed on  
24 all cemented surface, intermediate, and production casing  
25 strings in accordance with the industry standards set forth in  
26 the document referenced in paragraph (1) of subsection (a) of

1 Section 1-136.02:

2 The cement shall have a 72-hour compressive strength of at  
3 least 1,200 psi.

4 The free water separation shall be no more than 6  
5 milliliters per 250 milliliters of cement.

6 (h) Cement job logs shall be kept for all cementing  
7 activities pursuant to the following requirements:

8 (1) cement job logs shall provide information about the  
9 cementing activities as specified on a form to be  
10 prescribed by the Department, including, but not limited  
11 to:

12 (A) dates of cementing;

13 (B) source of the cement;

14 (C) type of cement; and

15 (D) amount used;

16 (2) a copy of the cement job logs and cement  
17 compressive strength test results for all cemented  
18 surface, intermediate, and production casing strings in  
19 the well shall be maintained in the well file by the  
20 permittee and shall be made available to the Department  
21 upon request;

22 (3) the permittee shall provide the Department with a  
23 copy of all cement job logs and cement compressive strength  
24 test results within 30 days after completion of all  
25 cementing activities; and

26 (4) the permittee shall retain these records for the

1       life of the well until the well is plugged, abandoned, and  
2       restored in accordance with the Illinois Oil and Gas Act,  
3       the administrative rules adopted under that Act and  
4       Sections 1-136.58 through 1-136.61 of this Act.

5           (225 ILCS 732/1-136.24 new)

6       Sec. 1-136.24. Surface casing requirements.

7       (a) Surface casing shall be used in the construction of all  
8       wells regulated by this Part and shall be set and cemented  
9       pursuant to the requirements of this Section. Surface casing  
10       shall be used and set to a depth of at least 200 feet, or 100  
11       feet below the base of the deepest fresh water, whichever is  
12       deeper. Surface casing shall stop before reaching any  
13       hydrocarbon-bearing zones. If the surface casing does not  
14       protect all of the fresh water, intermediate casing shall be  
15       required. Drilling operations must be halted and the surface  
16       casing cemented if a hydrocarbon bearing zone is encountered at  
17       shallower depths than anticipated.

18       (b) Surface casing shall be made of steel and conform to  
19       the industry standards set forth in the document referenced in  
20       paragraph (2) of subsection (a) of Section 1-136.02.  
21       Additionally, the use of surface casing in the well  
22       construction shall be in a manner consistent with the industry  
23       standards set forth in the document referenced in paragraph (2)  
24       of subsection (a) of Section 1-136.02.

25       (c) Casing thread compound shall conform to and meet all

1 manufacturing and material requirements of the industry  
2 standards set forth in the document referenced in paragraph (3)  
3 of subsection (a) of Section 1-136.02. Additionally, the uses  
4 of casing thread compound in the well construction shall be in  
5 a manner consistent with the industry standards set forth in  
6 the document referenced in paragraph (3) of subsection (a) of  
7 Section 1-136.02.

8 (d) The borehole shall be circulated and conditioned before  
9 surface casing setting and cementing to ensure an adequate  
10 cement bond. The permittee shall be required to circulate at  
11 least two hole volumes of drilling fluid and ensure that the  
12 well is static and all gas flows are terminated.

13 (e) The permittee shall notify the Department's District  
14 Office by telephone or electronic mail at least 24 hours before  
15 setting and cementing surface casing to enable an inspector to  
16 be present.

17 (f) When setting surface casing, centralizers shall be used  
18 as follows to keep the casing in the center of the wellbore  
19 before and during cement operations:

20 (1) a centralizer shall be placed at the bottom of the  
21 surface casing string or shoe;

22 (2) centralizers shall be placed above and below a  
23 stage collar or diverting tool, if run;

24 (3) centralizers shall be placed through  
25 usable-quality water zones;

26 (4) centralizers shall be placed on every fourth joint

1 from the cement shoe to the ground surface or to the bottom  
2 of the cellar;

3 (5) the Department may require additional  
4 centralization as necessary to ensure the integrity of the  
5 well design is adequate; and

6 (6) all centralizers shall conform to and shall meet  
7 specifications in, or equivalent to, the industry  
8 standards set forth in the documents referenced in  
9 paragraph (4) of subsection (a) of Section 1-136.02 through  
10 paragraph (6) of subsection (a) of Section 1-136.02.

11 (g) The permittee shall pump a pre-flush or spacer ahead of  
12 the cement.

13 (h) Surface casing cement must:

14 (1) be Class A cement, with a minimum density of 14.5  
15 pounds per gallon;

16 (2) meet the cement requirements of subsections (a) and  
17 (b) of Section 1-136.23; and

18 (3) be applied behind the casing according to the  
19 requirements of subsections (c) and (d) of Section  
20 1-136.23.

21 (i) Surface casing shall be fully cemented to the surface  
22 with excess cements. Cementing shall be by the pump and plug  
23 method with a minimum of 25% excess cement with appropriate  
24 lost circulation material, unless another amount of excess  
25 cement is approved by the Department. If cement returns are not  
26 observed at the surface, the permittee shall perform remedial

1 actions as appropriate.

2 (j) After the cement is placed behind the surface casing,  
3 the permittee shall test the cement (comprehensive strength  
4 test) and maintain cement job logs pursuant to the requirements  
5 of subsections (f) through (h) of Section 1-136.23.

6 (k) After the surface casing cement operation is completed  
7 to the surface, the permittee shall notify the Department's  
8 District Office by phone and electronic mail to enable an  
9 inspector to be present for the following:

10 (1) testing the internal mechanical integrity of the  
11 surface casing pursuant to Section 1-136.25; and

12 (2) installation and testing of the blowout prevention  
13 equipment pursuant to Section 1-136.26.

14 (225 ILCS 732/1-136.25 new)

15 Sec. 1-136.25. Establishment of internal mechanical  
16 integrity.

17 (a) The permittee shall perform an internal mechanical  
18 integrity test on each cemented casing string after  
19 installation for all wells regulated by this Part. The  
20 permittee shall contact the Department's District Office by  
21 telephone or electronic mail at least 24 hours before  
22 conducting an internal mechanical integrity pressure test to  
23 enable an inspector to be present when the test is performed.

24 (b) The internal mechanical integrity of surface and  
25 intermediate casing strings shall be tested:

1           (1) with fresh water, mud, or brine;

2           (2) to no less than 0.22 psi per foot of casing string  
3 length or 1,500 psi, whichever is greater, but not to  
4 exceed 70% of the minimum internal yield; and

5           (3) for at least 30 minutes with less than a 5%  
6 pressure loss.

7           If the pressure declines more than 5% or if there are other  
8 indications of a leak, corrective action shall be taken before  
9 conducting further drilling operations.

10          (c) The internal mechanical integrity of the production  
11 casing string or any casing string that will have pressure  
12 exerted on it during stimulation of the well shall be tested:

13           (1) with fresh water, mud, or brine;

14           (2) to at least the maximum anticipated treatment  
15 pressure or 1,500 psi, whichever is greater, but not to  
16 exceed 70% of the minimum internal yield;

17           (3) for at least 30 minutes with less than a 5%  
18 pressure loss; and

19           (4) if the pressure declines more than 5% or if there  
20 are other indications of a leak, corrective action shall be  
21 taken before conducting further drilling operations.

22          (d) Records of internal mechanical integrity pressure  
23 tests for all casing strings must be kept pursuant to the  
24 following requirements:

25           (1) a record of the internal mechanical integrity  
26 pressure test for each casing string shall be maintained by

1       the permittee in the well file at the well site and shall  
2       be submitted to the Department on a form prescribed by the  
3       Department before conducting high volume horizontal  
4       hydraulic fracturing operations;

5           (2) the permittee shall provide the Department with a  
6       copy of all internal mechanical integrity pressure test  
7       results for all casing strings no later than 30 days after  
8       completion of well construction; and

9           (3) the permittee shall retain these records for the  
10       life of the well until the well is plugged, abandoned, and  
11       restored in accordance with the Illinois Oil and Gas Act,  
12       the administrative rules adopted under that Act, and  
13       Sections 1-136.58 through 1-136.61 of this Part.

14       (225 ILCS 732/1-136.26 new)

15       Sec. 1-136.26. Installation and testing of blowout  
16       prevention equipment.

17       (a) After the surface casing has been set and cemented  
18       under Section 1-136.24, the permittee shall install and test  
19       blowout prevention equipment pursuant to the requirements of  
20       this Section. The permittee shall contact the Department's  
21       District Office by telephone or electronic mail at least 24  
22       hours before conducting pressure tests on the blowout  
23       prevention equipment to enable an inspector to be present when  
24       the tests are performed.

25       (b) The permittee or permittee's designated representative



1 shall be present at the well site when the blowout preventer is  
2 installed, tested, and in use. That person or personnel shall  
3 have a current well control certification from an accredited  
4 training program that is acceptable to the Department and the  
5 certification shall be available at the well site and provided  
6 to the Department upon request.

7 (c) The permittee shall install all blowout prevention  
8 equipment using pipe fittings, valves, and unions placed on or  
9 connected to the blow-out prevention systems that have a  
10 working pressure capability that exceeds the anticipated  
11 pressures.

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

16 (e) Permittees shall perform pressure testing of the  
17 blowout preventer, well head, and related equipment for any  
18 drilling or completion operation.

19 Testing shall be conducted in accordance with the industry  
20 standards set forth in the document referenced in paragraph (7)  
21 of subsection (a) of Section 1-136.02. Testing of well heads  
22 used for well control during completion operations shall be  
23 conducted in accordance with API Specification 6A (ISO 10423)  
24 or another specification as provided by the Department. A  
25 record of the pressure tests must be made on a form prescribed  
26 by the Department.

1       Testing of the blowout preventer shall include testing  
2 after the blowout preventer is installed on the well but prior  
3 to drilling below the last cemented casing seat.

4       Pressure control equipment, including the blowout  
5 preventer or well head, that fails any pressure test shall not  
6 be used until it is repaired, or replaced, and passes the  
7 pressure test.

8       Records of all pressure tests and repair work on blowout  
9 prevention equipment shall be maintained by the permittee in  
10 the well file at the well site and made available to the  
11 Department upon request.

12       (f) After installation and testing, the blowout prevention  
13 equipment or well head must be in use during all drilling and  
14 completion operations and shall be maintained in good working  
15 condition at all times.

16       (g) Appropriate pressure control procedures shall be  
17 properly employed and equipment shall be installed and  
18 maintained in proper working order while conducting drilling  
19 and completion operations, including tripping, logging,  
20 running casing into the well, and drilling out solid-core stage  
21 plugs.

22       (225 ILCS 732/1-136.27 new)

23       Sec. 1-136.27. Intermediate and production Casing  
24 Requirements.

25       (a) When intermediate casing is required by subsection

1 (a-5), intermediate casing used in the construction of wells  
2 must be set and cemented pursuant to the requirements of  
3 subsections (b) through (m) of this Section. Intermediate  
4 casing used to isolate fresh water shall not be used as the  
5 production string in the well in which it is installed, and may  
6 not be perforated for purposes of conducting a hydraulic  
7 fracture treatment through it.

8 (a-5) The permittee shall install cemented intermediate  
9 casing under the following conditions:

10 (1) when necessary to isolate fresh water not isolated  
11 by surface casing; or

12 (2) to seal off potential flow zones, anomalous  
13 pressure zones, lost circulation zones, and other drilling  
14 hazards.

15 (b) Intermediate casing shall be set and cemented to one of  
16 the standards below:

17 (1) when intermediate casing is installed to protect  
18 fresh water, the permittee shall set a full string of new  
19 intermediate casing at least 100 feet below the base of the  
20 deepest fresh water and bring cement to the surface;

21 (2) when intermediate casing was set solely to protect  
22 fresh water encountered below the surface casing shoe, and  
23 cementing to the surface is technically infeasible, would  
24 result in lost circulation, or both, cement must be brought  
25 to a minimum of 600 feet above the shallowest fresh water  
26 zone encountered below the surface casing shoe or to the

1 surface if the fresh water zone is less than 600 feet from  
2 the surface;

3 (3) when intermediate casing was set for a reason other  
4 than to protect fresh water, the intermediate casing string  
5 shall be cemented from the shoe to a point at least 600  
6 true vertical feet above the shoe; or

7 (4) if there is a hydrocarbon bearing zone that is  
8 capable of producing and that is exposed above the  
9 intermediate casing shoe, then the casing shall be cemented  
10 from the shoe:

11 (A) to a point at least 600 true vertical feet  
12 above the shallowest hydrocarbon bearing zone;

13 (B) to a point at least 200 feet above the shoe of  
14 the next shallower casing string that was set and  
15 cemented in the well; or

16 (C) to the surface if less than 200 feet.

17 (c) The location and depths of any hydrocarbon-bearing  
18 zones or fresh water zones that are open to the wellbore above  
19 the casing shoe shall be confirmed by coring, electric logs, or  
20 testing and shall be reported to the Department.

21 (d) Intermediate casing shall conform to the industry  
22 standards set forth in the document referenced in paragraph (2)  
23 of subsection (a) of Section 1-136.02. Additionally, the use of  
24 intermediate casing in the well construction shall be in a  
25 manner consistent with the industry standards set forth in the  
26 document referenced in paragraph (2) of subsection (a) of

1 Section 1-136.02.

2 (e) Casing thread compound shall conform to and meet all  
3 manufacturing and material requirements of the industry  
4 standards set forth in the document referenced in paragraph (3)  
5 of subsection (a) of Section 1-136.02. Additionally, the uses  
6 of casing thread compound in the well construction shall be in  
7 a manner consistent with the industry standards set forth in  
8 the document referenced in paragraph (3) of subsection (a) of  
9 Section 1-136.02.

10 (f) The borehole shall be circulated and conditioned before  
11 intermediate casing setting and cementing to ensure an adequate  
12 cement bond.

13 (g) The permittee shall notify the Department's District  
14 Office during normal business hours by phone and electronic  
15 mail at least 24 hours before setting and cementing  
16 intermediate casing cementing operations to enable an  
17 inspector to be present.

18 (h) When setting intermediate casing in non-deviated  
19 holes, centralizers are required to be used as follows to keep  
20 the casing in the center of the wellbore before and during  
21 cementing operations:

22 (1) centralizers shall be placed on every fourth joint  
23 from the cement shoe to the ground surface or to the bottom  
24 of the cellar;

25 (2) the Department may require additional centralizers  
26 as necessary to ensure the integrity of the well design;

1       and

2           (3) all centralizers must conform to and shall meet  
3       specifications in, or equivalent to, the industry  
4       standards set forth in the documents referenced in  
5       paragraph (4) of subsection (a) of Section 1-136.02 through  
6       paragraph (6) of subsection (a) of Section 1-136.02.

7       (i) The permittee shall pump a pre-flush or spacer ahead of  
8       the cement.

9       (j) Intermediate casing cement shall:

10           (1) meet the cement requirements of subsections (a) and  
11       (b) of Section 1-136.23; and

12           (2) be applied behind the casing according to the  
13       requirements of subsections (c) and (d) of Section  
14       1-136.23.

15       (k) A radial cement bond evaluation log, or other  
16       evaluation approved by the Department, such as, but not limited  
17       to, temperature surveys, must be run to verify the cement bond  
18       on the intermediate casing. Remedial cementing is required if  
19       the cement bond is not adequate for drilling ahead.

20       (l) The cementing and testing requirements of subsections  
21       (b)(2), (b)(3), (b)(4), (c) and (k) may be waived if all  
22       intermediate casing strings are cemented to surface.

23       (m) After the cement is placed behind the intermediate  
24       casing, the permittee shall test the cement and maintain cement  
25       job logs pursuant to the requirements of subsections (f)  
26       through (h) of Section 1-136.23.

1       (n) After the intermediate casing cement operation is  
2 completed, the permittee shall notify the Department's  
3 District Office by phone and electronic mail to enable an  
4 inspector to be present for testing the internal mechanical  
5 integrity of the intermediate casing pursuant to Section  
6 1-136.25.

7       (o) If the annulus between the production casing and the  
8 surface of intermediate casing has not been cemented to the  
9 surface, the permittee shall equip the intermediate casing  
10 annulus with an appropriately sized and tested relief valve.  
11 The flow line from the relief valve should be secured and  
12 diverted to a lined pit or tank. (See API HF1 - Hydraulic  
13 Fracturing Operations - Well Construction and Integrity  
14 Guidelines, 1st Edition, October 2009, Section 10.4.2,  
15 Pressure Monitoring.)

16       (p) Production casing shall be used in the construction of  
17 all wells regulated by this Part and shall be set and cemented  
18 pursuant to the requirements of this Section.

19       (q) Production casing shall be fully cemented from the  
20 production casing shoe to 500 feet above the top perforated  
21 formation, if possible. However, if that cementing requirement  
22 will inhibit the production of oil or gas from the targeted  
23 formation, cementing of the production casing shall be  
24 completed from at least just above the top of the perforated  
25 formation to 500 feet above the top of the perforated  
26 formation.

1       (r) Production casing shall conform to the industry  
2 standards set forth in the document referenced in paragraph (2)  
3 of subsection (a) of Section 1-136.02. Additionally, the use of  
4 production casing in the well construction shall be in a manner  
5 consistent with the industry standards set forth in the  
6 document referenced in paragraph (2) of subsection (a) of  
7 Section 1-136.02.

8       (s) Casing thread compound shall conform to and meet all  
9 manufacturing and material requirements of the industry  
10 standards set forth in the document referenced in paragraph (3)  
11 of subsection (a) of Section 1-136.02. Additionally, the uses  
12 of casing thread compound in the well construction shall be in  
13 a manner consistent with the industry standards set forth in  
14 the document referenced in in paragraph (3) of subsection (a)  
15 of Section 1-136.02.

16       (t) The borehole shall be circulated and conditioned before  
17 production casing setting and cementing to ensure an adequate  
18 cement bond.

19       (u) The permittee shall notify the Department's District  
20 Office during regular business hours by phone and electronic  
21 mail before setting and cementing production casing to enable  
22 an inspector to be present.

23       (v) When setting production casing, centralizers shall be  
24 used as follows to keep the casing in the center of the  
25 wellbore prior to and during cement operations:

26       (1) in the vertical portion of the well, a centralizer



1 shall be placed on every fourth joint from the kickoff  
2 point to the ground surface or to the bottom of the cellar;

3 (2) the Department may require additional centralizers  
4 as necessary to ensure the integrity of the well design;  
5 and

6 (3) all centralizers used in the vertical portion of  
7 the well shall conform to and shall meet specifications in,  
8 or equivalent to the industry standards set forth in the  
9 documents referenced in paragraph (4) of subsection (a) of  
10 Section 1-136.02 through paragraph (6) of subsection (a) of  
11 Section 1-136.02.

12 (w) The permittee shall pump a pre-flush or spacer ahead of  
13 the cement.

14 (x) Production casing cement must:

15 (1) meet the cement requirements of subsections (a) and  
16 (b) of Section 1-136.23; and

17 (2) be applied behind the casing according to the  
18 requirements of subsections (c) and (d) of Section  
19 1-136.23.

20 (y) After the cement is placed behind the production  
21 casing, the permittee shall test the cement and maintain cement  
22 job logs pursuant to the requirements of subsections (f)  
23 through (h) of Section 1-136.23.

24 (z) After the production casing cement operation is  
25 completed, the permittee shall notify the Department's  
26 District Office by phone or electronic mail to enable an

1 inspector to be present for testing the internal mechanical  
2 integrity of the production casing under Section 1-136.25.

3 (225 ILCS 732/1-136.28 new)

4 Sec. 1-136.28. Establishment of formation integrity.

5 (a) The permittee shall conduct a formation pressure  
6 integrity test below the surface casing and below all  
7 intermediate casing in order to demonstrate:

8 (1) that the integrity of the casing shoe is sufficient  
9 to contain the wellbore pressures anticipated in the permit  
10 application;

11 (2) that no flow path exists to formations above the  
12 casing shoe; and

13 (3) that the casing shoe is competent to handle an  
14 influx of formation fluid or gas without breaking down.

15 (b) The permittee shall notify the Department's District  
16 Office during regular business hours by phone and electronic  
17 mail at least 24 hours before conducting a formation pressure  
18 integrity test to enable an inspector to be present when the  
19 test is performed.

20 (c) The actual hydraulic fracturing treatment pressure  
21 shall not exceed the mechanical integrity test pressure of the  
22 casing tested under Section 1-136.25 at any time during high  
23 volume horizontal hydraulic fracturing operations.

24 (d) Permittees shall keep records of all formation  
25 integrity tests pursuant to the following requirements:

1           (1) A record of the formation integrity test shall be  
2           maintained by the permittee in the well file at the well  
3           site and shall be submitted to the Department on a form  
4           prescribed by the Department before conducting high volume  
5           horizontal hydraulic fracturing operations.

6           (2) The permittee shall provide the Department with a  
7           copy of all formation integrity test results 30 days after  
8           completion of well construction.

9           (3) The permittee shall retain these records for the  
10          life of the well until the well is plugged, abandoned, and  
11          restored in accordance with the Illinois Oil and Gas Act,  
12          the administrative rules adopted under that Act, and  
13          Sections 1-136.58 through 1-136.61 of this Part.

14           (225 ILCS 732/1-136.29 new)

15           Sec. 1-136.29. Water quality monitoring.

16           (a) Water quality monitoring shall be conducted pursuant to  
17           the requirements of this Section and in accordance with the  
18           water quality monitoring work plan submitted under paragraph  
19           (24) of subsection (a) of Section 1-136.05. Unless specified  
20           otherwise, all distances are measured horizontally from the  
21           closest edge of the well site. Each applicant for a high volume  
22           horizontal hydraulic fracturing permit shall provide the  
23           Department with a water quality monitoring work plan to ensure  
24           accurate and complete sampling and testing as required under  
25           this Section. A water quality monitoring work plan shall

1 include, at a minimum, the following:

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

4 (2) a sampling plan and protocol consistent with the  
5 requirements of subsections (b), (c), and (d) of this  
6 Section, including notification to the Department at least  
7 7 calendar days prior to sample collection;

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

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

19 (5) the name and contact information of an independent  
20 testing laboratory accredited or certified by the Agency to  
21 perform the required laboratory method and to conduct the  
22 analysis required under subsections (b) and (c) of this  
23 Section. When no laboratory has been accredited or  
24 certified by the Agency to analyze a particular substance  
25 requested in subsection (d) of this Section, results will  
26 be considered only if they have been analyzed by a

1       laboratory accredited or certified by another State  
2       agency, an agency of another state, or an agency of the  
3       federal government, if the standards used for the  
4       accreditation or certification of that laboratory are  
5       substantially equivalent to the accreditation standard  
6       under subsection (o) of Section 4 of the Illinois  
7       Environmental Protection Act;

8           (6) proof that the applicant provided each landowner  
9       referenced in paragraphs (7) through (10) of this  
10       subsection (a) of this Section with a notice of water  
11       sampling rights under the Act pursuant to a form prescribed  
12       by the Department and prior to the landowner's execution of  
13       any document regarding water sampling.

14           (7) proof of access and the right to test within the  
15       area for testing prescribed within subsections (b) and (c)  
16       of this Section;

17           (8) copies of any non-disclosure agreements made with  
18       landowners, if applicable; landowners of private property  
19       may condition access or permission for sampling of private  
20       water wells or ponds wholly within their property or a  
21       portion of any perennial stream or river that flows through  
22       their property under a non-disclosure agreement, that  
23       includes the following terms and conditions:

24           (A) the permittee shall provide the results of the  
25       water quality testing to the private property  
26       landowners;

1           (B) the permittee shall retain the results of all  
2           water quality testing conducted pursuant subsections  
3           (b) and (c) of this Section until at least one year  
4           after completion of all water quality monitoring for  
5           review by the Department upon request;

6           (C) the permittee shall not file with the  
7           Department the results of the water quality testing,  
8           except that under subparagraph (D) of paragraph (8) of  
9           this subsection (a); and

10           (D) the permittee shall notify and provide to the  
11           Department and the Agency within 7 calendar days of its  
12           receipt of the water quality data any testing under  
13           subsection (c) of this Section indicating  
14           concentrations that exceed the standards or criteria  
15           referenced in the definition of "pollution or  
16           diminution";

17           (9) documentation that the landowner of the private  
18           property declines, expressly and in writing, to provide  
19           access or permission for sampling, if applicable; under  
20           these conditions, sampling of private water wells or ponds  
21           wholly contained within private property shall not be  
22           required;

23           (10) evidence as to the good faith efforts (for  
24           example, logs of oral communications and copies of written  
25           communication) that were made to secure documentation that  
26           the landowner of the private property declines to provide

1 proof of his or her refusal to allow access for the  
2 purposes of conducting sampling in writing, if applicable;  
3 permits issued under this Part cannot be denied if the  
4 landowner of the private property declines to provide proof  
5 of his or her refusal to allow access in writing and the  
6 permittee provides evidence that good faith efforts were  
7 made to gain access for the purposes of conducting  
8 sampling; and

9 (11) identification of practicable contingency  
10 measures, including provision for alternative drinking  
11 water supplies, which could be implemented in the event of  
12 pollution or diminution of a water source as provided for  
13 in Section 1-136.30.

14 (b) Before conducting high volume horizontal hydraulic  
15 fracturing operations on a well, a permittee shall retain an  
16 independent third party, as identified pursuant to paragraph  
17 (3) of subsection (a) of this Section. The permittee, through  
18 its independent third party, shall, after giving the Department  
19 7 calendar days notice during regular business hours, conduct  
20 baseline water quality sampling of all water sources within  
21 1,500 feet of the well site pursuant to the laboratory analysis  
22 procedures of subsection (d) of this Section and as follows:

23 (1) If an aquifer to be sampled is inaccessible through  
24 groundwater wells within 1,500 feet of the well site, the  
25 permittee shall conduct groundwater well sampling of that  
26 aquifer at the next closest groundwater well that the

1 permittee has permission to access.

2 (2) Installation of a groundwater monitoring well is  
3 not required to satisfy the sampling requirements of this  
4 Section.

5 (3) Baseline testing results shall be submitted to the  
6 Department no later than 3 calendar days before commencing  
7 high volume horizontal hydraulic fracturing operations,  
8 unless there are non-disclosure agreements with the  
9 applicable private property landowners. In the case of  
10 non-disclosure agreements, the permittee shall provide a  
11 certification to the Department that the baseline testing  
12 results have been provided to the applicable private  
13 property landowners no later than 3 calendar days before  
14 commencing high volume horizontal hydraulic fracturing  
15 operations.

16 (4) The Department shall post the results of the  
17 baseline sampling and analysis conducted under this  
18 subsection (b) on its website within 7 calendar days after  
19 receipt. The posted results shall, at a minimum, include  
20 the following:

21 (A) the well name, location, and permit number;

22 (B) a detailed description of the sampling and  
23 testing conducted under this subsection (b), including  
24 the results of the sampling and testing;

25 (C) the chain of custody of the samples; and

26 (D) quality control of the testing.



1       (c) After baseline tests are conducted under subsection (b)  
2 of this Section and following the completion of high volume  
3 horizontal hydraulic fracturing operations, the permittee,  
4 through its independent third party, shall:

5           (1) notify the Department during normal business hours  
6 at least 7 calendar days prior to taking the samples; and

7           (2) sample and test all water sources that were  
8 subjected to sampling under subsection (b) of this Section  
9 in the same manner following the procedures under  
10 subsection (d) of this Section 6 months, 18 months, and 30  
11 months after the high volume horizontal hydraulic  
12 fracturing operations have been completed, unless the  
13 water source was sampled under this subsection (c) or  
14 subsection (b) within the previous month.

15       (d) Sampling shall, at a minimum, be consistent with the  
16 water quality monitoring work plan and allow for a  
17 determination of whether any hydraulic fracturing additive or  
18 other oil or gas well contaminant has caused pollution or  
19 diminution. For each water source required to be sampled and  
20 tested under subsections (b) and (c) of this Section:

21           (1) a minimum of 3 separate samples shall be collected  
22 by the independent third party, under the supervision of a  
23 licensed professional engineer or professional geologist  
24 consistent with the approved water quality monitoring work  
25 plan; and

26           (2) each sample collected shall be submitted to and

1 analyzed by an accredited or certified independent testing  
2 laboratory for the following:

3 (A) pH;

4 (B) total dissolved solids, dissolved methane,  
5 dissolved propane, dissolved ethane, alkalinity, and  
6 specific conductance;

7 (C) chloride, sulfate, arsenic, barium, calcium,  
8 chromium, iron, magnesium, selenium, cadmium, lead,  
9 manganese, mercury, and silver;

10 (D) BTEX;

11 (E) gross alpha and beta particles to determine the  
12 presence of any naturally occurring radioactive  
13 materials.

14 (e) The independent third party's laboratory request  
15 submitted to the accredited or certified independent testing  
16 laboratory shall include:

17 (1) the applicant's name, well name, well location, and  
18 permit number;

19 (2) a detailed description of the sampling methods used  
20 to collect the samples, the date and time of the sampling  
21 collections, the location where each sample was collected  
22 and by whom, and the specific testing requested;

23 (3) the chain of custody for the samples up to the  
24 point when the samples are relinquished to the laboratory;  
25 and

26 (4) a specific request to the laboratory that the

1       laboratory's report also include:

2               (A) the name and address of the laboratory;

3               (B) the sampling method and testing requested in  
4       subsection (d) of this Section;

5               (C) the analyses being performed;

6               (D) the test methods used to perform the analyses;

7               (E) the date and time of the analyses;

8               (F) the identification of any test results  
9       performed by a subcontracted laboratory;

10              (G) the name of any subcontracted laboratory used  
11       and the applicable accreditation that the  
12       subcontracted laboratory holds and maintains for the  
13       analyses performed;

14              (H) the complete chain of custody through all the  
15       analyses in the laboratory and any subcontracted  
16       laboratory used;

17              (I) the test results with the units of measurements  
18       used, when appropriate;

19              (J) an interpretation of the test results,  
20       including the definitions for any data qualifiers  
21       applied to the test results;

22              (K) the name, title and signature of the person  
23       authorizing the test results; and

24              (L) a summary of the laboratory's quality control  
25       results for the analyses performed.

26       The permittee shall, within 7 calendar days after receipt

1 of results of baseline or follow-up monitoring tests conducted  
2 under this Section, submit the independent third party's lab  
3 request under subsection (d) of this Section and the results to  
4 the Department for a water source not subject to a  
5 non-disclosure agreement or, except as provided by subsection  
6 (d), only to the landowner of the water source pursuant to a  
7 non-disclosure agreement under subsection (a) of this Section.

8 For a water source subject to a non-disclosure agreement,  
9 if the independent third party follow-up monitoring test  
10 results indicate that concentrations exceed the standards or  
11 criteria referenced in the definition of "pollution or  
12 diminution", the permittee shall submit the independent third  
13 party lab requests and the results of those tests to the  
14 Department and the Agency within 7 calendar days after its  
15 receipt of the follow-up monitoring test results. The permittee  
16 shall identify which specific standards or criteria are  
17 exceeded.

18 (f) Upon receipt of the independent third party's lab  
19 requests and the results of the laboratory analyses for  
20 follow-up monitoring under subsection (c) of this Section, the  
21 Department shall, in consultation with the Agency as the  
22 Department deems appropriate, determine whether any hydraulic  
23 fracturing additive or other oil or gas well contaminant has  
24 caused pollution or diminution.

25 (g) If the Department makes a determination of pollution or  
26 diminution under subsection (f) of this Section, the procedures

1 set forth in Section 1-136.31 shall be followed.

2 (225 ILCS 732/1-136.30 new)

3 Sec. 1-136.30. Water pollution investigations.

4 (a) Any person who has reason to believe he or she has  
5 caused pollution or diminution of a water source as a result of  
6 a high volume horizontal hydraulic fracturing treatment of a  
7 well may request that an investigation be conducted by:

8 (1) notifying the Department either in writing or  
9 electronically through its website; and

10 (2) providing the following information:

11 (A) his or her name, address, and contact  
12 information; and

13 (B) a detailed description of the suspected  
14 contamination, including, but not limited to,  
15 identifying:

16 (i) the water source being affected;

17 (ii) the suspected source of contamination;

18 (iii) dates and times related to observations  
19 of the suspected contamination;

20 (iv) the names of potential witnesses and  
21 their contact information; and

22 (v) any documents or photographs in his or her  
23 possession that may be useful as evidence of  
24 pollution or diminution.

25 (b) Within 30 calendar days after the notification required

1 by subsection (a) of this Section, the Department shall notify  
2 the Agency and initiate an investigation of the claim. The  
3 Department shall make a reasonable effort to reach a  
4 determination within 180 calendar days after receiving the  
5 notification.

6 (c) If necessary, the Agency shall conduct water quality  
7 sampling and the Department shall provide to the Agency all  
8 available permit information and other relevant data.

9 (d) Any person conducting or who has conducted high volume  
10 horizontal hydraulic fracturing operations suspected to be the  
11 source of pollution or diminution complained of shall supply  
12 any information requested by the Department or Agency to assist  
13 with the investigation. The Department, in consultation with  
14 the Agency as the Department deems appropriate, shall give due  
15 consideration to any information submitted during the course of  
16 the investigation. The requested information may include  
17 additional water quality monitoring sampling in accordance  
18 with Section 1-136.29.

19 (e) The Department, in consultation with the Agency as the  
20 Department deems appropriate, shall make a determination of  
21 pollution or diminution if sampling results or other  
22 information obtained as part of the investigation or the  
23 results of tests conducted under Section 1-136.29 indicate that  
24 hydraulic fracturing additive or other oil or gas well  
25 contaminant concentrations in the water are found to exceed the  
26 following standards or criteria:

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

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

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

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

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

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

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

20           (f) If the Department makes a determination of pollution or  
21           diminution under subsection (e), the procedures set forth in  
22           Section 1-136.31 shall be followed.

23           (225 ILCS 732/1-136.31 new)

24           Sec. 1-136.31. Procedures.

25           (a) Upon a determination of pollution or diminution by the

1 Department, the Department shall issue a Notice of Violation  
2 and proceed with appropriate enforcement under Sections  
3 1-136.62 through 1-136.66. The enforcement shall, in addition  
4 to any other penalty available under the law, require the  
5 permittee to complete remedial action to temporarily or  
6 permanently restore or replace the affected water supply with  
7 an alternative source of water adequate in quantity and quality  
8 for the purposes served by the water source. The quality of a  
9 restored or replaced water source shall meet or exceed the  
10 quality of the original water source based upon the results of  
11 the baseline test results under subsection (b) of Section  
12 1-136.29 for that water source, or other available information.  
13 Further, as appropriate, the Department may require the  
14 permittee to take immediate action, including, but not limited  
15 to, repair, replacement, alteration, or prohibition of  
16 operation of equipment permitted by the Department. The  
17 Department, in consultation with the Agency, the Illinois  
18 Department of Public Health, or both, may also issue conditions  
19 and orders to protect the public health or welfare or the  
20 environment.

21 (b) Within 15 calendar days after a determination of  
22 pollution or diminution, the Department shall, with assistance  
23 from other State and local agencies, provide notice of its  
24 Notice of Violation on the Department's website and to all  
25 persons that use the water source for domestic, agricultural,  
26 industrial, or any other legitimate beneficial uses.



1       (c) Upon issuance of a Notice of Violation under subsection  
2 (b) of this Section, the Department shall contact the Agency  
3 and forward all information to the Agency. The Agency shall  
4 investigate the potential for violations as designated within  
5 Section 1-87 of this Act.

6       (d) The Department shall publish, on its website, lists of  
7 confirmed determinations of pollution or diminution that  
8 result from high volume horizontal hydraulic fracturing  
9 operations and are final administrative decisions. This  
10 information shall be searchable by county.

11       (e) The Agency shall have the duty to investigate  
12 complaints that activities under this Act or this Part have  
13 caused a violation of Section 12 of the Illinois Environmental  
14 Protection Act or surface or groundwater rules adopted under  
15 the Illinois Environmental Protection Act. Any action taken by  
16 the Agency in enforcing these violations shall be taken under  
17 and consistent with the Illinois Environmental Protection Act,  
18 including, but not limited to, the Agency's authority to seek a  
19 civil or criminal cause of action under that Act.

20       (225 ILCS 732/1-136.32 new)

21       Sec. 1-136.32. Rebuttable presumption of pollution or  
22 diminution.

23       (a) This Section establishes a rebuttable presumption for  
24 use regarding pollution or diminution under Sections 1-136.62  
25 through 1-136.66.

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

6                (1) the water source is within 1,500 feet of the well  
7                site where the high volume horizontal hydraulic fracturing  
8                operations occurred;

9                (2) the baseline water quality data showed no pollution  
10               or diminution before the start of high volume horizontal  
11               hydraulic fracturing operations; or

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

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

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

21               (2) the pollution or diminution occurred before the  
22               high volume horizontal hydraulic fracturing operations or  
23               more than 30 months after the completion of the high volume  
24               horizontal hydraulic fracturing operations; or

25               (3) the pollution or diminution occurred as the result  
26               of an identifiable cause other than the high volume

1           horizontal hydraulic fracturing operations.

2           (225 ILCS 732/1-136.33 new)

3           Sec. 1-136.33. Prohibitions. It is unlawful to inject or  
4 discharge hydraulic fracturing fluid, produced water, BTEX,  
5 diesel, or petroleum distillates into fresh water.

6           (225 ILCS 732/1-136.34 new)

7           Sec. 1-136.34. Chemical disclosure by permittee.

8           (a) If the chemical disclosure information required by  
9 paragraph (8) of subsection (a) of Section 1-136.05 is not  
10 submitted at the time of permit application, then the permittee  
11 shall submit this information to the Department in electronic  
12 format no less than 21 calendar days before performing the high  
13 volume horizontal hydraulic fracturing operations.

14           (b) Nothing in this Section shall prohibit the permittee  
15 from adjusting or altering the contents of the fluid during the  
16 treatment process to respond to unexpected conditions, as long  
17 as the permittee notifies the Department by electronic mail  
18 within 24 hours of the departure from the initial treatment  
19 design and includes a brief explanation detailing the reason  
20 for the departure.

21           (c) No less than 21 calendar days before performing the  
22 first stimulation treatment of high volume horizontal  
23 hydraulic fracturing operations, the permittee shall maintain  
24 and disclose to the Department separate and up-to-date master

1 lists of:

2 (1) the base fluid to be used during any high volume  
3 horizontal hydraulic fracturing operations within this  
4 State;

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

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

11 (d) If a permittee uses the services of another person to  
12 perform high volume horizontal hydraulic fracturing  
13 operations, that person shall comply with Section 1-136.35.

14 (225 ILCS 732/1-136.35 new)

15 Sec. 1-136.35. Chemical disclosure by contractor.

16 (a) A permittee shall be responsible to ensure that any  
17 contractor performing high volume horizontal hydraulic  
18 fracturing operations within this State on behalf of the  
19 permittee shall:

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

21 (2) provide the Department with the following  
22 information:

23 (A) the contractor's business name, address, email  
24 address, and telephone number;

25 (B) the well name, permit number, and permittee

1           name for the well on which high volume horizontal  
2           hydraulic fracturing operations will be conducted; and  
3           (C) the name, email address, and telephone number  
4           of the person at the well site responsible for the high  
5           volume horizontal hydraulic fracturing operations.

6           (b) No less than 21 calendar days before performing the  
7           first stimulation treatment of high volume horizontal  
8           hydraulic fracturing operations, the contractor performing  
9           high volume horizontal hydraulic fracturing operations on  
10           behalf of the permittee shall maintain and disclose to the  
11           Department separate and up-to-date master lists of:

12           (1) the base fluid to be used during any high volume  
13           horizontal hydraulic fracturing operations within this  
14           State;

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

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

21           (225 ILCS 732/1-136.36 new)

22           Sec. 1-136.36. Chemical use prohibitions.

23           (a) The permittee performing high volume horizontal  
24           hydraulic fracturing operations is prohibited from using any  
25           base fluid, hydraulic fracturing additive, or chemical not

1 listed on their master lists disclosed under Section 1-136.34.

2 (b) Contractors performing high volume horizontal  
3 hydraulic fracturing operations are prohibited from using any  
4 base fluid, hydraulic fracturing additive, or chemical not  
5 listed on their master lists disclosed under subsection (d) of  
6 Section 1-77 of this Act.

7 (225 ILCS 732/1-136.37 new)

8 Sec. 1-136.37. Department publication of chemical  
9 disclosures and claims of trade secret.

10 (a) The Department shall assemble and post up-to-date  
11 copies of the master lists of chemicals it receives under  
12 Sections 1-136.34 and 1-136.35 on its website within 14  
13 calendar days after receipt.

14 (b) When an applicant, permittee, or person performing high  
15 volume horizontal hydraulic fracturing operations furnishes  
16 chemical disclosure information to the Department under  
17 Section 1-136.05, 1-136.34, 1-136.35, or 1-136.51 under a claim  
18 of trade secret, the applicant, permittee, or person performing  
19 high volume horizontal hydraulic fracturing operations shall  
20 submit redacted and un-redacted copies of the documents  
21 identifying the specific information on the master list of  
22 chemicals claimed to be protected as trade secret. The  
23 Department shall use the redacted copies when posting the  
24 master list of chemicals on its website.

25 (c) Upon submission or within 5 calendar days after

1 submission of the master list of chemicals with chemical  
2 disclosure information to the Department under Section  
3 1-136.05, 1-136.34, 1-136.35, or 1-136.51 under a claim of  
4 trade secret, the person that claimed trade secret protection  
5 shall provide a justification of the claim containing the  
6 following:

7 (1) a detailed description of the procedures used by  
8 the person to safeguard that portion of the information on  
9 the master list of chemicals for which trade secret is  
10 claimed from becoming available to persons other than those  
11 selected by the person to have access to the information  
12 for limited purposes;

13 (2) a detailed statement identifying the persons or  
14 class of persons to whom that portion of the information on  
15 the master list of chemicals for which trade secret is  
16 claimed has been disclosed;

17 (3) a certification that the person has no knowledge  
18 that the portion of the information on the master list of  
19 chemicals for which trade secret is claimed has ever been  
20 published or disseminated or has otherwise become a matter  
21 of general public knowledge;

22 (4) a detailed discussion of why the person believes  
23 that the portion of the information on the master list of  
24 chemicals for which trade secret is claimed is of  
25 competitive value; and

26 (5) any other information that shall support the claim

1       of trade secret.

2       (d) Chemical disclosure information furnished under  
3 Section 1-136.05, 1-136.34, 1-136.35, or 1-136.51 under a claim  
4 of trade secret shall be protected from disclosure as a trade  
5 secret if the Department determines that the statement of  
6 justification demonstrates that:

7           (1) the information has not been published,  
8 disseminated, or otherwise become a matter of general  
9 public knowledge. There is a rebuttable presumption that  
10 the information has not been published, disseminated, or  
11 otherwise become a matter of general public knowledge if  
12 the person has taken reasonable measures to prevent the  
13 information from becoming available to persons other than  
14 those selected by the person to have access to the  
15 information for limited purposes and the statement of  
16 justification contains a certification that the person has  
17 no knowledge that the information has ever been published,  
18 disseminated, or otherwise become a matter of general  
19 public knowledge; and

20           (2) the information has competitive value.

21       (e) Denial of a trade secret request under this Section  
22 shall be appealable under the Administrative Review Law and the  
23 rules adopted under that Law.

24       (f) A person whose request to inspect or copy a public  
25 record is denied, in whole or in part, because of a grant of  
26 trade secret protection may file a request for review with the



1 Public Access Counselor under Section 9.5 of the Freedom of  
2 Information Act or for injunctive or declaratory relief under  
3 Section 11 of the Freedom of Information Act for the purpose of  
4 reviewing whether the Department properly determined that the  
5 trade secret protection should be granted.

6 (g) Except as otherwise provided in Section 1-136.38 of  
7 this Part and subsection (m) of Section 1-77 of this Act, the  
8 Department must maintain the confidentiality of chemical  
9 disclosure information furnished under Section 1-136.05,  
10 1-136.34, 1-136.35, or 1-136.51 under a claim of trade secret,  
11 until the Department receives official notification of a final  
12 order by a reviewing body with proper jurisdiction that is not  
13 subject to further appeal rejecting a grant of trade secret  
14 protection for that information.

15 (225 ILCS 732/1-136.38 new)

16 Sec. 1-136.38. Trade secret disclosure to health  
17 professional.

18 (a) Information about high volume horizontal hydraulic  
19 fracturing treatment chemicals furnished under a claim of trade  
20 secret shall be disclosed by the Department, or by an  
21 independent contractor acting on the Department's behalf, to a  
22 health professional for the limited purpose of determining what  
23 health care services are necessary for the treatment of an  
24 affected patient pursuant to the requirements of this Section.  
25 The Department, or an independent contractor acting on its

1 behalf, shall maintain a telephone line staffed 24 hours a day,  
2 365 days a year. If using an independent contractor, the  
3 Department shall ensure that the appropriate agreements are in  
4 place with the contractor to effectively protect the trade  
5 secret chemical information.

6 (b) In a non-emergency health care situation, a health  
7 professional shall complete and submit a request to obtain  
8 trade secret chemical information. In the request, the health  
9 professional shall:

10 (1) state a need for the information and articulate why  
11 the information is needed; and

12 (2) identify the name and profession of the health  
13 professional and the name and location of the facility  
14 where the affected patient is being treated.

15 (c) In an emergency health care situation, a health  
16 professional shall:

17 (1) call the Department's chemical disclosure  
18 telephone number;

19 (2) state a need for the information and articulate why  
20 the information is needed; and

21 (3) identify the name and profession of the health  
22 professional and the name and location of the facility  
23 where the affected patient is being treated.

24 (d) The health professional may share information  
25 disclosed under this Section with other persons as may be  
26 professionally necessary, including, but not limited to, the

1 affected patient, other health professionals involved in the  
2 treatment of the affected patient, the affected patient's  
3 family members if the affected patient is unconscious, unable  
4 to make medical decisions, or is a minor, the Centers for  
5 Disease Control and Prevention, and other government public  
6 health agencies.

7 (e) As soon as circumstances permit, the holder of the  
8 trade secret may request, but not require, that the health  
9 professional who submitted the request for information share  
10 the names of all other health professionals to whom the  
11 information was disclosed.

12 (f) As soon as circumstances permit without impeding the  
13 treatment of the affected patient, the holder of the trade  
14 secret may request a confidentiality agreement consistent with  
15 the requirements of this Section from all health professionals  
16 to whom the information is disclosed.

17 (g) Any recipient of the information disclosed under this  
18 Section shall not use the information for purposes other than  
19 the health needs asserted in the request and shall otherwise  
20 maintain the information as confidential. Information so  
21 disclosed to a health professional shall in no way be construed  
22 as publicly available.

23 (225 ILCS 732/1-136.38a new)

24 Sec. 1-136.38a. Operating and reporting requirements;  
25 hydraulic fracturing operations; seismicity.

1       (a) This Section applies to all Class II UIC disposal wells  
2 that inject any Class II fluids or hydraulic fracturing  
3 flowback from a high volume horizontal hydraulic fracturing  
4 operation permitted by the Department under this Act.

5       (b) For the purposes of this Section, the terms defined in  
6 62 Ill. Adm. Code 245.110 have the same meanings when used in  
7 this Section. Additionally, the following terms have the  
8 meanings ascribed in this subsection:

9       "Green light alert" means the Department received notice  
10 from either the United States Geological Survey or the Illinois  
11 State Geological Survey that there was an earthquake in  
12 Illinois with a magnitude less than 2.0.

13       "Induced seismicity" means an earthquake event that is  
14 felt, recorded by the national seismic network, and  
15 attributable to a Class II UIC well used for disposal of  
16 flowback and produced fluid from high volume horizontal  
17 hydraulic fracturing operations.

18       "Red light alert" means the Department received notice from  
19 either the United States Geological Survey or the Illinois  
20 State Geological Survey that there was an earthquake in  
21 Illinois or a bordering state with a magnitude of 4.0 or  
22 greater.

23       "Yellow light alert" means the Department received notice  
24 from either the United States Geological Survey or the Illinois  
25 State Geological Survey that there was an earthquake in  
26 Illinois or a bordering state with a magnitude of at least 2.0,

1 but less than 4.0.

2 (c) All Class II UIC wells regulated by this Section shall  
3 be equipped with a flow meter capable of monitoring the rate of  
4 flow of fluids injected down into the well on a per day basis  
5 consistent with the Class II UIC permit issued by the  
6 Department.

7 All permittees shall record and maintain pressure and flow  
8 data for each Class II UIC well on a monthly basis. The report  
9 shall include the average and maximum monthly injection rates  
10 and pressures. The records shall be submitted to the Department  
11 in accordance with 62 Ill. Adm. Code 240.780(e). The records  
12 shall be maintained for at least 5 years and shall be available  
13 to the Department for inspection upon request.

14 When a well is suspected of triggering induced seismic  
15 activity, the permittee shall consult with the Department and  
16 the Illinois State Geological Survey to develop a plan for  
17 seismic monitoring, including the possibility of installing  
18 monitoring stations in the vicinity of the well.

19 (d) The Department shall report any yellow light alert to  
20 all Class II UIC well permittees with wells located within a  
21 6-mile radius of the earthquake event's epicenter measured from  
22 the surface above the hypocenter. The Department, in  
23 consultation with the Illinois State Geological Survey, shall  
24 conduct an investigation to evaluate whether the seismic event  
25 is reasonably expected to have occurred as the result of a  
26 Class II UIC operation and, if possible, to identify the

1 operation potentially believed to be the source of the event.

2 After receiving a yellow light alert, a Class II UIC well  
3 permittee has the discretion to operate the permitted well  
4 according to the terms of the permit, adjust the operation of  
5 the permitted well reducing the volume of fluids injected into  
6 the well, and consult with the Department and the Illinois  
7 State Geological Survey about the implications of the yellow  
8 light alert as it relates to the operation of the well.

9 After receiving a third yellow light alert within one year  
10 that is, or is believed to be, attributable to its well, the  
11 Class II UIC well permittee must immediately reduce injection  
12 volume and consult with the Department and the Illinois State  
13 Geological Survey.

14 The Department shall report any red light alert to all  
15 Class II UIC well permittees with wells located within a  
16 10-mile radius of the earthquake event's epicenter measured  
17 from the surface above the hypocenter. The Department, in  
18 consultation with the Illinois State Geological Survey, shall  
19 conduct an investigation to evaluate whether the seismic event  
20 is reasonably expected to have occurred as the result of a  
21 Class II UIC operation and, if possible, to identify the  
22 operation potentially believed to be the source of the event.

23 (e) The Department shall issue orders to permittees of  
24 Class II UIC wells that are, or are believed to be, the source  
25 of the seismic events for the immediate cessation of operations  
26 due to conditions that create imminent danger to the health and

1 safety of the public, or significant damage to property, under  
2 Section 19.1 of the Oil and Gas Act and 62 Ill. Adm. Code  
3 246.186, under any of the following conditions:

4 (1) if a particular well regulated by this Section and  
5 is, or is believed to be, the source of the seismic  
6 activity and receives any number of yellow light alerts and  
7 there is confirmed property damage to any building or  
8 structure as a result of the earthquake event with a  
9 magnitude greater than 4.5; the confirmation can be  
10 performed by personnel from the Department or personnel  
11 from any local, State, or federal agency;

12 (2) if a particular well regulated by this Section  
13 receives a fifth yellow light alert; or

14 (3) if a particular well regulated by this Section  
15 receives a red light alert and is within 6 miles of the  
16 epicenter of the earthquake event measured from the surface  
17 above the hypocenter.

18 (f) The Department may issue cessation orders to permittees  
19 with wells regulated by this Section within 10 miles of any  
20 earthquake epicenter, when necessary, if, after consultation  
21 with the Illinois State Geological Survey, induced seismicity  
22 conditions warrant cessation.

23 (g) After receiving a cessation order, in addition to the  
24 requirements of the order, the permittee shall schedule a  
25 meeting with the Department and representatives of the Illinois  
26 State Geological Survey at the Department's headquarters in

1 Springfield, Illinois, to be held within 30 calendar days after  
2 issuance of the order and before the cessation order hearing.  
3 Once scheduled, the permittee shall confirm the meeting in  
4 writing to both the Department and the Illinois State  
5 Geological Survey and provide the last 6 months of well data  
6 required in subsection (c) of this Section to help facilitate  
7 the meeting. The purpose of the meeting shall be to determine  
8 possible ways to mitigate induced seismicity events near the  
9 permitted well.

10 If the permittee and Department, in consultation with the  
11 Illinois State Geological Survey, reach agreement on how to  
12 test induced seismicity mitigation, the Department shall  
13 present the agreement as a settlement before the Hearing  
14 Officer for the cessation order hearing.

15 (h) Enforcement penalties for administrative and operating  
16 violations are specified in subsection (c) of Section 1-136.64  
17 of this Act. Violations under this Section are classified as  
18 administrative or operating, as follows:

19 (1) Failure to schedule and attend a meeting within 30  
20 days after the issuance of a cessation order is an  
21 administrative violation.

22 (2) Failure to comply with any portion of subsection  
23 (c) related to records is an administrative violation.

24 (3) Failure to install a flow meter or maintain a flow  
25 meter in operating condition is an operating violation.

26 (4) Failure to cease operations after a cessation order



1 is issued by the Department is an operating violation.

2 (5) Failure to comply with an induced seismicity  
3 mitigation agreement is an operating violation.

4 (225 ILCS 732/1-136.39 new)

5 Sec. 1-136.39. General conditions and requirements.

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

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

13 (225 ILCS 732/1-136.40 new)

14 Sec. 1-136.40. Hydraulic fracturing string requirements  
15 and pressure testing.

16 (a) Hydraulic fracturing strings, if used in any wells  
17 regulated by this Act, shall be set or reset pursuant to the  
18 requirements of this Section. Hydraulic fracturing strings  
19 shall be either strung into a production liner or run with a  
20 packer set at least 100 feet below the deepest cement top.

21 (b) A function-tested relief valve and diversion line shall  
22 be installed and used to divert flow from the hydraulic  
23 fracturing string-casing annulus to a covered watertight steel  
24 tank in case of hydraulic fracturing string failure.

1           (1) The relief valve shall be set to limit the annular  
2           pressure to no more than 95% of the working pressure rating  
3           of the weakest casings forming the annulus.

4           (2) The annulus between the hydraulic fracturing  
5           string and the production or immediate casing shall be  
6           pressurized to at least 250 psi and monitored.

7           (c) Hydraulic fracturing strings shall be tested to not  
8           less than the maximum anticipated treating pressure minus the  
9           annulus pressure applied between the fracturing string and the  
10          production or immediate casing. The pressure test shall be  
11          considered successful if the pressure applied has been held for  
12          30 minutes with no more than 5% pressure loss.

13          (d) The permittee shall notify the Department's District  
14          Office during regular business hours by phone and electronic  
15          mail at least 24 hours before conducting a pressure test of the  
16          hydraulic fracturing string to enable an inspector to be  
17          present when the test is performed.

18          (e) A record of the pressure test shall be made on a form  
19          prescribed by the Department, maintained by the permittee in  
20          the well file at the well site, and made available to the  
21          Department upon request and included in the high volume  
22          horizontal hydraulic fracturing operations completion report  
23          under subsection (d) of Section 1-136.51.

24          (f) If any change to the well involving resetting,  
25          repositioning, reconnecting, or breaking any pressure  
26          connection of the hydraulic fracturing string occurs after a

1 stage of high volume horizontal hydraulic treatment, the  
2 pressure test requirements of subsections (c) through (e) of  
3 this Section must be successfully repeated before initiating  
4 any subsequent stage of high volume horizontal hydraulic  
5 fracturing treatment.

6 (225 ILCS 732/1-136.41 new)

7 Sec. 1-136.41. Surface equipment pressure testing.

8 (a) For all wells regulated by this Part, the final  
9 configuration of surface equipment associated with the high  
10 volume horizontal hydraulic fracturing treatment, including  
11 the injection lines and manifold, associated valves, fracture  
12 head or tree and any other wellhead components or connections,  
13 must be pressure tested pursuant to the requirements of this  
14 Section before any pumping of hydraulic fracturing fluid. The  
15 permittee shall notify the Department's District Office during  
16 regular business hours by phone and electronic mail at least 24  
17 hours before conducting a pressure test of the final  
18 configuration of the surface equipment used for the high volume  
19 horizontal hydraulic fracturing treatment to enable an  
20 inspector to be present when the test is performed.

21 (b) The final configuration of the surface equipment used  
22 for the high volume horizontal hydraulic fracturing treatment  
23 shall be pressure tested with fresh water or brine to at least  
24 the maximum anticipated treatment pressure for at least 30  
25 minutes with less than a 5% pressure loss.

1       (c) A record of the pressure test shall be made on a form  
2 prescribed by the Department, maintained by the permittee in  
3 the well file at the well site, and made available to the  
4 Department upon request.

5       (d) If the configuration of surface equipment used for the  
6 high volume horizontal hydraulic fracturing treatment has been  
7 reconfigured or changed in any manner that breaks any pressure  
8 connection after a stage of high volume horizontal hydraulic  
9 fracturing operations treatment, the pressure test  
10 requirements of subsections (a) through (c) of this Section  
11 shall be successfully repeated before initiating any  
12 subsequent stage of high volume horizontal hydraulic  
13 fracturing operations.

14       (225 ILCS 732/1-136.42 new)

15       Sec. 1-136.42. Notice and approval before commencement of  
16 high volume horizontal hydraulic fracturing operations.

17       (a) Before commencement of high volume horizontal  
18 hydraulic fracturing operations, the permittee shall notify  
19 and receive written approval from the Department by U.S. mail  
20 or electronic mail. Department approval for high volume  
21 horizontal hydraulic fracturing operations shall be based on  
22 the permittee's proof of compliance with subsections (b)  
23 through (e) of this Section:

24       (b) The permittee shall notify the Department's District  
25 Office by telephone and electronic mail or letter at least 48

1 hours before the commencement of high volume horizontal  
2 hydraulic fracturing operations to enable an inspector to be  
3 present. The notification under this subsection shall be notice  
4 for all stages of a multiple-stage high volume horizontal  
5 hydraulic fracturing treatment.

6 (c) Prior to conducting high volume horizontal hydraulic  
7 fracturing operations at a well site, the permittee shall cause  
8 to be plugged all previously abandoned unplugged or  
9 insufficiently plugged wellbores within 750 feet of any part of  
10 the horizontal wellbore that penetrated within 400 vertical  
11 feet of the geologic formation that will be stimulated as part  
12 of the high volume horizontal hydraulic fracturing operations  
13 under the requirements of Section 1-136.59.

14 (d) Baseline water quality sampling of all water sources  
15 within 1,500 feet of the well site shall be completed under  
16 subsection (b) of Section 1-136.29.

17 (e) All tests required by the following Sections shall be  
18 conducted:

19 (1) Section 1-136.25: well casing internal mechanical  
20 integrity tests;

21 (2) Section 1-136.28: formation integrity tests;

22 (3) Section 1-136.40: hydraulic fracturing string  
23 pressure tests, if required; and

24 (4) Section 1-136.41: surface equipment pressure  
25 tests.

1 (225 ILCS 732/1-136.43 new)

2 Sec. 1-136.43. Secondary containment inspections.

3 No more than one hour before initiating any stage of the  
4 high volume horizontal hydraulic fracturing operations, all  
5 secondary containment required under subsection (b) of Section  
6 1-136.44 shall be visually inspected by the permittee or the  
7 contractor performing the high volume horizontal hydraulic  
8 fracturing operations on behalf of the permittee to ensure that  
9 all structures and equipment are in place and in proper working  
10 order. The results of this inspection shall be recorded and  
11 documented by the permittee or the contractor performing the  
12 high volume horizontal hydraulic fracturing operations on  
13 behalf of the permittee on a form prescribed by the Department,  
14 maintained in the well file at the well site, and available to  
15 the Department upon request.

16 (225 ILCS 732/1-136.44 new)

17 Sec. 1-136.44. General fluid storage.

18 (a) In accordance with the approved hydraulic fracturing  
19 fluid and flowback plan required by paragraph (11) of  
20 subsection (a) of Section 1-136.05, and the approved  
21 containment plan required by paragraph (13) of subsection (a)  
22 of Section 1-136.05, and except as provided in Section  
23 1-136.45, hydraulic fracturing additives, hydraulic fracturing  
24 fluid, hydraulic fracturing flowback, and produced water shall  
25 be stored in above-ground tanks pursuant to the requirements of

1 this Section at all times until removed for proper disposal or  
2 recycling. Above-ground tanks shall be:

3 (1) closed, watertight, vented in compliance with  
4 Section 1-136.54, and corrosion-resistant;

5 (2) constructed of materials compatible with the  
6 composition of the hydraulic fracturing fluid, hydraulic  
7 fracturing flowback, and produced water;

8 (3) of sufficient pressure rating;

9 (4) maintained in a leak-free condition; and

10 (5) routinely inspected for corrosion.

11 (b) Secondary containment is required for all above-ground  
12 tanks and additive staging areas.

13 Secondary containment measures may include one or a  
14 combination of the following: dikes, liners, pads,  
15 impoundments, curbs, sumps, or other structures or equipment  
16 capable of containing the substance within the well site.

17 Any secondary containment must be sufficient to contain  
18 150% of the total capacity of the single largest container or  
19 tank within a common containment area.

20 (c) Piping, conveyances, valves in contact with hydraulic  
21 fracturing fluid, hydraulic fracturing flowback, or produced  
22 water shall be:

23 (1) constructed of materials compatible with the  
24 expected composition of the hydraulic fracturing fluid,  
25 hydraulic fracturing flowback, and produced water;

26 (2) of sufficient pressure rating;

1           (3) able to resist corrosion; and

2           (4) maintained in a leak-free condition.

3           (d) Stationary fueling tanks shall:

4           (1) have secondary containment in accordance with  
5           subsection (b) of this Section;

6           (2) be subject to the setback requirements of Section  
7           1-136.19;

8           (3) have stationary fueling tank filling operations  
9           supervised at the fueling truck and at the tank if the tank  
10           is not visible to the fueling operator from the truck; and

11           (4) troughs, drip pads, or drip pans are required  
12           beneath the fill port of a stationary fueling tank during  
13           filling operations if the fill port is not within the  
14           secondary containment required by subsection (b) of this  
15           Section.

16           (e) Fresh water may be stored in tanks or pits at the  
17           election of the permittee.

18           (225 ILCS 732/1-136.45 new)

19           Sec. 1-136.45. Reserve pits.

20           (a) In accordance with the hydraulic fracturing fluids and  
21           flowback plan required by paragraph (11) of subsection (a) of  
22           Section 1-136.05 and the containment plan required under  
23           paragraph (13) of subsection (a) of Section 1-136.05, and as  
24           approved by the Department, the use of a reserve pit is allowed  
25           for the temporary storage of hydraulic fracturing flowback. The



1 reserve pit shall be used only in the event of a lack of  
2 capacity for tank storage due to higher than expected volume or  
3 rate of hydraulic fracturing flowback, or other unanticipated  
4 flowback occurrence.

5 (b) All reserve pits shall comply with the following  
6 construction standards and liner specifications:

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

10 (2) the pit lining system shall be designed to have a  
11 capacity at least equivalent to 110% of the maximum volume  
12 of hydraulic fracturing flowback anticipated to be  
13 recovered;

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

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

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

1       (c) Hydraulic fracturing flowback reserve pit liners shall  
2 be disposed of in an Agency-permitted special waste landfill.

3           (225 ILCS 732/1-136.46 new)

4       Sec. 1-136.46. Mechanical integrity monitoring.

5       (a) During high volume horizontal hydraulic fracturing  
6 operations, all sealed annulus pressures, the injection  
7 pressure, slurry and fluid rates, and the rate of injection  
8 shall be continuously monitored and recorded. The records of  
9 the monitoring shall be maintained by the permittee in the well  
10 file at the well site and shall be provided to the Department  
11 upon request at any time during the period up to and including  
12 5 years after the well is permanently plugged or abandoned.

13       (b) During high volume horizontal hydraulic fracturing  
14 operations:

15           (1) The pressure test values established for the  
16 internal mechanical integrities of the cemented casings  
17 under Section 1-136.25 and of the hydraulic fracturing  
18 string under to Section 1-136.40 shall not be exceeded. If  
19 any of these pressures decline more than 5%, increases by  
20 more than 500 pounds per square inch as compared to the in  
21 situ or applied pressure immediately preceding the  
22 stimulation, exceeds 80% of the API rated minimum internal  
23 yield on any casing string in communication with the  
24 stimulation treatment, or if there are other indications of  
25 a leak, corrective action shall be taken before conducting

1       further high volume horizontal hydraulic fracturing  
2       operations.

3       (2) The pressure exerted on treating equipment,  
4       including valves (includes hydraulic fracturing string  
5       relief valve; see subsection (b) of Section 1-136.40 of  
6       this Part and Section 1-70(d)(17) of this Act), lines,  
7       manifolds, hydraulic fracturing head or tree, casing and  
8       hydraulic fracturing string, if used, and any other  
9       wellhead component or connection, must not exceed 95% of  
10       the working pressure rating of the weakest component.

11       (3) The actual hydraulic fracturing treatment pressure  
12       during high volume horizontal hydraulic fracturing  
13       operations shall not, at any time, exceed the mechanical  
14       integrity test pressures of the casings established under  
15       Section 1-136.25.

16       (c) High volume horizontal hydraulic fracturing operations  
17       shall be immediately suspended if the permittee or Department  
18       inspector determines that any anomalous pressure or flow  
19       condition or any other anticipated pressure or flow condition  
20       is occurring in a way that indicates the mechanical integrity  
21       of the well has been compromised and continued operations pose  
22       a risk to the environment. Remedial action shall be immediately  
23       undertaken.

24       (d) The permittee shall notify the Department inspector and  
25       the Department's District Office by phone and electronic mail  
26       within one hour after suspending operations for any matters

1 relating to the mechanical integrity of the well or risk to the  
2 environment.

3 (e) Operations shall not resume until the appropriate  
4 pressure tests under Sections 1-136.40 and 1-136.41 have been  
5 successfully repeated.

6 (225 ILCS 732/1-136.47 new)

7 Sec. 1-136.47. Hydraulic fracturing fluid and flowback  
8 confinement.

9 (a) Hydraulic fracturing fluid shall be confined to the  
10 targeted formation designated in the permit.

11 (b) If the hydraulic fracturing fluid or hydraulic  
12 fracturing flowback migrate into a fresh water zone or to the  
13 surface from the well in question or from other wells, the  
14 permittee shall immediately notify the Department and shut in  
15 the well until remedial action that prevents the fluid  
16 migration is completed. The permittee shall obtain the approval  
17 of the Department prior to resuming operations.

18 (c) Permittee shall be responsible for any demonstrated  
19 damages caused by the migration of hydraulic fracturing fluid  
20 or hydraulic fracturing flowback outside the targeted  
21 formation.

22 (225 ILCS 732/1-136.48 new)

23 Sec. 1-136.48. Management of gas and produced hydrocarbons  
24 during flowback.

1       (a) For wells regulated by this Part, permittees shall be  
2 responsible for managing natural gas and hydrocarbon fluids  
3 produced during the flowback period to ensure no direct release  
4 to the atmosphere or environment provided in this Section.  
5 Except for wells covered by subsection (f) of this Section,  
6 recovered hydrocarbon fluids shall be:

7           (1) routed to one or more storage vessels;

8           (2) injected into a permitted Class II UIC well as  
9 described in paragraph (7) of subsection (c) of Section  
10 1-136.12; or

11           (3) used for another lawful and useful purpose that a  
12 purchased fuel or raw material would serve, with no direct  
13 release to the environment.

14       (b) Except for wells covered by subsection (f) of this  
15 Section, recovered natural gas shall be:

16           (1) routed into a flow line or collection system;

17           (2) injected into a permitted Class II well as  
18 described in paragraph (7) of subsection (c) of Section  
19 1-136.12;

20           (3) used as an on-site fuel source; or

21           (4) used for another lawful and useful purpose that a  
22 purchased fuel or raw material would serve, with no direct  
23 release to the atmosphere.

24       (c) If it is technically infeasible or economically  
25 unreasonable to minimize emissions associated with the venting  
26 of hydrocarbon fluids and natural gas during the flowback

1 period using the methods specified in subsections (a) and (b)  
2 of this Section, the Department, pursuant to Section 1-136.53a,  
3 shall require the permittee to capture and direct the emissions  
4 to a completion combustion device, except:

5 (1) when conditions may result in a fire hazard or  
6 explosion; or

7 (2) where high heat emissions from a completion  
8 combustion device may negatively impact waterways.

9 (d) In order to establish technical infeasibility or  
10 economic unreasonableness under subsection (c) of this  
11 Section, the permittee shall demonstrate to the Department's  
12 satisfaction pursuant to Section 1-136.53a, for each well site  
13 on an annual basis, that taking the actions listed in  
14 subsections (a) and (b) of this Section are not cost effective  
15 based on a well site-specific analysis.

16 (e) Completion combustion devices must be equipped with a  
17 reliable continuous ignition source over the duration of the  
18 flowback period.

19 (f) For each wildcat well, delineation well, or low  
20 pressure well, permittees shall be responsible for minimizing  
21 the emissions associated with venting of hydrocarbon fluids and  
22 natural gas during the flowback period by capturing and  
23 directing the emissions to a completion combustion device  
24 during the flowback period, except in conditions that may  
25 result in a fire hazard or explosion or where high heat  
26 emissions from a completion combustion device may negatively

1 impact waterways. Completion combustion devices shall be  
2 equipped with a reliable continuous ignition source over the  
3 duration of the flowback period.

4 (225 ILCS 732/1-136.49 new)

5 Sec. 1-136.49. Hydraulic fracturing fluid and hydraulic  
6 fracturing flowback storage, disposal or recycling,  
7 transportation, and reporting requirements.

8 (a) The permittee shall notify the Department of the date  
9 when high volume horizontal hydraulic fracturing operations  
10 are completed and shall dispose of or recycle hydraulic  
11 fracturing fluids and hydraulic fracturing flowback under the  
12 requirements of this Section.

13 (b) Completion of high volume horizontal hydraulic  
14 fracturing operations occurs when the flowback period begins  
15 after the last stage of high volume horizontal hydraulic  
16 fracturing operations. The permittee shall notify the  
17 Department's district office by phone and electronic mail  
18 within 24 hours after high volume horizontal hydraulic  
19 fracturing operations are completed.

20 (c) Hydraulic fracturing fluids and hydraulic fracturing  
21 flowback shall be removed from the well site within 60 days  
22 after completion of high volume horizontal fracturing  
23 operations, except as provided in subsection (d) of this  
24 Section.

25 (d) Any excess hydraulic fracturing flowback captured for

1 temporary storage in a reserve pit as provided in Section  
2 1-136.44 must be removed from the well site or transferred to  
3 storage in above-ground tanks for later disposal or recycling  
4 within 7 days after commencing flowback operations to the  
5 reserve pit. The Department may provide the operator a limited  
6 extension if the operator demonstrates to the Department's  
7 satisfaction they have made good faith efforts but have been  
8 unable to secure the equipment necessary to remove the  
9 hydraulic fracturing flowback from the reserve pit in the  
10 prescribed timeframe. Excess hydraulic fracturing flowback  
11 cannot be removed from the well site until the hydraulic  
12 fracturing flowback is tested and the analytical results are  
13 provided under subsection (e) of this Section.

14 (e) Testing of hydraulic fracturing flowback shall be  
15 completed as follows:

16 (1) Hydraulic fracturing flowback must be tested for  
17 the presence of volatile organic chemicals, semi-volatile  
18 organic chemicals, inorganic chemicals, heavy metals, and  
19 naturally occurring radioactive material before removal  
20 from the well site, including specifically:

21 (A) pH;

22 (B) total dissolved solids, dissolved methane,  
23 dissolved propane, dissolved ethane, alkalinity, and  
24 specific conductance;

25 (C) chloride, sulfate, arsenic, barium, calcium,  
26 chromium, iron, magnesium, selenium, cadmium, lead,



1           manganese, mercury, and silver;

2           (D) BTEX; and

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

6           (2) Testing shall be completed on a composited sample  
7           of the hydraulic fracturing flowback.

8           (3) Testing shall occur once per well site.

9           (4) The analytical results shall be filed with the  
10           Department and the Agency and provided to the liquid  
11           oilfield waste transportation and disposal operators at or  
12           before the time of pickup.

13           (f) Before plugging and site restoration required by  
14           Section 1-136.61, the ground adjacent to the storage tanks and  
15           any hydraulic fracturing flowback reserve pit must be measured  
16           for radioactivity.

17           (g) Surface discharge of hydraulic fracturing fluids or  
18           hydraulic fracturing flowback onto the ground or into any  
19           surface water or water drainage way at the well site or any  
20           other location is prohibited.

21           (h) Except for recycling allowed by subsection (g) of this  
22           Section, hydraulic fracturing flowback may only be disposed of  
23           by injection into a Class II injection disposal well that is  
24           below interface between fresh water and naturally occurring  
25           Class IV groundwater. The Class II injection disposal well  
26           shall be equipped with an electronic flowmeter and approved by

1 the Department.

2 (i) Fluid transfer operations from tanks to tanker trucks  
3 for transportation offsite shall be supervised at the truck and  
4 at the tank if the tank is not visible to the truck operator  
5 from the truck. During transfer operations, all  
6 interconnecting piping shall be supervised if not visible to  
7 transfer personnel at the truck and tank.

8 (j) Hydraulic fracturing flowback may be treated and  
9 recycled for use in hydraulic fracturing fluid for high volume  
10 horizontal hydraulic fracturing operations.

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

19 (l) A fluid handling report on the transportation and  
20 disposal or recycling of the hydraulic fracturing fluids and  
21 hydraulic fracturing flowback shall be prepared by the  
22 permittee on a form prescribed by the Department and included  
23 in the well file.

24 (1) Each report shall include:

25 (A) the amount of hydraulic fracturing fluids or  
26 hydraulic fracturing flowback transported;

1           (B) identification of the company that transported  
2           the hydraulic fracturing fluids or hydraulic  
3           fracturing flowback;

4           (C) the date the hydraulic fracturing fluids or  
5           hydraulic fracturing flowback were picked up from the  
6           well site;

7           (D) the destination of the hydraulic fracturing  
8           fluids or hydraulic fracturing flowback, including the  
9           name, address, and type of facility accepting the  
10           hydraulic fracturing fluids or hydraulic fracturing  
11           flowback;

12           (E) the method of disposal or recycling; and

13           (F) a copy of the analytical results of the testing  
14           required under subsection (e) of this Section.

15           (2) The permittee shall prepare 4 copies of each fluid  
16           handling report for distribution as follows:

17           (A) one copy for the permittee's records;

18           (B) two copies for the liquid oilfield waste hauler  
19           upon pick-up of the liquids as follows:

20           (i) one copy for the waste hauler's records;

21           (ii) one copy to be provided to the permittee  
22           of the Class II UIC well, to the operator of the  
23           storage location where the liquids will be  
24           disposed of, or to the operator of the storage  
25           location where liquids will be recycled; and

26           (C) one copy for the Department. A set of all fluid

1           handling reports shall be submitted to the Department  
2           within 90 days after the completion of all high volume  
3           horizontal hydraulic fracturing operations.

4           (3) All copies of the fluid handling reports shall be  
5           retained for at least 5 years.

6           (225 ILCS 732/1-136.50 new)

7           Sec. 1-136.50. Spills and remediation.

8           (a) The permittee shall immediately clean up and remediate  
9           any release of hydraulic fracturing fluid, hydraulic  
10           fracturing additive, hydraulic fracturing flowback, or  
11           produced water, used or generated during or after high volume  
12           horizontal hydraulic fracturing operation pursuant to  
13           requirements of the Illinois Oil and Gas Act and the  
14           administrative rules adopted under that Act.

15           (b) The permittee shall report any release of hydraulic  
16           fracturing fluid or hydraulic fracturing flowback in excess of  
17           one barrel to the Department.

18           (c) The permittee shall clean up, remediate, and report any  
19           release of produced water in excess of 5 barrels pursuant to  
20           requirements of the Illinois Oil and Gas Act and the  
21           administrative rules adopted under that Act.

22           (d) The permittee shall report any release of a hydraulic  
23           fracturing additive to the Illinois Emergency Management  
24           Agency in accordance with the appropriate reportable quantity  
25           thresholds established under the federal Emergency Planning

1 and Community Right-to-Know Act as published at 40 CFR 355,  
2 370, and 372, the federal Comprehensive Environmental  
3 Response, Compensation, and Liability Act as published in 40  
4 CFR 302, and Section 112(r) of the Federal Clean Air Act as  
5 published at 40 CFR 68.

6 (225 ILCS 732/1-136.51 new)

7 Sec. 1-136.51. High volume horizontal hydraulic fracturing  
8 operations completion report.

9 (a) Within 60 calendar days after the conclusion of high  
10 volume horizontal hydraulic fracturing operations, the  
11 permittee shall file a high volume horizontal hydraulic  
12 fracturing operations completion report with the Department in  
13 hard copy and electronic format (PDF).

14 (b) The Department shall provide a copy of each completion  
15 report submitted to the Department to the Illinois State  
16 Geological Survey in electronic format.

17 (c) The Department shall make available the completion  
18 reports on the Department's website no later than 30 days after  
19 receipt by the Department.

20 (d) The high volume horizontal hydraulic fracturing  
21 operations completion report shall contain the following  
22 information:

23 (1) the permittee's name as listed in the permit  
24 application;

25 (2) the dates of the high volume horizontal hydraulic

1       fracturing operations;

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

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

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

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

14          (7) the quantity of hydraulic fracturing flowback  
15       recovered from the well and the time period for flowback  
16       recovery;

17          (8) a description of how hydraulic fracturing flowback  
18       recovered from the well was disposed or recycled;

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

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

1           fracturing treatment, if something other than water;

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

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

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

13           (10) a copy of the hydraulic fracturing string pressure  
14           test conducted under subsection (e) of Section 1-136.40, if  
15           applicable;

16           (11) all pressures recorded during the high volume  
17           horizontal hydraulic fracturing operations under Section  
18           1-136.46;

19           (12) plans for how produced water shall be disposed of  
20           or recycled as required by Section 1-136.57; if produced  
21           water is to be disposed of, the names and locations of  
22           Class II injection wells to be used; all Class II injection  
23           wells to be used for disposal of produced water must be  
24           shown to be in compliance with 62 Ill. Adm. Code 240.360 at  
25           the time of the issuance of the high volume horizontal  
26           hydraulic fracturing permit; and

1           (13) any other reasonable or pertinent information  
2           related to the conduct of the high volume horizontal  
3           hydraulic fracturing operations that the Department may  
4           request or require.

5           (e) The high volume horizontal hydraulic fracturing  
6           operations completion report must be approved and signed and  
7           certified by a licensed professional engineer, licensed  
8           professional geologist, or the permittee.

9           (225 ILCS 732/1-136.52 new)

10           Sec. 1-136.52. Use of diesel in high volume horizontal  
11           hydraulic fracturing operations is prohibited. It is unlawful  
12           to perform any high volume horizontal hydraulic fracturing  
13           operations by knowingly or recklessly injecting diesel.

14           (225 ILCS 732/1-136.53 new)

15           Sec. 1-136.53. Managing natural gas and hydrocarbon fluids  
16           during production

17           (a) For wells regulated by this Part, permittees shall be  
18           responsible for minimizing the emissions associated with the  
19           venting of hydrocarbon fluids and natural gas during the  
20           production phase to safely maximize resource recovery and  
21           minimize releases to the environment.

22           (b) Except for wells covered by subsection (j) of this  
23           Section, sand traps, surge vessels, separators, and tanks must  
24           be employed as soon as practicable during cleanout operations



1 to safely maximize resource recovery and minimize releases to  
2 the environment.

3 (c) Except for wells covered by subsection (j) of this  
4 Section, recovered hydrocarbon fluids must be routed into  
5 storage vessels.

6 (d) Except for wells covered by subsection (j) of this  
7 Section, recovered natural gas must be:

8 (1) routed into a gas gathering line or collection  
9 system, or to a generator for onsite energy generation;

10 (2) provided to the surface landowner of the well site  
11 for use for heat or energy generation; or

12 (3) used for a lawful and useful purpose other than  
13 venting or flaring.

14 (e) If the permittee establishes under Section 1-136.53a  
15 that it is technically infeasible or economically unreasonable  
16 to minimize emissions associated with the venting of  
17 hydrocarbon fluids and natural gas during production using the  
18 methods specified in subsections (c) and (d) of this Section,  
19 the Department shall require the permittee to capture and  
20 direct any natural gas produced during the production phase to  
21 a flare.

22 (f) In order to establish technical infeasibility or  
23 economic unreasonableness under subsection (e) of this  
24 Section, the permittee shall demonstrate, to the Department's  
25 satisfaction and for each well site on an annual basis, that  
26 taking the actions listed in subsections (c) and (d) of this

1 Section are not cost-effective based on a well site-specific  
2 analysis in accordance with Section 1-136.53a.

3 (g) Any flare used under this Section shall be equipped  
4 with a reliable, continuous ignition source over the duration  
5 of production.

6 (h) Permittees that use a flare during the production phase  
7 for operations other than emergency conditions shall annually  
8 file an updated well site-specific analysis with the Department  
9 on a form prescribed by the Department. The analysis shall:

10 (1) be due one year from the date of the previous  
11 submission; and

12 (2) detail in accordance with Section 1-136.53a  
13 whether any changes have occurred that alter the technical  
14 infeasibility or economic unreasonableness of the  
15 permittee to reduce emissions under subsections (c) and (d)  
16 of this Section.

17 (i) On or after July 1, 2015, all flares used under this  
18 Section shall:

19 (1) operate with a combustion efficiency of at least  
20 98% and in accordance with 40 CFR 60.18;

21 (2) be certified by the manufacturer of the device; and

22 (3) be maintained and operated in accordance with  
23 manufacturer specifications.

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

1 and natural gas during the production phase by capturing and  
2 directing the emissions to a flare during the production phase,  
3 except in conditions that may result in a fire hazard or  
4 explosion or where high heat emissions from a flare may  
5 negatively impact waterways. Flares shall be used during the  
6 production phase.

7 (225 ILCS 732/1-136.53a new)

8 Sec. 1-136.53a. Determination of economic feasibility for  
9 capture and use of produced gas.

10 (a) For the purposes of determining whether the  
11 requirements of subsections (a) and (b) of Section 1-136.48 and  
12 subsections (a), (b), and (c) of Section 1-136.53 impose  
13 economically unreasonable standards, the application shall  
14 provide the Department information relevant to the following  
15 areas:

16 (1) The basis for the gas price used to determine  
17 whether it is economically infeasible to connect the well  
18 to a natural gas gathering line.

19 (2) The cost of connecting the well to the line and  
20 operating the facilities connecting the well to the line.

21 (3) The current daily rate of the amount of gas flared  
22 from the well.

23 (4) The amount of estimated gas reserves associated  
24 with the well and the amount of gas currently available for  
25 sale.

1       (b) Information provided under paragraphs (2) and (4) of  
2 subsection (a) of this Section shall be treated as proprietary  
3 trade secret information by the Department and not subject to  
4 public disclosure.

5       (c) The Department may request additional information from  
6 the permittee to reach a determination on the economic  
7 feasibility of implementing the requirements of subsections  
8 (a) and (b) of Section 1-136.48 and subsections (a), (b), and  
9 (c) of Section 1-136.53.

10       (d) The Department shall provide the permittee with a  
11 written decision after reviewing any information submitted by  
12 the permittee that justifies the claim that the requirements of  
13 subsections (a) and (b) of Section 1-136.48 and subsections  
14 (a), (b), and (c) of 1-136.53 are not cost effective.

15       (225 ILCS 732/1-136.54 new)

16       Sec. 1-136.54. Uncontrolled emissions from storage tanks  
17 containing natural gas and hydrocarbon fluids.

18       (a) In addition to the requirements of Section 1-136.53,  
19 uncontrolled emissions exceeding 6 tons per year from storage  
20 tanks containing natural gas or hydrocarbon fluids shall be  
21 recovered and routed to a flare that is designed in accordance  
22 with 40 CFR 60.18 and is certified by the manufacturer of the  
23 device.

24       (b) The permittee shall maintain and operate the flare in  
25 accordance with the manufacturer's specifications.

1       (c) Any flare used under this Section shall be equipped  
2 with a reliable continuous ignition source over the duration of  
3 production pursuant to the requirements of subsection (i) of  
4 Section 1-136.53.

5           (225 ILCS 732/1-136.55 new)

6       Sec. 1-136.55. Flaring waiver.

7       (a) The Department may approve an exemption request made in  
8 writing that waives the flaring requirements of Sections  
9 1-136.53 and 1-136.54 only if the permittee demonstrates to the  
10 Department's satisfaction that the use of the flare will pose a  
11 significant risk of injury or property damage and that  
12 alternative methods of collection will not threaten harm to the  
13 environment.

14       (b) In determining whether to approve a waiver, the  
15 Department shall consider the quantity of casinghead gas  
16 produced, the topographical and climatological features at the  
17 well site, and the proximity of agricultural structures, crops,  
18 inhabited structures, public buildings, and public roads and  
19 railways.

20       (c) The Department shall provide the permittee with a  
21 written decision.

22           (225 ILCS 732/1-136.56 new)

23       Sec. 1-136.56. Annual flaring reports. Pursuant to  
24 Sections 1-136.53 and 1-136.54, permittees shall record the

1 amount of gas flared or vented from each high volume horizontal  
2 hydraulic fracturing well on an ongoing basis. Every 12 months  
3 from the date of the permit issuance under this Part,  
4 permittees shall report to the Department the total amount of  
5 gas flared or vented from each well during the previous 12  
6 months.

7 (225 ILCS 732/1-136.57 new)

8 Sec. 1-136.57. Produced water disposal or recycling,  
9 transportation, and reporting requirements.

10 (a) The permittee shall dispose of or recycle produced  
11 water in accordance with the requirements of this Section.

12 (b) Surface discharge of produced water onto the ground or  
13 into any surface water or water drainage way is prohibited.

14 (c) Except for recycling allowed under subsection (e) of  
15 this Section, produced water may only be disposed of by  
16 injection into a Class II injection well that is below  
17 interface between fresh water and naturally-occurring Class IV  
18 groundwater. Unless used for enhanced oil recovery, the Class  
19 II injection well must be equipped with an electronic flowmeter  
20 and approved by the Department.

21 (d) Produced water transfer operations from tanks to tanker  
22 trucks for transportation offsite must be supervised at the  
23 truck and at the tank if the tank is not visible to the truck  
24 operator from the truck. During transfer operations, all  
25 interconnecting piping must be supervised if not visible to

1 transfer personnel at the truck and tank.

2 (e) Produced water may be treated and recycled for use in  
3 hydraulic fracturing fluid for high volume horizontal  
4 hydraulic fracturing operations.

5 (f) A liquid oilfield waste hauler permitted by the  
6 Department under Section 8c of the Illinois Oil and Gas Act  
7 shall transport produced water by vehicle for disposal or  
8 recycling. The liquid oilfield waste hauler transporting  
9 produced water under this Part shall comply with all laws and  
10 rules concerning liquid oilfield waste.

11 (g) Permittees shall submit an annual produced water report  
12 to the Department detailing the management of any produced  
13 water associated with the permitted well.

14 (1) The produced water report shall be due to the  
15 Department on or before April 30 of each year and shall  
16 provide information on the operator's management of any  
17 produced water for the prior calendar year and the  
18 anticipated management for the next calendar year.

19 (2) The produced water report shall contain  
20 information relative to the amount of produced water from  
21 the well, the method by which the produced water was  
22 transported and disposed of or recycled, and the  
23 destination where the produced water was disposed of or  
24 recycled.

1       Sec. 1-136.58. Plugging and restoration requirements.

2       (a) The permittee shall perform and complete the plugging  
3 of the well and restoration of the well site in accordance with  
4 the Illinois Oil and Gas Act and any and all rules adopted  
5 under the Illinois Oil and Gas Act. The permittee shall bear  
6 all costs related to plugging of the well and reclamation of  
7 the well site.

8       (b) If the permittee fails to plug the well in accordance  
9 with this Section, the owner of the well shall be responsible  
10 for complying with this Section.

11       (c) If the permittee stimulates the geologic formation in  
12 accordance with the permit using a high volume horizontal  
13 hydraulic fracturing process, then once commercial production  
14 ceases from the well and it is time to plug the well, in  
15 addition to all the other requirements, the permittee shall  
16 initiate the plugging process using a circulation method  
17 starting at the top of the geologic formation stimulated  
18 installing a cement plug at least 100 feet above the top of the  
19 geologic formation.

20       (d) Upon completion of the requirements of this Section and  
21 Sections 1-136.59, 1-136.60, and 1-136.61 the Department shall  
22 release the permit under Section 1-136.17.

23       (225 ILCS 732/1-136.59 new)

24       Sec. 1-136.59. Plugging previously abandoned unplugged or  
25 insufficiently plugged wells.



1       (a) Prior to conducting high volume horizontal hydraulic  
2 fracturing operations at a well site, the permittee shall plug  
3 all previously abandoned unplugged or insufficiently plugged  
4 wellbores within 750 feet of any part of the horizontal  
5 wellbore that penetrated within 400 vertical feet of the  
6 geologic formation that will be stimulated as part of the high  
7 volume horizontal hydraulic fracturing operations pursuant to  
8 the requirements of this Section.

9       (b) Any abandoned unplugged or insufficiently plugged  
10 wellbores within 750 feet of any part of the horizontal well  
11 bore that penetrated within 400 vertical feet of the geologic  
12 formation that will be stimulated as part of the permittee's  
13 proposed high volume horizontal hydraulic fracturing  
14 operations shall be designated for plugging by the Department  
15 as a condition of the permit that shall be completed before  
16 conducting high volume horizontal hydraulic fracturing  
17 operations.

18       (c) This pre-high volume horizontal hydraulic fracturing  
19 operations plugging obligation shall be performed in  
20 accordance with 62 Ill. Adm. Code 240.1110 and shall be  
21 completed before any high volume horizontal hydraulic  
22 fracturing operations may begin.

23       (1) If the permittee does not have the authority to  
24 plug an abandoned well within the Plugging and Restoration  
25 Fund Program, the Department shall give the permittee  
26 authority to enter upon the land, plug the well, and

1 restore the well site consistent with 62 Ill. Adm. Code  
2 240.1610(e).

3 (2) If the permittee does not have the authority to  
4 plug an abandoned well that is not within the Plugging and  
5 Restoration Fund Program, either:

6 (A) the Department shall initiate abandoned well  
7 proceedings under Section 19.1 of the Illinois Oil and  
8 Gas Act and 62 Ill. Adm. Code 240.1610 in order to  
9 grant the permittee authority to plug the abandoned  
10 well; or

11 (B) the permittee shall work with the landowner and  
12 the person responsible for the abandoned well to  
13 arrange for plugging and restoration.

14 (d) If the permittee is unable to locate an abandoned  
15 unplugged well or insufficiently plugged well identified by the  
16 Department for plugging before high volume horizontal  
17 hydraulic fracturing operations may begin, the permittee may  
18 receive a waiver of the plugging requirement from the  
19 Department after demonstrating a diligent effort to locate the  
20 abandoned unplugged well or insufficiently plugged well in the  
21 field.

22 (e) Before proceeding with any high volume horizontal  
23 hydraulic fracturing operations, the permittee shall provide  
24 notice to the Department that the plugging requirements of this  
25 Section have been met.

26 (f) If, during or after performing high volume horizontal

1 hydraulic fracturing operations, there is any evidence of  
2 fluids leaking at the surface from abandoned wells, unpermitted  
3 wells, or previously plugged wells within 750 feet of any part  
4 of the horizontal wellbore:

5 (1) the permittee shall immediately notify the  
6 Department and shut in the well;

7 (2) the permittee shall plug those wells and restore  
8 the well sites in accordance with 62 Ill. Adm. Code  
9 240.870, 240.875, and 240.1110; and

10 (3) the permittee shall obtain the approval of the  
11 Department prior to resuming operations.

12 (g) If, during or after performing high volume horizontal  
13 hydraulic fracturing operations, there is any evidence of  
14 damage from the permittee's high volume horizontal hydraulic  
15 fracturing operations to a producing well within 750 feet of  
16 any part of the horizontal wellbore, the permittee shall be  
17 responsible for all repairs to the well construction or the  
18 costs of plugging the damaged well.

19 (225 ILCS 732/1-136.60 new)

20 Sec. 1-136.60. Restoration of lands other than the well  
21 site and production facility.

22 (a) Unless contractually agreed to the contrary by the  
23 permittee and the surface landowner, the permittee shall  
24 restore any lands used by the permittee other than the well  
25 site and production facility to a condition as closely

1 approximating the pre-drilling conditions that existed before  
2 the land was disturbed for any stage of site preparation  
3 activities, drilling, and high volume horizontal hydraulic  
4 fracturing operations.

5 (b) Restoration shall be commenced within 6 months after  
6 completion of the well site and shall be completed within 12  
7 months.

8 (c) Restoration shall include, but not be limited to:

9 (1) repair of tile lines;

10 (2) repair of fences and barriers;

11 (3) mitigation of soil compaction and rutting;

12 (4) application of fertilizer or lime to restore the  
13 fertility of disturbed soil; and

14 (5) repair of soil conservation practices such as  
15 terraces and grassed waterways.

16 (d) The Department shall consult with the University of  
17 Illinois Extension and the Department of Agriculture to develop  
18 a list of best management practices that provides technical  
19 guidance for the proper restoration of items specified in this  
20 Section.

21 (225 ILCS 732/1-136.61 new)

22 Sec. 1-136.61. Restoration of the well site and production  
23 facility.

24 (a) Unless contractually agreed to the contrary by the  
25 permittee and surface landowner, the permittee shall restore

1 the well site and production facility to a condition as closely  
2 approximating the pre-drilling conditions that existed before  
3 the land was disturbed for any stage of site preparation  
4 activities, drilling, and high volume horizontal hydraulic  
5 fracturing operations.

6 (b) Restoration shall include:

7 (1) All of the requirements set forth in subsection (c)  
8 of Section 1-136.60.

9 (2) Removal of all equipment and materials involved in  
10 site preparation, drilling, and high volume horizontal  
11 hydraulic fracturing operations, including tank batteries,  
12 rock and concrete pads, oil field debris, injection and  
13 flow lines at or above the surface, electric power lines  
14 and poles extending on or above the surface, tanks, fluids,  
15 pipes at or above the surface, secondary containment  
16 measures, rock or concrete bases, drilling equipment and  
17 supplies, and any and all other equipment, facilities, or  
18 materials used during any stage of site preparation work,  
19 drilling, or high volume horizontal hydraulic fracturing  
20 operations at the well site.

21 (3) All of the requirements of 62 Ill. Adm. Code  
22 240.1180 and 240.1181.

23 (c) Restoration and work on the removal of equipment and  
24 materials at the well site shall begin within 6 months after  
25 plugging the final well on the well site and shall be completed  
26 no later than 12 months after the last producing well on the

1 well site has been plugged.

2 (d) Roads installed as part of the oil and gas operation  
3 may only be left in place if provided in the lease or pursuant  
4 to agreement with the landowner, as applicable.

5 (225 ILCS 732/1-136.62 new)

6 Sec. 1-136.62. Suspension, revocation, remediation, and  
7 administrative penalties. The Department may, through the  
8 enforcement process set forth in this Section and Sections  
9 1-136.63, 1-136.64, 1-136.65, and 1-136.66, suspend or revoke a  
10 high volume horizontal hydraulic fracturing permit, order  
11 actions to remediate, or issue administrative penalties for one  
12 or more of the following causes:

13 (1) providing misleading or materially untrue information  
14 in a permit application process or in any document or  
15 information provided to the Department;

16 (2) violating any condition of the permit;

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

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

23 (5) having a high volume horizontal hydraulic fracturing  
24 permit or its equivalent revoked in any other state, province,  
25 district, or territory for incurring a material or major

1 violation or using fraudulent or dishonest practices;

2 (6) the existence of an emergency condition under which the  
3 conduct of high volume horizontal hydraulic fracturing  
4 operations would pose a significant hazard to public health,  
5 aquatic life, wildlife, or the environment; or

6 (7) a determination of pollution or diminution made  
7 pursuant to an investigation under Section 1-136.30.

8 (225 ILCS 732/1-136.63 new)

9 Sec. 1-136.63. Notice of violation.

10 (a) When the Department determines to suspend or revoke a  
11 permit issued under this Part, orders actions to remediate, or  
12 issues administrative penalties under this Section and  
13 Sections 1-136.62, 1-136.64, 1-136.65, and 1-136.66, a Notice  
14 of Violation shall be completed and delivered to the permittee  
15 and to the Director or the Director's designee.

16 (b) The Notice of Violation shall contain all of the  
17 following information:

18 (1) The name and permit number for the well at issue.

19 (2) The provision of Section 1-136.62 that applies, a  
20 statement specifying the factual nature of the violation  
21 and, as applicable, a citation to the specific permit  
22 condition alleged to have been violated or to the specific  
23 Section of this Part, this Act, the Illinois Oil and Gas  
24 Act or the administrative rules adopted under the Illinois  
25 Oil and Gas Act alleged to have been violated.

1           (3) A statement as to whether the permit is immediately  
2           suspended by the Notice of Violation and, if so:

3           (A) a factual explanation indicating an emergency  
4           condition posing a significant threat to the public  
5           health, aquatic life, wildlife, or the environment if  
6           the permit operation is allowed to continue; and

7           (B) The terms of the suspension, including, but not  
8           limited to, whether the suspension is pending a  
9           Director's Decision to revoke the permit.

10          (4) A statement as to whether a remedial action is  
11          needed to address the violation and, if so, identification  
12          of the remedial action and the time within which the  
13          remedial action is required to be completed.

14          (5) A statement as to whether probationary or permanent  
15          modification or conditions on the permit shall be  
16          recommended and, if so, the substance of the recommended  
17          probationary or permanent modification or conditions.

18          (6) Any factors known to the person completing the  
19          Notice of Violation in aggravation or mitigation of the  
20          violation and the existence of any factors indicating that  
21          the permit should be conditioned or modified.

22          (c) The permittee charged with the Notice of Violation may  
23          provide the Department, in writing, any information in  
24          mitigation of the Notice of Violation within 14 days after the  
25          date of receiving the Notice of Violation. The written  
26          information may include a proposed alternative to the



1 Department's suggested remedial action needed to address the  
2 violation.

3 (d) If a Notice of Violation includes an immediate permit  
4 suspension, the suspension may be stayed at any time by the  
5 Department if the permittee requests the stay and submits  
6 evidence that demonstrates that there is no significant threat  
7 to the public health, aquatic life, wildlife, or the  
8 environment if the operation is allowed to continue. Requests  
9 for stay must be made in writing to the Department, shall  
10 provide the basis for the requested stay, and shall be  
11 accompanied by any supporting documents. All requests for stay  
12 shall be delivered to the Department's Office of Oil and Gas  
13 Resource Management located in Springfield, Illinois or mailed  
14 to the Department at Illinois Department of Natural Resources,  
15 Attention: Office of Oil and Gas Resource Management. A request  
16 for stay shall be decided by the Director or the Director's  
17 designee within 5 business days after its receipt.

18 (225 ILCS 732/1-136.64 new)

19 Sec. 1-136.64. Director's decision.

20 (a) Upon receipt of a Notice of Violation, the Director or  
21 Director's designee shall conduct an investigation and may  
22 affirm, vacate, or modify the Notice of Violation. In  
23 determining whether to affirm, vacate, or modify the Notice of  
24 Violation, the Director shall consider:

25 (1) whether the facts support the violation set forth

1 in the Notice of Violation;

2 (2) the seriousness of the violation, including any  
3 harm to public health, aquatic life, wildlife, or the  
4 environment or damage to property;

5 (3) the permittee's history of previous violations,  
6 including violations at other locations and under other  
7 permits; a violation shall not be counted if the Notice of  
8 Violation or Director's Decision is the subject of pending  
9 administrative review by the Department under Section  
10 1-136.65 or judicial review under the Administrative  
11 Review Law and the rules adopted under that Law, or if the  
12 time to request a review has not expired, and thereafter it  
13 shall be counted for only 2 years after the date of the  
14 Department's final administrative decision or a final  
15 judicial decision affirming the Department's decision; no  
16 violation for which the Notice of Violation or Director's  
17 Decision has been vacated shall be counted;

18 (4) the degree of culpability of the permittee;

19 (5) whether the remedial action to address the  
20 violation set forth in the Notice of Violation is completed  
21 within the time set forth in the Notice of Violation; and

22 (6) the existence of any additional conditions or  
23 factors in aggravation or mitigation of the violation,  
24 including information provided by any person or by the  
25 permittee.

26 (b) Modification to the Notice of Violation may include:

1           (1) any different or additional remedial actions  
2           required to address the violation and the time within which  
3           the remedial actions must be completed;

4           (2) assessment of administrative penalties not to  
5           exceed \$5,000 per day and per violation;

6           (3) probationary or permanent modification or  
7           conditions on the permit, which may include special  
8           monitoring or reporting requirements;

9           (4) suspension of the permit; and

10           (5) revocation of the permit.

11           (c) The Director shall determine whether to assess  
12           administrative penalties based on the factors set forth in  
13           subsection (a) of this Section. If an administrative penalty is  
14           assessed by the Department, the administrative penalty shall be  
15           computed as follows:

16           (1) Administrative violations are violations of any  
17           submission, reporting, or notification requirements of  
18           this Part, including, but not limited to, failing to  
19           properly comply with the reporting and Department  
20           notification requirements set forth in the construction,  
21           operation, monitoring, disclosure, or production  
22           requirements of this Part or of the permit. Administrative  
23           violations shall be assessed on a permittee-specific  
24           basis. The Department may assess a per day penalty for each  
25           administrative violation as follows:

26           (A) No previous violation of the same rule: \$100.

1           (B) One previous violation of the same rule: \$200.

2           (C) Two previous violations of the same rule: \$300.

3           (D) Three previous violations of the same rule:  
4           \$400.

5           (E) Four or more previous violations of the same  
6           rule: \$500.

7           (2) Operating violations are violations of all other  
8           requirements of this Part not covered by paragraph (1) of  
9           subsection (c) of this Section, including, but not limited  
10           to, constructing or operating a well in violation of the  
11           construction, operation, monitoring, disclosure, or  
12           production requirements of this Part or of the permit. The  
13           Department may assess a per day penalty for each operating  
14           violation by considering elements of the following:

15           (A) History of violations:

16           (i) No previous violation of the same rule:  
17           \$250.

18           (ii) One previous violation of the same rule:  
19           \$500.

20           (iii) Two previous violations of the same  
21           rule: \$1,000.

22           (iv) Three or more previous violations of the  
23           same rule: \$2,000.

24           (B) Seriousness:

25           (i) If the violation had a low degree of  
26           probability to cause environmental damage to soil

1           and land surface, vegetation or crops, surface  
2           water, groundwater, livestock or wildlife: add  
3           \$100.

4           (ii) If the violation had a high degree of  
5           probability to cause environmental damage to soil  
6           or land surface, vegetation or crops, surface  
7           water, groundwater, livestock or wildlife: add  
8           \$250.

9           (iii) If the violation caused environmental  
10           damage to soil or land surface, vegetation or  
11           crops, surface water, groundwater, livestock or  
12           wildlife: add \$1,000.

13           (iv) If the violation created a hazard to the  
14           safety of any person: add \$2,000.

15           (C) Permittee's actions:

16           (i) If the permittee was previously notified  
17           of the violation using a routine inspection report  
18           (Form OG-22) in accordance with Section 1-136.63  
19           or correspondence from the Department and failed  
20           to comply: add \$1,000.

21           (ii) If the violation occurred as a result of  
22           the permittee's lack of reasonable care: add \$500.

23           (iii) If the violation occurred as a result of  
24           the permittee's deliberate conduct, including lack  
25           of reasonable maintenance of equipment: add  
26           \$1,000.

1       (d) The Director or Director's designee shall serve the  
2 permittee with his or her decision at the conclusion of the  
3 investigation. The Director's Decision shall be served either  
4 personally or by certified mail, receipt return requested, to  
5 the permittee. The Director's Decision shall provide that the  
6 permittee has the right to request a hearing to contest the  
7 Director's Decision under Section 1-136.65.

8       (e) The Director's Decision shall take effect upon  
9 issuance.

10       (f) The permittee may contest the Director's Decision by  
11 submitting a request, in writing, within 30 days after the date  
12 of receiving the Director's Decision a hearing under Section  
13 1-136.65. Except as provided under paragraph (2) of subsection  
14 (d) of Section 1-136.65, in the event that a hearing is  
15 requested, the Director's Decision shall remain in effect until  
16 a final order is entered pursuant to the hearing.

17       (g) Failure of the permittee to timely request a hearing  
18 or, if a civil penalty has been assessed, to timely tender the  
19 assessed civil penalty shall constitute a failure to exhaust  
20 all administrative remedies and a waiver of all legal rights to  
21 contest the Director's Decision, including the amount of the  
22 civil penalty.

23       (h) The permittee may, within 30 days after the date of  
24 receipt of the Director's Decision, submit to the Department,  
25 in writing, any mitigating factors that permittee believes to  
26 be relevant to the violation cited in the Director's Decision.

1       (i) Upon further investigation, the Director may enter into  
2 a settlement agreement, issue an amended Director's Decision,  
3 or issue a replacement Director's Decision.

4           (1) A settlement agreement shall be issued to:

5               (A) extend the amount of time provided to complete  
6 remedial action necessary to address a violation set  
7 forth in the Director's Decision;

8               (B) reduce the civil penalty assessed in the  
9 Director's Decision; or

10              (C) allow new permits or the transfer of existing  
11 permits to be issued during the term of the settlement  
12 agreement.

13           (2) An amended Director's Decision shall be issued to:

14               (A) extend the amount of time provided to complete  
15 remedial action necessary to address a violation set  
16 forth in the Director's Decision; or

17               (B) reduce the civil penalty assessed in the  
18 Director's Decision.

19           (3) A replacement Director's Decision shall be issued  
20 to correct an administrative error contained in the  
21 Director's Decision or the Notice of Violation.

22           (4) The permittee shall have no right to administrative  
23 hearing associated with the issuance of a settlement  
24 agreement or an amended Director's Decision.

25       (j) If the Director's Decision includes the assessment of  
26 an administrative penalty and the permittee named in the

1 Director's Decision does not request a hearing under Section  
2 1-136.65, the administrative penalty assessed shall be paid to  
3 the Department in full within 30 days after receiving the  
4 Director's Decision.

5 (k) All administrative penalties assessed and paid to the  
6 Department shall be deposited in the Mines and Minerals  
7 Regulatory Fund.

8 (225 ILCS 732/1-136.65 new)

9 Sec. 1-136.65. Director's decision hearings.

10 (a) A permittee shall have 30 days from the date of  
11 receiving the Director's Decision to submit a written request  
12 for a hearing to contest the Director's Decision. The written  
13 request for a hearing shall provide the basis for contesting  
14 the Director's Decision and be accompanied by any documents  
15 evidencing the basis for contesting the Director's Decision. A  
16 permittee seeking to contest any Director's Decision in which a  
17 civil penalty has been assessed shall submit the assessed  
18 amount to the Department by cashier's check or money order,  
19 together with a timely written request for hearing. The  
20 assessed amount shall be deposited by the Department pending  
21 the outcome of the hearing. The assessed amount or applicable  
22 portion thereof shall be refunded to the permittee at the  
23 conclusion of the hearing if the Department does not prevail.  
24 All requests for a hearing shall be delivered to the  
25 Department's Office of Oil and Gas Resource Management located



1 in Springfield, Illinois or mailed to the Department at  
2 Illinois Department of Natural Resources, Attention: Office of  
3 Oil and Gas Resource Management.

4 (b) Upon receipt of a request for a hearing submitted in  
5 accordance with all requirements of subsection (a) of this  
6 Section, the Department shall provide an opportunity for a  
7 formal hearing upon not less than 5 days' written notice mailed  
8 to the permittee or person submitting the hearing request. All  
9 hearings under this Section shall be conducted in the  
10 Department's offices located in Springfield, Illinois.

11 (c) The hearing shall be conducted by a Hearing Officer  
12 designated by the Director. The Hearing Officer shall have all  
13 powers necessary to conduct the hearing, including, but not  
14 limited to, the power to administer oaths and affirmations,  
15 subpoena witnesses and compel their attendance, take evidence,  
16 and require the production of books, papers, correspondence,  
17 and other records or information that he or she considers  
18 relevant or material.

19 (d) The hearing shall be conducted in accordance with the  
20 following procedures:

21 (1) Pre-hearing conference.

22 (A) A pre-hearing conference shall be scheduled  
23 within 60 days after the request for hearing:

24 (i) to define the factual and legal issues to  
25 be litigated at the administrative hearing;

26 (ii) to determine the timing and scope of

1           discovery available to the parties;

2           (iii) to set a date for the parties to exchange  
3           all documents they intend to introduce into  
4           evidence during the hearing, a list of all  
5           witnesses the parties intend to have testify, and a  
6           summary of the testimony of each witness;

7           (iv) to schedule a date for the administrative  
8           hearing; and

9           (v) to arrive at an equitable settlement of the  
10          hearing request, if possible.

11          (B) Pre-hearing conferences under this Section may  
12          be conducted through a telephone conference if that  
13          procedure is acceptable to all parties to the hearing.  
14          In the event that a telephone conference is not  
15          acceptable to all parties, the pre-hearing conference  
16          shall be conducted at the Department's offices located  
17          in Springfield, Illinois or at a place designated by  
18          the Hearing Officer.

19          (2) Stays of suspension or revocation. The order of  
20          suspension or revocation of a permit based on subsection  
21          (f) of Section 1-136.58 may be stayed at any time by the  
22          Hearing Officer if requested by the permittee by  
23          appropriate motion and evidence is submitted demonstrating  
24          that there is no significant threat to the public health,  
25          aquatic life, wildlife, or the environment if the operation  
26          is allowed to continue. The Hearing Officer shall issue an

1 order granting or denying a motion to stay within 5  
2 business days after it is heard.

3 (3) Either party may file motions for default judgment,  
4 motions for summary judgment, motions for protective  
5 orders, and motions for orders compelling discovery. The  
6 Hearing Officer shall issue an order granting or denying  
7 motions filed within 15 days after service or, if  
8 applicable, after the hearing. Any order granting a motion  
9 for default judgment or a motion for summary judgment shall  
10 constitute the Department's final administrative decision  
11 as to the matter being contested.

12 (4) If a settlement agreement is entered into at any  
13 stage of the hearing process, the person to whom the notice  
14 of violation or cessation order was issued shall be deemed  
15 to have waived all right to further review of the violation  
16 or administrative penalty in question, except as otherwise  
17 expressly provided for in the settlement agreement. The  
18 settlement agreement shall contain a waiver clause to this  
19 effect. All settlement agreements shall be executed by the  
20 Hearing Officer and shall constitute the Department's  
21 final administrative decision as to the matter being  
22 contested.

23 (5) All hearings under this Section shall be conducted  
24 in accordance with Article 10 of the Illinois  
25 Administrative Procedure Act.

26 (6) At the hearing, the Department shall have the

1 burden of proving the facts of the violation alleged in the  
2 notice of violation at issue. The amount of any  
3 administrative penalty assessed shall be presumed to be  
4 proper; however, the permittee may offer evidence to rebut  
5 this presumption. The standard of proof shall be a  
6 preponderance of the evidence. The permittee shall have the  
7 right to challenge the Hearing Officer if the person or  
8 permittee believes the Hearing Officer is prejudiced  
9 against him or her or has a conflict of interest. If the  
10 Hearing Officer disqualifies himself or herself, the  
11 Director shall designate a new Hearing Officer. The Hearing  
12 Officer shall conduct the hearing and hear the evidence.  
13 The Hearing Officer, at the conclusion of the hearing,  
14 shall have 30 days to issue recommended findings of fact,  
15 recommended conclusions of law, and make recommendations  
16 as to the disposition of the case.

17 (7) The Director or the Director's designee shall  
18 review the administrative record in conjunction with the  
19 Hearing Officer's recommended findings of fact,  
20 recommended conclusions of law and recommendations as to  
21 the disposition of the case. Within 15 days after receiving  
22 the Hearing Officer's recommendations, the Department  
23 shall issue a final administrative decision.

24 (e) All Department final administrative decisions set  
25 forth in this Section are subject to judicial review under the  
26 Administrative Review Law and the rules adopted under that Law.

1       (f) The costs associated with the administrative hearing  
2 shall be borne by the permittee. Foreseeable costs include the  
3 costs of transcription services that consist of court reporters  
4 attendance at the hearings and transcription of the hearing  
5 record into paper and electronic format for all parties as  
6 required. All parties shall be responsible for their own  
7 attorneys' fees, and the Department shall provide the Hearing  
8 Officer and the Hearing room at Department Headquarters. The  
9 Hearing Officer shall have the discretion to order the  
10 permittee to pay additional costs as appropriate.

11           (225 ILCS 732/1-136.66 new)

12       Sec. 1-136.66. Alternative enforcement.

13       (a) All persons, owners, and permittees regulated under  
14 this Act and this Part are also subject to, and required to  
15 comply with, the Illinois Oil and Gas Act and 62 Ill. Adm. Code  
16 240.

17       (b) Any violation of this Part may also include violations  
18 of the permittee's Oil and Gas permit related to the same well,  
19 the Illinois Oil and Gas Act, and rules adopted under that Act.

20       (c) All violations related to the same well may be brought  
21 as one case at the discretion of the Department.

22       (d) Failure to meet the burden of proof required for  
23 revocation or suspension of a permit under this Act, this Part,  
24 the Illinois Oil and Gas Act, or the rules adopted under the  
25 Illinois Oil and Gas Act does not mean that the Department

1 necessarily failed to prove other violations under this Act,  
2 this Part, the Illinois Oil and Gas Act, or the rules adopted  
3 under the Illinois Oil and Gas Act.

4 (e) Knowing violations of this Part may be a criminal  
5 offense as defined in Section 1-100 of this Act, which will be,  
6 in addition to any administrative action taken by the  
7 Department, referred to the State's Attorney in the county  
8 where the violation occurred or the Attorney General's Office.

9 (f) Any person who violates this Part may also be liable  
10 for a civil penalty as defined in Section 1-101 of this Act,  
11 which will be in addition to any administrative action taken by  
12 the Department.

13 (225 ILCS 732/1-136.67 new)

14 Sec. 1-136.67. Medium volume horizontal hydraulic  
15 fracturing completion reports.

16 (a) This Section applies to all horizontal wells in which  
17 the total amount of all stages of stimulation treatment using  
18 more than 80,000 gallons but less than 300,001 gallons in the  
19 pressurized application of hydraulic fracturing fluid to  
20 initiate or propagate fractures in a geologic formation to  
21 enhance extraction or production of oil or gas are planned,  
22 have occurred since June 17, 2013, or are occurring in this  
23 State. For any horizontal hydraulic fracturing operations  
24 where all combined stages of a stimulation treatment of a  
25 horizontal well are by the pressurized application of more than

1 80,000 gallons but less than 300,001 gallons of hydraulic  
2 fracturing fluid and proppant to initiate or propagate  
3 fractures in a geologic formation to enhance extraction or  
4 production of oil or gas, reporting under subsection (c) of  
5 this Section is required. For horizontal hydraulic fracturing  
6 operations using hydrocarbon or non-hydrocarbon fluids in gas  
7 or liquid form as an element of the hydraulic fracturing fluid,  
8 the applicant shall state the total estimated fluid volume that  
9 will be used for the hydraulic fracturing treatment at downhole  
10 conditions. The proposed volume shall be based on the  
11 anticipated downhole pressure and temperature.

12 (b) Permittees with a high volume horizontal hydraulic  
13 fracturing permit are not required to report under subsection  
14 (c) of this Section.

15 (c) Within 60 calendar days after the conclusion of  
16 horizontal hydraulic fracturing operations identified in  
17 subsection (a) of this Section, the permittee shall file a  
18 medium volume horizontal hydraulic fracturing operations  
19 completion report with the Department. The medium volume  
20 horizontal hydraulic fracturing operations completion report  
21 shall contain the following information:

22 (1) The name and location of the well. The well  
23 location shall be surveyed by an Illinois licensed land  
24 surveyor or Illinois registered professional engineer and  
25 the description of the surveyed well location shall also  
26 include the legal description, the GPS latitude and

1 longitude location, and the ground elevation of the well.  
2 The Global Positioning System (GPS) location shall be  
3 recorded as degrees and decimal degrees recorded to 6  
4 decimal places in the North American Datum 1983 projection  
5 and shall be accurate to within 3 feet. The reported GPS  
6 location is required to be an actual GPS field measurement  
7 and not a calculated or conversion measurement.

8 (2) The permittee number and well reference number  
9 issued under the Illinois Oil and Gas Act.

10 (3) The total and per-stage gallons of hydraulic  
11 fracturing fluid used at the well, the quantity recovered  
12 during the flowback period, and what the permittee did to  
13 dispose of, reuse, or recycle the flowback.

14 (4) The depth of the wellbore, including both total  
15 vertical depth and total measured depth.

16 (5) The length of horizontal wellbore.

17 (6) The maximum surface treating pressure used.

18 (7) The formation targeted.

19 (8) The number of hydraulic fracturing stages.

20 (9) The total perforated interval and individual  
21 perforation intervals.

22 (225 ILCS 732/1-130 rep.)

23 Section 10. The Hydraulic Fracturing Regulatory Act is  
24 amended by repealing Section 1-130.



1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".