SB3330

LRB09819590MGM54782b

98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3330

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

SYNOPSIS AS INTRODUCED:

225 ILCS 732/1-35
225 ILCS 732/1-75
225 ILCS 732/1-77
225 ILCS 732/1-110

Amends the Hydraulic Fracturing Regulatory Act. Adds references to "horizontal drilling with fracturing operations" alongside "high volume horizontal hydraulic fracturing". Makes changes in required information included in applications for permits. Provides that the chemical disclosure information required by the Act shall be submitted at the time of permit application. Provides that the Department of Natural Resources shall add the updated contents of the fluid used in any and all well treatments to the public chemical disclose lists and to the medical and emergency use chemical disclosure lists for the respective wells no later than 24 hours from the time of receiving the updated information. Provides that the provision protecting trade secrets concerning chemical disclosure under the Act shall not apply to the requests for information from the medical and emergency health care community.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning regulation.

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

Section 5. The Hydraulic Fracturing Regulatory Act is amended by changing Sections 1-35, 1-75, 1-77, and 1-110 as follows:

(225 ILCS 732/1-35)

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

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

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

(2) disclosure of all findings of a serious violation or an equivalent violation under federal or state laws or regulations in the development or operation of an oil or gas exploration or production site via hydraulic fracturing or horizontal drilling with fracturing

operations by the applicant or any parent, subsidiary, or affiliate thereof within the previous 5 years; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

horizontal drilling with fracturing operations, including, but not limited to, geologic name and geologic description of the formation that will be stimulated by the operation;

(B) the anticipated surface treating pressure range;

(C) the maximum anticipated injection treating pressure;

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

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

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

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

(A) the total volume of water anticipated to be used in the hydraulic fracturing or fracturing

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

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

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

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

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

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

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

(B) the anticipated volume and rate of each water

withdrawal from each withdrawal location;

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

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

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

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

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

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

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

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

(15) a traffic management plan that identifies the anticipated roads, streets, and highways that will be used for access to and egress from the well site. The traffic management plan will include a point of contact to discuss

issues related to traffic management. Within 15 calendar days after submitting the permit application to the Department, the applicant must provide a copy of the traffic management plan to the county or counties in which the well site is located, and within 5 calendar days of its receipt, the Department shall provide a copy of the traffic management plan to the Office of the State Fire Marshal;

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

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

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

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

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

(c) Where an application is made to conduct high volume horizontal fracturing operations at a well site located within the limits of any city, village, or incorporated town, the

application shall state the name of the city, village, or incorporated town and be accompanied with a certified copy of the official consent for the hydraulic fracturing operations to occur from the municipal authorities where the well site is proposed to be located. No permit shall be issued unless consent is secured and filed with the permit application. In the event that an amended location is selected, the original permit shall not be valid unless a new certified consent is filed for the amended location.

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

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

(f) Each application submitted under this Act shall be signed, under the penalty of perjury, by the applicant or the applicant's designee who has been vested with the authority to

act on behalf of the applicant and has direct knowledge of the information contained in the application and its attachments. Any person signing an application shall also sign an affidavit with the following certification:

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

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

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

(i) Upon receipt of a permit application, the Department

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

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

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

(225 ILCS 732/1-75)

Sec. 1-75. High volume horizontal hydraulic fracturing operations <u>and horizontal drilling with fracturing operations</u>.

(a) General.

(1) During all phases of high volume horizontal hydraulic fracturing operations <u>or horizontal drilling with fracturing operations</u>, the permittee shall comply with all terms of the permit.

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

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

(b) Integrity tests and monitoring.

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

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

operator and made available to the Department upon request. The actual high volume horizontal hydraulic fracturing or fracturing treatment pressure must not exceed the test pressure at any time during high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations.

(3) The pressure exerted on treating equipment including valves, lines, manifolds, hydraulic fracturing or fracturing head or tree, casing and hydraulic fracturing or fracturing string, if used, must not exceed 95% of the working pressure rating of the weakest component. The high volume horizontal hydraulic fracturing or horizontal drilling with fracturing operations treatment pressure must not exceed the test pressure of any given component at any time during high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations.

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

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

(c) Fluid and waste management.

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

fracturing additives, hydraulic fracturing or fracturing fluid, hydraulic fracturing or fracturing flowback, and produced water shall be stored in above-ground tanks.

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

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

(B) the pit lining system shall be designed to have a capacity at least equivalent to 110% of the maximum volume of hydraulic fracturing or fracturing flowback anticipated to be recovered;

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

(D) the liner shall have sufficient elongation to

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

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

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

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

(5) Hydraulic fracturing or fracturing fluids and hydraulic fracturing flowback must be removed from the well site within 60 days after completion of high volume horizontal fracturing operations or horizontal drilling with fracturing operations, except that any excess hydraulic fracturing or fracturing flowback captured for temporary storage in a reserve pit as provided in paragraph (2) of this subsection must be removed from the well site within 7 days.

(6) Tanks, piping, and conveyances, including valves, must be constructed of suitable materials, be of sufficient pressure rating, be able to resist corrosion, and be

maintained in a leak-free condition. Fluid transfer operations from tanks to tanker trucks must be supervised at the truck and at the tank if the tank is not visible to the truck operator from the truck. During transfer operations, all interconnecting piping must be supervised if not visible to transfer personnel at the truck and tank.

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

(8) Hydraulic fracturing or fracturing flowback may only be disposed of by injection into a Class II injection well that is below interface between fresh water and naturally occurring Class IV groundwater. Produced water may be disposed of by injection in a permitted enhanced oil recovery operation. Hydraulic fracturing or fracturing flowback and produced water may be treated and recycled for use in hydraulic fracturing or fracturing fluid for high volume horizontal hydraulic fracturing operations or

horizontal drilling with fracturing operations.

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

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

(11) Drill cuttings, drilling fluids, and drilling wastes not containing oil-based mud or polymer-based mud may be stored in tanks or pits. Pits used to store cuttings, fluids, and drilling wastes from wells not using fresh water mud shall be subject to the construction standards identified in paragraph (2) of this subsection (c) ~~Section~~. Drill cuttings not contaminated with oil-based mud or polymer-based mud may be disposed of onsite subject to the approval of the Department. Drill cuttings contaminated with oil-based mud or polymer-based mud shall not be disposed of onsite ~~on site~~. Annular disposal of drill cuttings or fluid is prohibited.

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

(13) Secondary containment for tanks required under this subsection and additive staging areas is required. Secondary containment measures may include, as deemed

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

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

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

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

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

(e) Emissions controls.

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

(2) Except as otherwise provided in paragraph (8) of this subsection (e), permittees shall be responsible for managing gas and hydrocarbon fluids produced during the

flowback period by routing recovered hydrocarbon fluids to one or more storage vessels or re-injecting into the well or another well, and routing recovered natural gas into a flow line or collection system, re-injecting the gas into the well or another well, using the gas as an on-site fuel source, or using the gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

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

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

(A) routing the recovered fluids into storage

vessels and (i) routing the recovered gas into a gas gathering line, collection system, or to a generator for onsite energy generation, providing that gas to the surface owner of the well site for use for heat or energy generation, or (ii) using another method other than venting or flaring; and

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

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

other than emergency conditions shall file an updated site-specific analysis annually with the Department. The analysis shall be due one year from the date of the previous submission and shall detail whether any changes have occurred that alter the technical infeasibility or economic unreasonableness of the permittee to reduce their emissions in accordance with paragraph (4) of this subsection (e).

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

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

structures, public buildings, and public roads and railways.

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

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

(10) Permittees shall employ practices for control of fugitive dust related to their operations. These practices shall include, but are not limited to, the use of speed

restrictions, regular road maintenance, and restriction of construction activity during high-wind days. Additional management practices such as road surfacing, wind breaks and barriers, or automation of wells to reduce truck traffic may also be required by the Department if technologically feasible and economically reasonable to minimize fugitive dust emissions.

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

(f) High volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations completion report. Within 60 calendar days after the conclusion of high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations, the operator shall file a high volume horizontal hydraulic fracturing

operations or horizontal drilling with fracturing operations completion report with the Department. A copy of each completion report submitted to the Department shall be provided by the Department to the Illinois State Geological Survey. The completion reports required by this Section shall be considered public information and shall be made available on the Department's website. The high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations completion report shall contain the following information:

(1) the permittee name as listed in the permit application;

(2) the dates of the high volume horizontal hydraulic fracturing operations and horizontal drilling with fracturing operations;

(3) the county where the well is located;

(4) the well name and Department reference number;

(5) the total water volume used in the high volume horizontal hydraulic fracturing operations and horizontal drilling with fracturing operations of the well, and the type and total volume of the base fluid used if something other than water;

(6) each source from which the water used in the high volume horizontal hydraulic fracturing operations and horizontal drilling with fracturing operations was drawn, and the specific location of each source, including, but

not limited to, the name of the county and latitude and longitude coordinates;

(7) the quantity of hydraulic fracturing or fracturing flowback recovered from the well;

(8) a description of how hydraulic fracturing or fracturing flowback recovered from the well was disposed and, if applicable, reused;

(9) a chemical disclosure report identifying each chemical and proppant used in hydraulic fracturing or fracturing fluid for each stage of the hydraulic fracturing or fracturing operations including the following:

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

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

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

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

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

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

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

(225 ILCS 732/1-77)

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

(a) The ~~If the~~ chemical disclosure information required by paragraph (8) of subsection (b) of Section 1-35 of this Act shall be ~~is not~~ submitted at the time of permit application~~,~~ ~~then the permittee, applicant, or person who will perform high volume horizontal hydraulic fracturing operations at the well shall submit this information to the Department in electronic format no less than 21 calendar days prior to performing the high volume horizontal hydraulic fracturing operations~~. The permittee shall not cause or allow any stimulation of the well if it is not in compliance with this Section. Nothing in this Section shall prohibit the person performing high volume horizontal hydraulic fracturing operations and horizontal drilling with fracturing operations from adjusting or altering

the contents of the fluid during the treatment process to respond to unexpected conditions, as long as the permittee or the person performing the high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations notifies the Department by electronic mail within 24 hours of the departure from the initial treatment design and includes a brief explanation of the reason for the departure. The Department shall add the updated contents of the fluid used in any and all well treatments to the public chemical disclose lists and to the medical and emergency use chemical disclosure lists for the respective wells no later than 24 hours from the time of receiving the updated information. The Department shall use a system of electronic notification for the medical and emergency use chemical disclosure lists for easy access, usability, and updating of information, so that the medical and emergency use chemical disclosure lists are as current as possible.

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

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

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

(2) maintain and disclose to the Department separate

and up-to-date master lists of:

(A) the base fluid to be used during any high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations within this State;

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

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

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

(e) The Department shall assemble and post up-to-date copies of the master lists it receives under paragraph (2) of subsection (c) of this Section on its website and in the electronic form sent to the Illinois Department of Public Health and the Illinois Poison Control Center for the medical and emergency use chemical disclosure lists in accordance with

Section 1-110 of this Act.

(f) Where an applicant, permittee, or the person performing high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations furnishes chemical disclosure information to the Department under this Section, Section 1-35, or Section 1-75 of this Act under a claim of trade secret, the applicant, permittee, or person performing high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations shall submit redacted and un-redacted copies of the documents containing the information to the Department and the Department shall use the redacted copies when posting materials on its public website and shall use the un-redacted copies of the documents to send the chemical disclosure lists for medical and emergency use to the Illinois Department of Public Health and the Illinois Poison Control Center, along with information identifying the well site location, a brief summary of the dates of treatments and stages of the fracturing operations, the operator's name, address, contact information and emergency contact information, and any notifications required by the Occupational Safety and Health Administration or alerts that have been shared with the Department.

(g) Upon submission or within 5 calendar days of submission of chemical disclosure information to the Department under this Section, Section 1-35, or Section 1-75 of this Act under a claim of trade secret for public chemical disclosure lists

only, the claim of trade secret for the chemical disclosure lists for medical and emergency use is unlawful after the effective date of this amendatory Act of the 98th General Assembly.. The ~~, the~~ person that claimed trade secret protection, for public chemical disclosure only, shall provide a justification of the claim containing the following: a detailed description of the procedures used by the person to safeguard the information from becoming available to persons other than those selected by the person to have access to the information for limited purposes; a detailed statement identifying the persons or class of persons to whom the information has been disclosed; a certification that the person has no knowledge that the information has ever been published or disseminated or has otherwise become a matter of general public knowledge; a detailed discussion of why the person believes the information to be of competitive value; and any other information that shall support the claim.

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

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

(2) the information has competitive value.

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

Trade secrets for the full chemical disclosure to the medical and emergency health care community is unlawful under this Act.

(i) Denial of a trade secret request for the public chemical disclosure lists only, trade secrets are unlawful for the chemical disclosure lists for medical and emergency health care use, under this Section shall be appealable under the Administrative Review Law.

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

the Department properly determined that the trade secret protection should be granted. No request from a medical or emergency responder for a copy of the un-redacted medical and emergency chemical disclosure lists shall be denied.

(k) Except as otherwise provided in subsections (l) and (m) of this Section, the Department must maintain the confidentiality of public chemical disclosure information except for the medical and emergency chemical disclosure lists which shall be sent to the Illinois Department of Public Health and the Illinois Poison Control Center and shall be openly shared with all healthcare providers without confidentiality agreements, non-disclosure agreements, stipulations, limitations or liability for the allowance of access to the medical and emergency chemical disclosure lists, for any health related issue or study, for the purpose of patient health care and or medical research, as is customary in the medical community, furnished under this Section, Section 1-35, or Section 1-75 of this Act under a claim of trade secret, until the Department receives official notification of a final order by a reviewing body with proper jurisdiction that is not subject to further appeal rejecting a grant of trade secret protection for that information.

(l) The Department shall adopt rules for the provision of information under this Section ~~furnished under a claim of trade secret~~ to the Illinois Department of Public Health and the Illinois Poison Control Center, both of which may develop their

own reporting systems to all health care providers as is customary for their agency and organization. Any ~~a health professional who states a need for the information and articulates why the information is needed. The~~ health professional may share that information with other persons as may be professionally necessary, including, but not limited to, the affected patient, other health professionals involved in the treatment of the affected patient, the affected patient's family members if the affected patient is unconscious, unable to make medical decisions, or is a minor, the Centers for Disease Control, and other government public health agencies. ~~Except as otherwise provided in this Section, any recipient of the information shall not use the information for purposes other than the health needs asserted in the request and shall otherwise maintain the information as confidential. Information so disclosed to a health professional shall in no way be construed as publicly available. The holder of the trade secret may request a confidentiality agreement consistent with the requirements of this Section from all health professionals to whom the information is disclosed as soon as circumstances permit.~~ The rules adopted by the Department shall also establish procedures for providing the information in both emergency and non-emergency situations.

(m) In the event of a release of hydraulic fracturing or fracturing fluid, a hydraulic fracturing or fracturing additive, or hydraulic fracturing or fracturing flowback, and

when necessary to protect public health or the environment, the Department or the Illinois Department of Public Health, or the Illinois Poison Control Center may disclose the un-redacted chemical disclosure for medical and emergency use information ~~furnished under a claim of trade secret~~ to the relevant county public health director or emergency manager, the relevant fire department chief, the Director of the Illinois Department of Public Health, the Director of the Illinois Department of Agriculture, and the Director of the Illinois Environmental Protection Agency upon request by that individual. The Director of the Illinois Department of Public Health, and the Director of the Illinois Environmental Protection Agency, and the Director of the Illinois Department of Agriculture may disclose this information to staff members under the same terms and conditions as apply to the Director of Natural Resources. Except as otherwise provided in this Section, any recipient of the information shall not use the information for purposes other than to protect public health or the environment or medical and public health research as is customary in the medical community at this time ~~and shall otherwise maintain the information as confidential~~. Information disclosed to staff shall in no way be construed as publicly available but may be used by the staff of the Illinois Department of Public Health and the staff at the Illinois Poison Control Center in a similar manner to all other medical cases of chemical or toxic exposure as is customary in the medical community. The holder

of the trade secret information may not request a confidentiality agreement for any medical or emergency chemical disclosure use ~~consistent with the requirements of this Section from all persons to whom the information is disclosed as soon as circumstances permit~~.

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

(225 ILCS 732/1-110)

Sec. 1-110. Public information; website.

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

(b) To provide the public and concerned citizens with a centralized repository of information, the Department shall create and maintain a comprehensive website dedicated to providing information concerning high volume horizontal hydraulic fracturing operations or horizontal drilling with fracturing operations. The website shall contain, assemble, and link the documents and information required by this Act to be posted on the Department's or other agencies' websites. The Department shall also create and maintain an online searchable database that provides information related to high volume horizontal hydraulic fracturing operations or horizontal

drilling with fracturing operations on wells that, at a minimum, include, for each well it permits, the identity of its operators, its waste disposal, its public chemical disclosure information, and any complaints or violations under this Act. The website created under this Section shall allow users to search for completion reports by well name and location, dates of fracturing and drilling operations, operator, and by chemical additives.

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