SENATE JOURNAL

STATE OF ILLINOIS

NINETY-EIGHTH GENERAL ASSEMBLY

138TH LEGISLATIVE DAY

Perfunctory Session

FRIDAY, NOVEMBER 21, 2014

1:46 O'CLOCK P.M.

NO. 138
[November 21, 2014]

SENATE
Daily Journal Index
138th Legislative Day

The Senate met pursuant to the directive of the President.
Pursuant to Senate Rule 2-5(c)2, the Secretary of the Senate conducted the perfunctory session.
Silent prayer was observed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

Illinois Tollway 2015 Tentative Budget, submitted by the Illinois Tollway.

The foregoing report was ordered received and placed on file in the Secretary's Office.

MESSAGE FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

November 21, 2014

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to the provisions of Rule 2-10, I am scheduling a perfunctory Session to convene on Friday, November 21, 2014.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 1643
Offered by Senator Harmon and all Senators:
Mourns the death of Dr. Janet Hagan Yanos of Oak Park.

SENATE RESOLUTION NO. 1644
Offered by Senator Harmon and all Senators:
Mourns the death of Frederick Lewis Guldin of Oak Park.

SENATE RESOLUTION NO. 1645
Offered by Senator Harmon and all Senators:
Mourns the death of George A. Leoni of Melrose Park.

SENATE RESOLUTION NO. 1646
Offered by Senator Syverson and all Senators:

Mourns the death of Christopher “Chris” Lockard.

SENATE RESOLUTION NO. 1647

Offered by Senator Syverson and all Senators:
Mourns the death of Helen Rose Lockard of Aurora.

SENATE RESOLUTION NO. 1648

Offered by Senator Luechtefeld and all Senators:
Mourns the death of Charles H. Kelley, Jr., of Sparta.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Luechtefeld offered the following Senate Joint Resolution, which was referred to the Committee on Assignments:

SENATE JOINT RESOLUTION NO. 83

WHEREAS, Long before Lewis and Clark, our region was home to the ancient societies of Mississippian Culture and the beginnings of urbanism in the eastern woodlands; it was from these societies that today's great Indian Nations sprang, with cultural connections from the Great Lakes to the Gulf of Mexico and along the mighty Mississippi; the beginnings of this urban civilization was spread over 6 counties of eastern Missouri and southwestern Illinois; and

WHEREAS, At the sea of verdure, the fertile American Bottom stretches bluff to bluff at the confluence of America's greatest rivers, the Mississippi and Missouri Rivers, cradling the birth of millennia of agriculture and the rise of the Mississippian Culture; Cahokia Mounds and its mound complexes thrived on the cultivation and trading of corn, with their surplus allowing them to rise and become the "Center of the Universe" of the Mississippian Culture, trading to the north, south, east, and west; and

WHEREAS, Dating from the Mississippian period (800-1350 AD), Cahokia Mounds, covering 3,950 acres, is the earliest and largest pre-Columbian archaeological site north of Mexico and the pre-eminent example of a cultural, religious, and economic center of the pre-historic Mississippian cultural tradition, which extended throughout the Mississippi Valley and the southeastern United States; and

WHEREAS, With a population of 10,000-30,000 at its peak between 1050 and 1150AD, Cahokia Mounds is an early and exceptional example of pre-urban/urban structuring, graphically demonstrating the existence of a society in which a powerful political and economic hierarchy was responsible for the organization of labor, agriculture, and trade; this is reflected in the size and layout of the settlement and the nature and structure of the public and private buildings; and

WHEREAS, Cahokia Mounds' unique role in the nation's history was recognized by the National Park Service through its designation as a National Historic Landmark in 1964 and its placement on the National Register of Historic Places in 1966; and

WHEREAS, Cahokia Mounds' global significance was recognized by the United Nations Education Scientific and Cultural Organization through its designation as a World Heritage Site in 1982; and

WHEREAS, Since 1925, State, local, and private funds have been invested in the Cahokia Mounds Historic Site for acquisition and protection; a formal national park service designation would capitalize on this investment; and

WHEREAS, Cahokia Mounds and its ancient non-contiguous satellite settlements are today in need of additional protection to secure the most significant remnants of the largest Native American civilization on the North American continent north of Mexico from active and passive threats; and

WHEREAS, Over the last 24 months, with guidance from the Indian Nations, federal agencies, Illinois and Missouri state agencies, and local units of government, HeartLands Conservancy developed a thorough, compelling, and rigorous study that met National Park Service standards and criteria demonstrating the feasibility of elevating the status and national designation of Cahokia Mounds; the surrounding mound complexes in the region and their significance, suitability, and feasibility as a potential formal unit of the National Park Service would ensure that these precious ancient archaeological resources are protected and accessible for all people to experience; and

WHEREAS, Conducting 13 public meetings, media interviews, stakeholder meetings, outreach to 13 tribes/nations, and over 890 surveys, HeartLands Conservancy received support for the study's recommendations and showed that local communities would benefit from revitalized and protected sites with enhanced interpretive and educational programs to teach about the Mississippian Culture, its ancestral significance, and the numerous associated historic traces and cultural themes; and

WHEREAS, The study captured the significance of the region and its ancient history by demonstrating that, through cooperative protection and partnerships, it can remain connected and intact in order to properly interpret remaining sites as well as offering opportunities to protect, enhance, and interpret the natural environment along the Mounds Heritage Trail corridor; and

WHEREAS, National parks generate $31 billion for local economies each year and are shown to invigorate neighborhood historic renovation and spur business growth; they also provide opportunities for tourism and economic development, natural resource conservation, and improvements of the quality of life for residents of nearby communities; and

WHEREAS, There are no other mounds within the National Park Service that represent the Mississippian Culture as holistically and uniquely as the Cahokia Mounds; combined with the surrounding satellite mound centers, Cahokia emerges as the most significant and unsurpassed example of its time period; and

WHEREAS, The great region of southwestern Illinois and eastern Missouri will, with the assistance of the Indian Nations, become a center of cultural outreach and enrichment by embracing our nation's earliest heritage and re-engaging our ancient past as a foundation for the 21st century; and

WHEREAS, Legislation will be introduced in Congress to create the Mississippian Culture National Historical Park in Southwestern Illinois, which, with thematically-connected non-contiguous mound complexes in the St. Louis Metropolitan Region, will recognize the significance of the Mississippian Culture and its unique national significance in agriculture, ancestral ties, and its status as one of America's first cities; and

WHEREAS, There is a strong consensus that now is the time for immediate action to further develop the Cahokia Mounds and thematically-connected mound complexes to realize their full potential; with new transportation access across the Mississippi River completed and the rebound of the economy, there is even greater pressure to develop this; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that we show our support for the recommendations in "The Mounds - America's First Cities - A Feasibility Study" by HeartLands Conservancy and iterate that not only should the State of Illinois continue to own and operate the Cahokia Mounds State Historic Site and have a collaborative partnership with the National Park Service, but other communities, agencies, and entities should play a role in redeveloping and re-energizing these sites and establish strong and lasting partnerships; and be it further

RESOLVED, That we urge the citizens of this State to actively join HeartLands Conservancy, the Governor of Illinois, and the Illinois Historic Preservation Agency in the Mississippian Culture Initiative; and be it further

RESOLVED, That we urge Congress to elevate the national status of the Cahokia Mounds and thematically-connected Mound Complexes that are deemed suitable and nationally-significant as a non-contiguous National Historical Park; and be it further

RESOLVED, That we alternatively call upon the President to exercise his authority by Executive Order to designate the Cahokia Mounds as a National Monument; and be it further

RESOLVED, That suitable copies of this resolution be delivered to the Governor, the members of the Illinois congressional delegation, National Park Service Director Jonathan Jarvis, and President Barack Obama.

MESSAGE FROM THE HOUSE

A message from the House by
Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 649

A bill for AN ACT concerning regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 649
House Amendment No. 2 to SENATE BILL NO. 649
House Amendment No. 5 to SENATE BILL NO. 649

Passed the House, as amended, November 20, 2014.

TIMOTHY D. MAPES, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 649

AMENDMENT NO. 1. Amend Senate Bill 649 by replacing everything after the enacting clause with the following:

"Section 5. The Hydraulic Fracturing Regulatory Act is amended by changing Sections 1-15, 1-50, 1-55, 1-77, and 1-96 and by adding Sections 1-23, 1-136, 1-136.01, 1-136.02, 1-136.03, 1-136.04, 1-136.05, 1-136.06, 1-136.07, 1-136.08, 1-136.09, 1-136.10, 1-136.11, 1-136.12 1-136.13, 1-136.14, 1-136.15, 1-136.16, 1-136.17, 1-136.18, 1-136.19, 1-136.20, 1-136.21, 1-136.22, 1-136.23, 1-136.24, 1-136.25, 1-136.26, 1-136.27, 1-136.28, 1-136.29, 1-136.30, 1-136.31, 1-136.32, 1-136.33, 1-136.34, 1-136.35, 1-136.36, 1-136.37, 1-136.38, 1-136.38a, 1-136.39, 1-136.40, 1-136.41, 1-136.42, 1-136.43, 1-136.44, 1-136.45, 1-136.46, 1-136.47, 1-136.48, 1-136.49, 1-136.50, 1-136.51, 1-136.52, 1-136.53, 1-136.53a, 1-136.54, 1-136.55, 1-136.56, 1-136.57, 1-136.58, 1-136.59, 1-136.60, 1-136.61, 1-136.62, 1-136.63, 1-136.64, 1-136.65, 1-136.66, and 1-136.67 as follows:

(225 ILCS 732/1-15)

Sec. 1-15. Powers and duties.

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

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

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

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

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

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

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

(225 ILCS 732/1-23 new)

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

(225 ILCS 732/1-50)

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

(a) When a permit application is submitted to conduct high volume horizontal hydraulic fracturing operations for the first time at a particular well site, any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit, may file written objections to the permit application and may request a public hearing during the public comment period established under subsection (a) of Section 1-45 of this Act. The request for hearing shall contain a short and plain statement identifying the person and stating facts demonstrating that the person has an interest that is or may be adversely affected. The Department shall hold a public hearing upon a request under this subsection, unless the request is determined by the Department to (i) lack an adequate factual statement that the person is or may be adversely affected or (ii) be frivolous.

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

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

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

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

(225 ILCS 732/1-55)

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

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

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

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

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

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

(225 ILCS 732/1-77)

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

(a) If the chemical disclosure information required by paragraph (8) of subsection (b) of Section 1-35 of this Act is not submitted at the time of permit application, then the permittee, applicant, or person who will perform high volume horizontal hydraulic fracturing operations at the well shall submit this information to the Department in electronic format no less than 21 calendar days prior to performing the high volume horizontal hydraulic fracturing operations. The permittee shall not cause or allow any stimulation of the well if it is not in compliance with this Section. Nothing in this Section shall prohibit the person performing high volume horizontal hydraulic fracturing operations from adjusting or altering the contents of the fluid during the treatment process to respond to unexpected conditions, as long as the permittee or the person performing the high volume horizontal hydraulic fracturing operations notifies the Department by electronic mail within 24 hours of the departure from the initial treatment design and includes a brief explanation of the reason for the departure.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the information has competitive value.

There is a rebuttable presumption that the information has not been published, disseminated, or otherwise become a matter of general public knowledge if the person has taken reasonable measures to prevent the

information from becoming available to persons other than those selected by the person to have access to the information for limited purposes and the statement of justification contains a certification that the person has no knowledge that the information has ever been published, disseminated, or otherwise become a matter of general public knowledge.

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

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

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

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

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

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

(225 ILCS 732/1-96)

Sec. 1-96. Seismicity.

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

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

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

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

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

(225 ILCS 732/1-136 new)

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

(a) Sections 1-136.01 through 1-136.67 (this Part) apply to all horizontal wells in which any single stage of a hydraulic fracturing stimulation treatment using more than 80,000 gallons of hydraulic fracturing fluid, or in which the total amount of all stages of a hydraulic fracturing stimulation treatment using more than 300,000 gallons of hydraulic fracturing fluid, to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas are planned, have occurred, or are occurring in this State. For any horizontal well at which fracturing occurred before June 17, 2013, the operator shall only be required to file a high volume horizontal hydraulic fracturing operations completion report and comply with Section 1-136.58.

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

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

(225 ILCS 732/1-136.01 new)

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

"Affected patient" means a person receiving health care services from a health professional for an illness or injury which the health professional reasonably believes was caused by exposure to any chemicals used in high volume horizontal hydraulic fracturing operations that are subject to a claim of trade secret by a permittee or contractor.

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

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

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

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

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

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

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

"GPS" means Global Positioning System.

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

"Hearing officer" means the presiding officer at the public hearing and other hearings referenced in this Part. The term also includes administrative law judge.

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

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

"IEMA" means the Illinois Emergency Management Agency.

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

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

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

"Non-emergency health care situation" means a situation that is not an emergency health care situation in which a health professional believes that access to information about high volume horizontal hydraulic fracturing treatment chemicals may assist in determining the appropriate health care services to administer to a patient.

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

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

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

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

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

"Recycled water" means water in hydraulic fracturing flow back from a hydraulic fracturing operation or produced water that is physically or chemically treated for use as the base fluid or a component of hydraulic fracturing fluid.

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

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

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

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

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

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

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

(225 ILCS 732/1-136.02 new)

Sec. 1-136.02. Incorporated materials.

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

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

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

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

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

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

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

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

(b) All incorporations by reference in this Part refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.

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

(225 ILCS 732/1-136.03 new)

Sec. 1-136.03. Permit requirements.

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

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

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

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

(225 ILCS 732/1-136.04 new)

Sec. 1-136.04. Registration procedures.

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

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

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

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

(3) proof of insurance to cover injuries, damages, or loss related to pollution 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.

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

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

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

(1) a statement that the registrant is registered with the Department for purposes of applying for high volume horizontal hydraulic fracturing permits under this Act;

(2) the date the registration was accepted; and

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

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

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

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

(225 ILCS 732/1-136.05 new)

Sec. 1-136.05. Permit application requirements.

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

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

(2) The proposed well name, well location, and legal description per the Public Land Survey System of the well, well site, and its unit area. The well location shall be surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer and the description of the surveyed well location shall also include the legal description, the GPS latitude and longitude location, and ground elevation of the well. The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.

(3) A statement of whether the proposed location of the well site is in compliance with the setback requirements of this Part and a plat map, 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 and a statement explaining how the size of the well site is sufficient to conduct all aspects of high volume horizontal hydraulic fracturing operations within its boundaries.

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

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

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

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

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

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

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

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

(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 or any other relevant information known to the applicant, of the lowest potential fresh water along the entire length of the proposed well.

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

(A) the formations affected by the high volume horizontal hydraulic fracturing operations, including, but not limited to, geologic name and geologic description of the formations 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;

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

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

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

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

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

(C) a plat map showing the well location and all known previous wellbores within 750 feet of any part of the horizontal wellbore that penetrated within 400 vertical feet of the formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations; if existing wellbores are present within the prescribed radius, then also include the following information for each wellbore: well name, if known, estimated location, and permit number, if known; and

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

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

(A) for each stage, the total volume of water anticipated to be used in the high volume horizontal hydraulic fracturing treatment of the well or the type and total volume of the base fluid anticipated to be used in the high volume horizontal hydraulic fracturing treatment, if something other than water;

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

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

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

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

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

(A) the name and location (county, latitude, longitude) of the source of the fresh 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 fresh water withdrawal from each withdrawal location;

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

(D) the methods to be used to minimize fresh 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 landowner of the property expressly agrees in writing to its use for fresh water withdrawals, the applicant is not required to include this surface water source in the fresh water withdrawal and management plan. For this exception to apply, the water use agreement with the landowner of the property must be provided with the permit application. Any confidential provisions of a water use agreement may be redacted by the applicant.

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

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

(11) A hydraulic fracturing fluids and flowback plan for the handling, storage, and transportation and disposal, recycling, or reuse of hydraulic fracturing fluids and hydraulic fracturing flowback consistent with the requirements of this Part. The plan shall identify the specific Class II injection well or wells that will be used to dispose of the hydraulic fracturing flowback or the facilities where the hydraulic fracturing flowback will be reused or recycled. The plan shall describe the capacity of the tanks to be used for the capture and storage of all the anticipated hydraulic fracturing 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:

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

(B) (blank);

(C) identify the location of where MSDS information related to any hazardous materials that will be stored on site will be available for review by all appropriate regulatory agencies and emergency responders;

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

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

(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 that complies with Sections 1-136.43, 1-136.44, and 1-136.45.

(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 that complies with Sections 1-136.24 and 1-136.27.

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

(A) a scaled map of the proposed routes the applicant intends to use to construct the well site, perform high volume horizontal hydraulic fracturing operations, production and continued operations, for at least a 10 mile radius around the well site, identifying all the different highway jurisdictions;

(B) (blank);

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

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

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

(A) the names and addresses of all landowners of any real property surface interest in land 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;

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

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

(17) Drafts of the specific public notice and general public notice as required by Section 1-136.09 using the forms provided by the Department.

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

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

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

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

(19) Proof of insurance by the applicant, and any contractor performing high volume horizontal hydraulic fracturing operations at the proposed well, that each is insured to cover injuries, damages, or loss related to pollution in the amount of at least $5,000,000.

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

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

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

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

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

(25) (Blank).

(26) (Blank).

(27) A violations report indicating whether the applicant or any parent, subsidiary, or affiliate of the applicant has pending Notices of Violations or Director's Decisions under this Act, this Part, the Illinois Oil and Gas Act, or the administrative rules adopted under that Act.

(28) (Blank).

(b) When an application is made to conduct high volume horizontal hydraulic 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 high volume horizontal 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 a modification to the permit is subsequently sought for an amended location or any other significant permit deviation, a new certified consent is required for the amended location.

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

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

(e) Each application submitted under this Part 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."

(f) The applicant shall submit his or her application to the Department in both electronic and one hard copy format at the same time. The electronic format shall be searchable and provided to the Department on compact disc, DVD, or Universal Serial Bus (USB) compatible storage devices. The permittee shall also provide to the Department, in electronic and hard copy format, a duplicate set of any pages containing names or addresses of individuals in which the names and addresses, except those provided under paragraph (1) and (26) of subsection (a) of this Section, are redacted for purposes of confidentiality. Review of the permit application shall not be considered for the purposes of Section 1-136.07 if the Department is unable to access the submitted electronic format.

(g) The application for a high volume horizontal hydraulic fracturing permit may be submitted as a combined permit application with the permittee's application to drill on a form prescribed by the Department. The combined application must include the information required in this Section. 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 Part, the Act, the Illinois Oil and Gas Act and the rules adopted under that Act.

(225 ILCS 732/1-136.06 new)

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

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

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

(1) Bonds shall be signed by the permittee as principal and by a good and sufficient corporate surety legally authorized to transact business as a surety in this State.

(2) Each bond shall provide that the bond shall not be cancelled by the surety without at least 90 days' notice to the Department. Notice shall be served upon the Department in writing by registered or certified

mail to the Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management.

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

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

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

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

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

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

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

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

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

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

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

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

(10) A letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the courts of this State, and shall be construed under Illinois law.

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

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

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

(2) The Department shall send written notification by certified mail with return receipt requested, to the permittee and the surety on the bond, if any, informing them of the determination to forfeit the bond under paragraph (1) of this subsection (e).

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

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

(5) At the bond forfeiture hearing, the Department shall present evidence and has the burden of proof to support its determination to forfeit the bond under paragraph (1) of this subsection (e). The permittee may present evidence contesting the Department's determination. The Hearing Officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

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

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

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

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

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

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

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

(225 ILCS 732/1-136.07 new)

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

(a) All registrants who anticipate filing a permit application with the Department shall notify the Office of Oil and Gas Resource Management at least 5 business days before the anticipated date of filing by both email and by telephone to advise the Office of the anticipated permit filing. The registrant shall provide the name of the applicant and the name and telephone number of an applicant contact person in case the Office has any questions.

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

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

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

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

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

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

(d) 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.

(e) If, during the review period, the Department determines that the permit application is not complete under this Act, does not meet the requirements of Section 1-136.05, 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.

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

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

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

(i) If the supplemental information is not provided within the timeframe set forth in subsection (h) of this Section, the Department shall either deny the permit for providing incomplete information in a permit application or request that the applicant waive the 60-day deadline.

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

(225 ILCS 732/1-136.08 new)

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

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

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

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

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

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

(5) the tentative date, time, and address of the public hearing and the name of the Hearing Officer scheduled to preside over the public hearing on the permit application should a request for public hearing be filed; and

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

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

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

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

(e) Within 5 calendar days after the Department's receipt of the permit application, the Department shall provide a copy of the permit application's traffic management plan to the Office of the State Fire Marshal.

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

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

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

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

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

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

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

(225 ILCS 732/1-136.09 new)

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

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

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

(A) all persons identified as landowners of any real property surface interest in land 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;

(B) all persons identified as persons with an oil and gas lease 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;

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

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

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

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

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

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

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

(A) the name and address of the applicant;

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

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

(D) the proposed well name, review number assigned by the Department, address of the well site, and legal description per the Public Land Survey System of the well, well site, and its unit area; the well location shall be surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer and the description of the surveyed well location shall also include the legal description, the GPS latitude and longitude location, and ground elevation of the well; the GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet; the reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement;

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

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

(G) a statement that any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a

proposed permit, may file written objections to a permit application and may request a public hearing under Section 1-136.11.

(b) After providing the public notice as required under subsection (a) of this Section, the applicant shall supplement its permit application by providing the Department with a certification and documentation that the applicant fulfilled the public notice requirements of this Section no later than 21 days after the Department's receipt of the permit application.

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

(225 ILCS 732/1-136.10 new)

Sec. 1-136.10. Public comment periods.

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

(b) When a public hearing is conducted under Section 1-136.11, the Department may, in its discretion, provide for an additional public comment period to allow for comments in response only to evidence and testimony presented at the hearing. The additional public comment period shall begin on the day after the close of the evidence at the public hearing and last for not more than 15 days, taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application.

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

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

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

(225 ILCS 732/1-136.11 new)

Sec. 1-136.11. Public hearings.

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

(1) When a permit application to conduct high volume horizontal hydraulic fracturing operations for the first time at a particular well site is received by the Department, any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit, may file a written request for public hearing. For purposes of this Part:

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

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

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

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

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

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

(B) To qualify as a government agency that is or may be affected, a government agency must be identified as receiving specific notice or a copy of any plan under Section 1-136.08 or 1-136.09.

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

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

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

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

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

(A) stating the permit review number;

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

(i) if a person, stating facts demonstrating that the person has an interest that is or may be adversely affected by the proposed permit as defined in subparagraph (A) of paragraph (1) of subsection (a) of this Section;

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

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

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

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

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

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

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

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

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

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

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

(6) Prior to, but not less than 2 business days before the commencement of a public hearing under this Section, any person who could have requested the hearing under paragraph (1) of this subsection (a) may petition the Department to participate in the hearing in the same manner as the party requesting the hearing. The petition shall be in writing and meet the requirements for requests for hearing set forth in paragraph (3) of this subsection (a). The petitioner shall serve the petition by electronic mail or certified mail, with return receipt requested, upon the Department, the Hearing Officer, and the applicant. The petitioner shall be allowed to participate in the hearing in the same manner as the party requesting the hearing if the petition meets the requirements set forth in paragraph (4) of this subsection (a).

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

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

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

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

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

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

(A) to administer oaths and affirmations;

(B) to receive relevant evidence;

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

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

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

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

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

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

(A) be in writing;

(B) contain a statement of supporting grounds;

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

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

(3) Unless the Director orders otherwise, the Hearing Officer and any party to a proceeding in which a motion is filed under this Section may file a response.

(4) The Director shall rule on all motions filed under this Section immediately or as expeditiously as possible. If a motion filed under this Section is granted, the Director shall appoint a new Hearing Officer for the proceeding.

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

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

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

(1) Taking into consideration that the Department shall have no more than 60 days after the date it receives the permit application to approve or reject the permit application, pre-hearing conferences are not expected and may only be scheduled on request of a party if the Hearing Officer determines that good cause is provided to do so and delay of the public hearing shall not result. Any pre-hearing conference may be conducted via telephone.

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

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

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

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

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

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

(B) Rulings on any pending motions.

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

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

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

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

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

are subject to cross-examination. The Hearing Officer may allow opening statements and closing arguments.

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

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

(225 ILCS 732/1-136.12 new)

Sec. 1-136.12. Permit decision.

(a) 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.

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

(1) the application for the high volume horizontal hydraulic fracturing permit, including all documentation required by Section 1-136.05;

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

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

(A) any public comments;

(B) the requirements of this Part; and

(C) Department requests for information; and

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

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

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

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

(3) the plans required to be submitted with the application under Section 1-136.05 of this Part are adequate and effective to comply with this Act, this Part, the Illinois Oil and Gas Act, and the administrative rules adopted under the Illinois Oil and Gas Act;

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

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

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

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

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

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

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

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

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

(g) The complete administrative record of the permit decision shall be maintained and shall be accessible to the public on the Department's Internet website until final release of the applicant's bond under subsection (d) of Section 1-136.06.

(225 ILCS 732/1-136.13 new)

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

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

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

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

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

(225 ILCS 732/1-136.14 new)

Sec. 1-136.14. Permit conditions.

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

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

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

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

(e) The permittee shall also be responsible for adjusting to field conditions as necessary during well drilling and construction, high volume horizontal hydraulic fracturing operations, and hydraulic fracturing flowback periods to ensure the safety of people, property, wildlife, and the environment as long as the actions are adequate and effective to comply with this Act, this Part, the Illinois Oil and Gas Act, and the rules adopted under the Illinois Oil and Gas Act. The actions shall be reported to the Department's district office within 72 hours for the Department's determination whether the actions require the filing of an application for permit modification under Section 1-136.15.

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

(225 ILCS 732/1-136.15 new)

Sec. 1-136.15. Permit modifications.

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

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

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

(2) Each permit modification application submitted under this Part 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 permit modification

application and its attachments. Any person signing a permit modification 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."

(c) If a permit modification application proposes to move the well, including the horizontal wellbore, add new horizontal wellbores, or add length to any existing or planned horizontal wellbores in a way that any address of a different person, any different municipality, or any different county would receive notice if the proposed modification application were a new permit application, the permit modification shall be considered a significant deviation from the original application and permit. The permit modification application for a significant deviation shall be accompanied by a non-refundable fee of $13,500, as set forth in Section 1-136.05, and shall be reviewed and approved or rejected as if it were a completely new permit application under the permit application procedures set forth in this Part.

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

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

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

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

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

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

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

(7) The complete record shall be maintained and shall be accessible to the public on the Department's Internet website until final release of the applicant's bond.

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

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

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

(225 ILCS 732/1-136.16 new)

Sec. 1-136.16. Permit transfers.

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

(b) A request for permit transfer shall be made on a Department form and be signed by the current permittee and the proposed new permittee or by individuals authorized to sign for them.

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

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

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

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

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

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

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

(6) there are no outstanding unabated violations by either the current or proposed new permittee of this Part, this Act, the Illinois Oil and Gas Act, or the administrative rules adopted under that Act, as specified in a final administrative decision by the Department.

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

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

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

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

(1) A pre-hearing conference may be held within 60 days after the receipt of the request for hearing. A pre-hearing conference shall be scheduled in order to:

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

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

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

(D) set a hearing date; and

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

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

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

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

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

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

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

(225 ILCS 732/1-136.17 new)

Sec. 1-136.17. Permit release. A permit issued under this Part shall be released by the Department upon the Department's satisfaction that the plugging of the well and restoration of the well site is completed in

compliance with the permittee's Plugging and Restoration Plan under paragraph (18) of subsection (a) of Section 136.05, Section 1-136.61, this Act, the Illinois Oil and Gas Act, and the administrative rules adopted under that Act.

(225 ILCS 732/1-136.18 new)

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

(225 ILCS 732/1-136.19 new)

Sec. 1-136.19. Setback requirements.

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

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

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

(3) within 500 feet measured horizontally from the surface location of any existing water well or developed spring used for human or domestic animal consumption, unless the landowner or landowners of the well or developed spring otherwise expressly agrees or agree in writing to a closer well site location; this agreement shall be signed and dated by the landowner; a copy of the agreement shall be submitted to the Department as part of the permit application;

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

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

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

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

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

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

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

(225 ILCS 732/1-136.20 new)

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

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

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

(c) 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, in consultation with the Agency as the Department deems appropriate, if technologically feasible and economically reasonable to minimize fugitive dust emissions.

(d) Unless otherwise approved or directed by the Department, all topsoil and subsoil stripped to facilitate the construction of the well pad, well site, and access roads shall be stockpiled, stabilized to prevent erosion, and remain on site. As used in this subsection, "topsoil" means the uppermost layer of soil with the darkest color, or the highest content of organic matter. The topsoil shall be segregated from the subsoil.

All soils shall remain on site for use in either partial or final restoration and reclamation under Sections 1-136.58 through 1-136.61. In the event it is anticipated that the final reclamation shall take place in excess of one year from drilling the well, the topsoil may be disposed of in any lawful manner provided the permittee reclaims the site with topsoil of similar characteristics of the topsoil removed.

(225 ILCS 732/1-136.21 new)

Sec. 1-136.21. General conditions and requirements.

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

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

(225 ILCS 732/1-136.22 new)

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

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

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

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

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

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

(225 ILCS 732/1-136.23 new)

Sec. 1-136.23. Cement requirements.

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

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

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

(1) secure the casing in the wellbore;

(2) isolate and protect fresh groundwater;

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

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

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

(6) prevent gas flow in the annulus.

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

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

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

(g) Cement compressive strength tests shall be performed on all cemented surface, intermediate, and production casing strings in accordance with the industry standards set forth in the document referenced in paragraph (1) of subsection (a) of Section 1-136.02:

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

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

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

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

(A) dates of cementing;

(B) source of the cement;

(C) type of cement; and

(D) amount used;

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

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

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

(225 ILCS 732/1-136.24 new)

Sec. 1-136.24. Surface casing requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Surface casing cement must:

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

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

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

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

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

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

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

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

(225 ILCS 732/1-136.25 new)

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) a record of the internal mechanical integrity pressure test for each casing string shall be maintained by the permittee in the well file at the well site and shall be submitted to the Department on a form prescribed by the Department before conducting high volume horizontal hydraulic fracturing operations;

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

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

(225 ILCS 732/1-136.26 new)

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

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

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

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

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

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

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

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

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

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

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

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

(225 ILCS 732/1-136.27 new)

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

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

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

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

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

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

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

(2) when intermediate casing was set solely to protect fresh water encountered below the surface casing shoe, and cementing to the surface is technically infeasible, would result in lost circulation, or both, cement must be brought to a minimum of 600 feet above the shallowest fresh water zone encountered below the surface casing shoe or to the surface if the fresh water zone is less than 600 feet from the surface;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Intermediate casing cement shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) in the vertical portion of the well, a centralizer shall be placed on every fourth joint from the kickoff point to the ground surface or to the bottom of the cellar;

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

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

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

(x) Production casing cement must:

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

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

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

(z) After the production casing cement operation is completed, the permittee shall notify the Department's District Office by phone or electronic mail to enable an inspector to be present for testing the internal mechanical integrity of the production casing under Section 1-136.25.

(225 ILCS 732/1-136.28 new)

Sec. 1-136.28. Establishment of formation integrity.

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

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

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

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

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

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

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

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

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

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

(225 ILCS 732/1-136.29 new)

Sec. 1-136.29. Water quality monitoring.

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

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

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

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

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

(5) the name and contact information of an independent testing laboratory accredited or certified by the Agency to perform the required laboratory method and to conduct the analysis required under subsections (b) and (c) of this Section. When no laboratory has been accredited or certified by the Agency to analyze a particular substance requested in subsection (d) of this Section, results will be considered only if they have been analyzed by a laboratory accredited or certified by another State agency, an agency of another state, or an agency of the federal government, if the standards used for the accreditation or certification of that laboratory are substantially equivalent to the accreditation standard under subsection (o) of Section 4 of the Illinois Environmental Protection Act;

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

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

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

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

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

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

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

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

(10) evidence as to the good faith efforts (for example, logs of oral communications and copies of written communication) that were made to secure documentation that the landowner of the private property declines to provide proof of his or her refusal to allow access for the purposes of conducting sampling in writing, if applicable; permits issued under this Part cannot be denied if the landowner of the private property declines to provide proof of his or her refusal to allow access in writing and the permittee provides evidence that good faith efforts were made to gain access for the purposes of conducting sampling; and

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

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

(1) If an aquifer to be sampled is inaccessible through groundwater wells within 1,500 feet of the well site, the permittee shall conduct groundwater well sampling of that aquifer at the next closest groundwater well that the permittee has permission to access.

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

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

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

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

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

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

(D) quality control of the testing.

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

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

(2) sample and test all water sources that were subjected to sampling under subsection (b) of this Section in the same manner following the procedures under subsection (d) of this Section 6 months, 18

months, and 30 months after the high volume horizontal hydraulic fracturing operations have been completed, unless the water source was sampled under this subsection (c) or subsection (b) within the previous month.

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

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

(2) each sample collected shall be submitted to and analyzed by an accredited or certified independent testing laboratory for the following:

(A) pH;

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

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

(D) BTEX;

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

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

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

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

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

(4) a specific request to the laboratory that the laboratory's report also include:

(A) the name and address of the laboratory;

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

(C) the analyses being performed;

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

(E) the date and time of the analyses;

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

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

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

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

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

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

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

The permittee shall, within 7 calendar days after receipt of results of baseline or follow-up monitoring tests conducted under this Section, submit the independent third party's lab request under subsection (d) of this Section and the results to the Department for a water source not subject to a non-disclosure agreement or, except as provided by subsection (d), only to the landowner of the water source pursuant to a non-disclosure agreement under subsection (a) of this Section.

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

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

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

(225 ILCS 732/1-136.30 new)

Sec. 1-136.30. Water pollution investigations.

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

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

(2) providing the following information:

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

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

(i) the water source being affected;

(ii) the suspected source of contamination;

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

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

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

(b) Within 30 calendar days after the notification required by subsection (a) of this Section, the Department shall notify the Agency and initiate an investigation of the claim. The Department shall make a reasonable effort to reach a determination within 180 calendar days after receiving the notification.

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

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

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

(1) in groundwater, any of the following:

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

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

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

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

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

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

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

(225 ILCS 732/1-136.31 new)

Sec. 1-136.31. Procedures.

(a) Upon a determination of pollution or diminution by the Department, the Department shall issue a Notice of Violation and proceed with appropriate enforcement under Sections 1-136.62 through 1-136.66. The enforcement shall, in addition to any other penalty available under the law, require the permittee to complete remedial action to temporarily or permanently restore or replace the affected water supply with an alternative source of water adequate in quantity and quality for the purposes served by the water source. The quality of a restored or replaced water source shall meet or exceed the quality of the original water source based upon the results of the baseline test results under subsection (b) of Section 1-136.29 for that water source, or other available information. Further, as appropriate, the Department may require the permittee to take immediate action, including, but not limited to, repair, replacement, alteration, or prohibition of operation of equipment permitted by the Department. The Department, in consultation with

the Agency, the Illinois Department of Public Health, or both, may also issue conditions and orders to protect the public health or welfare or the environment.

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

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

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

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

(225 ILCS 732/1-136.32 new)

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

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

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

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

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

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

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

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

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

(3) the pollution or diminution occurred as the result of an identifiable cause other than the high volume horizontal hydraulic fracturing operations.

(225 ILCS 732/1-136.33 new)

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

(225 ILCS 732/1-136.34 new)

Sec. 1-136.34. Chemical disclosure by permittee.

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

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

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

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

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

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

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

(225 ILCS 732/1-136.35 new)

Sec. 1-136.35. Chemical disclosure by contractor.

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

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

(2) provide the Department with the following information:

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

(B) the well name, permit number, and permittee name for the well on which high volume horizontal hydraulic fracturing operations will be conducted; and

(C) the name, email address, and telephone number of the person at the well site responsible for the high volume horizontal hydraulic fracturing operations.

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

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

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

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

(225 ILCS 732/1-136.36 new)

Sec. 1-136.36. Chemical use prohibitions.

(a) The permittee performing high volume horizontal hydraulic fracturing operations is prohibited from using any base fluid, hydraulic fracturing additive, or chemical not listed on their master lists disclosed under Section 1-136.34.

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

(225 ILCS 732/1-136.37 new)

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

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

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

(c) Upon submission or within 5 calendar days after submission of the master list of chemicals with chemical disclosure information to the Department under Section 1-136.05, 1-136.34, 1-136.35, or 1-136.51 under a claim of trade secret, the person that claimed trade secret protection shall provide a justification of the claim containing the following:

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

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

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

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

(5) any other information that shall support the claim of trade secret.

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

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

(2) the information has competitive value.

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

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

(g) Except as otherwise provided in Section 1-136.38 of this Part and subsection (m) of Section 1-77 of this Act, the Department must maintain the confidentiality of chemical disclosure information furnished under Section 1-136.05, 1-136.34, 1-136.35, or 1-136.51 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.

(225 ILCS 732/1-136.38 new)

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

(a) Information about high volume horizontal hydraulic fracturing treatment chemicals furnished under a claim of trade secret shall be disclosed by the Department, or by an independent contractor acting on the Department's behalf, to a health professional for the limited purpose of determining what health care services are necessary for the treatment of an affected patient pursuant to the requirements of this Section. The Department, or an independent contractor acting on its behalf, shall maintain a telephone line staffed 24 hours a day, 365 days a year. If using an independent contractor, the Department shall ensure that the appropriate agreements are in place with the contractor to effectively protect the trade secret chemical information.

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

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

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

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

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

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

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

(d) The health professional may share information disclosed under this Section 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 Prevention, and other government public health agencies.

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

(f) As soon as circumstances permit without impeding the treatment of the affected patient, 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.

(g) Any recipient of the information disclosed under this Section 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.

(225 ILCS 732/1-136.38a new)

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

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

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

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

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

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

"Yellow light alert" means the Department received notice from either the United States Geological Survey or the Illinois State Geological Survey that there was an earthquake in Illinois or a bordering state with a magnitude of at least 2.0, but less than 4.0.

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

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

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

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

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

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

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

(e) The Department shall issue orders to permittees of Class II UIC wells that are, or are believed to be, the source of the seismic events for the immediate cessation of operations due to conditions that create imminent danger to the health and safety of the public, or significant damage to property, under Section 19.1 of the Oil and Gas Act and 62 Ill. Adm. Code 246.186, under any of the following conditions:

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

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

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

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

(g) After receiving a cessation order, in addition to the requirements of the order, the permittee shall schedule a meeting with the Department and representatives of the Illinois State Geological Survey at the Department's headquarters in Springfield, Illinois, to be held within 30 calendar days after issuance of the order and before the cessation order hearing. Once scheduled, the permittee shall confirm the meeting in writing to both the Department and the Illinois State Geological Survey and provide the last 6 months of well data required in subsection (c) of this Section to help facilitate the meeting. The purpose of the meeting shall be to determine possible ways to mitigate induced seismicity events near the permitted well.

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

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

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

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

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

(4) Failure to cease operations after a cessation order is issued by the Department is an operating violation.

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

(225 ILCS 732/1-136.39 new)

Sec. 1-136.39. General conditions and requirements.

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

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

(225 ILCS 732/1-136.40 new)

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

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

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

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

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

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

(d) The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail at least 24 hours before conducting a pressure test of the hydraulic fracturing string to enable an inspector to be present when the test is performed.

(e) A record of the pressure test shall be made on a form prescribed by the Department, maintained by the permittee in the well file at the well site, and made available to the Department upon request and included in the high volume horizontal hydraulic fracturing operations completion report under subsection (d) of Section 1-136.51.

(f) If any change to the well involving resetting, repositioning, reconnecting, or breaking any pressure connection of the hydraulic fracturing string occurs after a stage of high volume horizontal hydraulic

treatment, the pressure test requirements of subsections (c) through (e) of this Section must be successfully repeated before initiating any subsequent stage of high volume horizontal hydraulic fracturing treatment.

(225 ILCS 732/1-136.41 new)

Sec. 1-136.41. Surface equipment pressure testing.

(a) For all wells regulated by this Part, the final configuration of surface equipment associated with the high volume horizontal hydraulic fracturing treatment, including the injection lines and manifold, associated valves, fracture head or tree and any other wellhead components or connections, must be pressure tested pursuant to the requirements of this Section before any pumping of hydraulic fracturing fluid. The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail at least 24 hours before conducting a pressure test of the final configuration of the surface equipment used for the high volume horizontal hydraulic fracturing treatment to enable an inspector to be present when the test is performed.

(b) The final configuration of the surface equipment used for the high volume horizontal hydraulic fracturing treatment shall be pressure tested with fresh water or brine to at least the maximum anticipated treatment pressure for at least 30 minutes with less than a 5% pressure loss.

(c) A record of the pressure test shall be made on a form prescribed by the Department, maintained by the permittee in the well file at the well site, and made available to the Department upon request.

(d) If the configuration of surface equipment used for the high volume horizontal hydraulic fracturing treatment has been reconfigured or changed in any manner that breaks any pressure connection after a stage of high volume horizontal hydraulic fracturing operations treatment, the pressure test requirements of subsections (a) through (c) of this Section shall be successfully repeated before initiating any subsequent stage of high volume horizontal hydraulic fracturing operations.

(225 ILCS 732/1-136.42 new)

Sec. 1-136.42. Notice and approval before commencement of high volume horizontal hydraulic fracturing operations.

(a) Before commencement of high volume horizontal hydraulic fracturing operations, the permittee shall notify and receive written approval from the Department by U.S. mail or electronic mail. Department approval for high volume horizontal hydraulic fracturing operations shall be based on the permittee's proof of compliance with subsections (b) through (e) of this Section:

(b) The permittee shall notify the Department's District Office by telephone and electronic mail or letter at least 48 hours before the commencement of high volume horizontal hydraulic fracturing operations to enable an inspector to be present. The notification under this subsection shall be notice for all stages of a multiple-stage high volume horizontal hydraulic fracturing treatment.

(c) Prior to conducting high volume horizontal hydraulic fracturing operations at a well site, the permittee shall cause to be plugged all previously abandoned unplugged or insufficiently plugged wellbores within 750 feet of any part of the horizontal wellbore that penetrated within 400 vertical feet of the geologic formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations under the requirements of Section 1-136.59.

(d) Baseline water quality sampling of all water sources within 1,500 feet of the well site shall be completed under subsection (b) of Section 1-136.29.

(e) All tests required by the following Sections shall be conducted:

(1) Section 1-136.25: well casing internal mechanical integrity tests;

(2) Section 1-136.28: formation integrity tests;

(3) Section 1-136.40: hydraulic fracturing string pressure tests, if required; and

(4) Section 1-136.41: surface equipment pressure tests.

(225 ILCS 732/1-136.43 new)

Sec. 1-136.43. Secondary containment inspections.

No more than one hour before initiating any stage of the high volume horizontal hydraulic fracturing operations, all secondary containment required under subsection (b) of Section 1-136.44 shall be visually inspected by the permittee or the contractor performing the high volume horizontal hydraulic fracturing operations on behalf of the permittee to ensure that all structures and equipment are in place and in proper working order. The results of this inspection shall be recorded and documented by the permittee or the contractor performing the high volume horizontal hydraulic fracturing operations on behalf of the permittee on a form prescribed by the Department, maintained in the well file at the well site, and available to the Department upon request.

(225 ILCS 732/1-136.44 new)

Sec. 1-136.44. General fluid storage.

(a) In accordance with the approved hydraulic fracturing fluid and flowback plan required by paragraph (11) of subsection (a) of Section 1-136.05, and the approved containment plan required by paragraph (13)

of subsection (a) of Section 1-136.05, and except as provided in Section 1-136.45, hydraulic fracturing additives, hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water shall be stored in above-ground tanks pursuant to the requirements of this Section at all times until removed for proper disposal or recycling. Above-ground tanks shall be:

(1) closed, watertight, vented in compliance with Section 1-136.54, and corrosion-resistant;

(2) constructed of materials compatible with the composition of the hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water;

(3) of sufficient pressure rating;

(4) maintained in a leak-free condition; and

(5) routinely inspected for corrosion.

(b) Secondary containment is required for all above-ground tanks and additive staging areas.

Secondary containment measures may include one or a combination of the following: dikes, liners, pads, impoundments, curbs, sumps, or other structures or equipment capable of containing the substance within the well site.

Any secondary containment must be sufficient to contain 150% of the total capacity of the single largest container or tank within a common containment area.

(c) Piping, conveyances, valves in contact with hydraulic fracturing fluid, hydraulic fracturing flowback, or produced water shall be:

(1) constructed of materials compatible with the expected composition of the hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water;

(2) of sufficient pressure rating;

(3) able to resist corrosion; and

(4) maintained in a leak-free condition.

(d) Stationary fueling tanks shall:

(1) have secondary containment in accordance with subsection (b) of this Section;

(2) be subject to the setback requirements of Section 1-136.19;

(3) have stationary fueling tank filling operations supervised at the fueling truck and at the tank if the tank is not visible to the fueling operator from the truck; and

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

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

(225 ILCS 732/1-136.45 new)

Sec. 1-136.45. Reserve pits.

(a) In accordance with the hydraulic fracturing fluids and flowback plan required by paragraph (11) of subsection (a) of Section 1-136.05 and the containment plan required under paragraph (13) of subsection (a) of Section 1-136.05, and as approved by the Department, the use of a reserve pit is allowed for the temporary storage of hydraulic fracturing flowback. The reserve pit shall be used only in the event of a lack of capacity for tank storage due to higher than expected volume or rate of hydraulic fracturing flowback, or other unanticipated flowback occurrence.

(b) All reserve pits shall comply with the following construction standards and liner specifications:

(1) 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;

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

(3) 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;

(4) 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

(5) 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.

(c) Hydraulic fracturing flowback reserve pit liners shall be disposed of in an Agency-permitted special waste landfill.

(225 ILCS 732/1-136.46 new)

Sec. 1-136.46. Mechanical integrity monitoring.

(a) During high volume horizontal hydraulic fracturing operations, all sealed annulus pressures, the injection pressure, slurry and fluid rates, and the rate of injection shall be continuously monitored and recorded. The records of the monitoring shall be maintained by the permittee in the well file at the well

site 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.

(b) During high volume horizontal hydraulic fracturing operations:

(1) The pressure test values established for the internal mechanical integrities of the cemented casings under Section 1-136.25 and of the hydraulic fracturing string under to Section 1-136.40 shall not be exceeded. If any of these pressures decline more than 5%, increases by more than 500 pounds per square inch as compared to the in situ or applied pressure immediately preceding the stimulation, exceeds 80% of the API rated minimum internal yield on any casing string in communication with the stimulation treatment, or if there are other indications of a leak, corrective action shall be taken before conducting further high volume horizontal hydraulic fracturing operations.

(2) The pressure exerted on treating equipment, including valves (includes hydraulic fracturing string relief valve; see subsection (b) of Section 1-136.40 of this Part and Section 1-70(d)(17) of this Act), lines, manifolds, hydraulic fracturing head or tree, casing and hydraulic fracturing string, if used, and any other wellhead component or connection, must not exceed 95% of the working pressure rating of the weakest component.

(3) The actual hydraulic fracturing treatment pressure during high volume horizontal hydraulic fracturing operations shall not, at any time, exceed the mechanical integrity test pressures of the casings established under Section 1-136.25.

(c) High volume horizontal hydraulic fracturing operations shall be immediately suspended if the permittee or Department inspector determines that 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 immediately undertaken.

(d) The permittee shall notify the Department inspector and the Department's District Office by phone and electronic mail within one hour after suspending operations for any matters relating to the mechanical integrity of the well or risk to the environment.

(e) Operations shall not resume until the appropriate pressure tests under Sections 1-136.40 and 1-136.41 have been successfully repeated.

(225 ILCS 732/1-136.47 new)

Sec. 1-136.47. Hydraulic fracturing fluid and flowback confinement.

(a) Hydraulic fracturing fluid shall be confined to the targeted formation designated in the permit.

(b) If the hydraulic fracturing fluid or hydraulic fracturing flowback migrate into a fresh water 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.

(c) Permittee shall be responsible for any demonstrated damages caused by the migration of hydraulic fracturing fluid or hydraulic fracturing flowback outside the targeted formation.

(225 ILCS 732/1-136.48 new)

Sec. 1-136.48. Management of gas and produced hydrocarbons during flowback.

(a) For wells regulated by this Part, permittees shall be responsible for managing natural gas and hydrocarbon fluids produced during the flowback period to ensure no direct release to the atmosphere or environment provided in this Section. Except for wells covered by subsection (f) of this Section, recovered hydrocarbon fluids shall be:

(1) routed to one or more storage vessels;

(2) injected into a permitted Class II UIC well as described in paragraph (7) of subsection (c) of Section 1-136.12; or

(3) used for another lawful and useful purpose that a purchased fuel or raw material would serve, with no direct release to the environment.

(b) Except for wells covered by subsection (f) of this Section, recovered natural gas shall be:

(1) routed into a flow line or collection system;

(2) injected into a permitted Class II well as described in paragraph (7) of subsection (c) of Section 1-136.12;

(3) used as an on-site fuel source; or

(4) used for another lawful and useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

(c) 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 subsections (a) and (b) of this Section, the Department, pursuant to Section 1-136.53a, shall require the permittee to capture and direct the emissions to a completion combustion device, except:

(1) when conditions may result in a fire hazard or explosion; or

(2) where high heat emissions from a completion combustion device may negatively impact waterways.

(d) In order to establish technical infeasibility or economic unreasonableness under subsection (c) of this Section, the permittee shall demonstrate to the Department's satisfaction pursuant to Section 1-136.53a, for each well site on an annual basis, that taking the actions listed in subsections (a) and (b) of this Section are not cost effective based on a well site-specific analysis.

(e) Completion combustion devices must be equipped with a reliable continuous ignition source over the duration of the flowback period.

(f) 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 by capturing and directing the emissions to a completion combustion device during the flowback period, 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 shall be equipped with a reliable continuous ignition source over the duration of the flowback period.

(225 ILCS 732/1-136.49 new)

Sec. 1-136.49. Hydraulic fracturing fluid and hydraulic fracturing flowback storage, disposal or recycling, transportation, and reporting requirements.

(a) The permittee shall notify the Department of the date when high volume horizontal hydraulic fracturing operations are completed and shall dispose of or recycle hydraulic fracturing fluids and hydraulic fracturing flowback under the requirements of this Section.

(b) Completion of high volume horizontal hydraulic fracturing operations occurs when the flowback period begins after the last stage of high volume horizontal hydraulic fracturing operations. The permittee shall notify the Department's district office by phone and electronic mail within 24 hours after high volume horizontal hydraulic fracturing operations are completed.

(c) Hydraulic fracturing fluids and hydraulic fracturing flowback shall be removed from the well site within 60 days after completion of high volume horizontal fracturing operations, except as provided in subsection (d) of this Section.

(d) Any excess hydraulic fracturing flowback captured for temporary storage in a reserve pit as provided in Section 1-136.44 must be removed from the well site or transferred to storage in above-ground tanks for later disposal or recycling within 7 days after commencing flowback operations to the reserve pit. The Department may provide the operator a limited extension if the operator demonstrates to the Department's satisfaction they have made good faith efforts but have been unable to secure the equipment necessary to remove the hydraulic fracturing flowback from the reserve pit in the prescribed timeframe. Excess hydraulic fracturing flowback cannot be removed from the well site until the hydraulic fracturing flowback is tested and the analytical results are provided under subsection (e) of this Section.

(e) Testing of hydraulic fracturing flowback shall be completed as follows:

(1) Hydraulic fracturing flowback must be tested for the presence of volatile organic chemicals, semi-volatile organic chemicals, inorganic chemicals, heavy metals, and naturally occurring radioactive material before removal from the well site, including specifically:

(A) pH;

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

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

(D) BTEX; and

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

(2) Testing shall be completed on a composited sample of the hydraulic fracturing flowback.

(3) Testing shall occur once per well site.

(4) The analytical results shall be filed with the Department and the Agency and provided to the liquid oilfield waste transportation and disposal operators at or before the time of pickup.

(f) Before plugging and site restoration required by Section 1-136.61, the ground adjacent to the storage tanks and any hydraulic fracturing flowback reserve pit must be measured for radioactivity.

(g) Surface discharge of hydraulic fracturing fluids or hydraulic fracturing flowback onto the ground or into any surface water or water drainage way at the well site or any other location is prohibited.

(h) Except for recycling allowed by subsection (g) of this Section, hydraulic fracturing flowback may only be disposed of by injection into a Class II injection disposal well that is below interface between fresh

water and naturally occurring Class IV groundwater. The Class II injection disposal well shall be equipped with an electronic flowmeter and approved by the Department.

(i) Fluid transfer operations from tanks to tanker trucks for transportation offsite shall 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 shall be supervised if not visible to transfer personnel at the truck and tank.

(j) Hydraulic fracturing flowback may be treated and recycled for use in hydraulic fracturing fluid for high volume horizontal hydraulic fracturing operations.

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

(l) A fluid handling report on the transportation and disposal or recycling of the hydraulic fracturing fluids and hydraulic fracturing flowback shall be prepared by the permittee on a form prescribed by the Department and included in the well file.

(1) Each report shall include:

(A) the amount of hydraulic fracturing fluids or hydraulic fracturing flowback transported;

(B) identification of the company that transported the hydraulic fracturing fluids or hydraulic fracturing flowback;

(C) the date the hydraulic fracturing fluids or hydraulic fracturing flowback were picked up from the well site;

(D) the destination of the hydraulic fracturing fluids or hydraulic fracturing flowback, including the name, address, and type of facility accepting the hydraulic fracturing fluids or hydraulic fracturing flowback;

(E) the method of disposal or recycling; and

(F) a copy of the analytical results of the testing required under subsection (e) of this Section.

(2) The permittee shall prepare 4 copies of each fluid handling report for distribution as follows:

(A) one copy for the permittee's records;

(B) two copies for the liquid oilfield waste hauler upon pick-up of the liquids as follows:

(i) one copy for the waste hauler's records;

(ii) one copy to be provided to the permittee of the Class II UIC well, to the operator of the storage location where the liquids will be disposed of, or to the operator of the storage location where liquids will be recycled; and

(C) one copy for the Department. A set of all fluid handling reports shall be submitted to the Department within 90 days after the completion of all high volume horizontal hydraulic fracturing operations.

(3) All copies of the fluid handling reports shall be retained for at least 5 years.

(225 ILCS 732/1-136.50 new)

Sec. 1-136.50. Spills and remediation.

(a) The permittee shall immediately clean up and remediate any release of hydraulic fracturing fluid, hydraulic fracturing additive, hydraulic fracturing flowback, or produced water, used or generated during or after high volume horizontal hydraulic fracturing operation pursuant to requirements of the Illinois Oil and Gas Act and the administrative rules adopted under that Act.

(b) The permittee shall report any release of hydraulic fracturing fluid or hydraulic fracturing flowback in excess of one barrel to the Department.

(c) The permittee shall clean up, remediate, and report any release of produced water in excess of 5 barrels pursuant to requirements of the Illinois Oil and Gas Act and the administrative rules adopted under that Act.

(d) The permittee shall report any release of a hydraulic fracturing additive to the Illinois Emergency Management Agency in accordance with the appropriate reportable quantity thresholds established under the federal Emergency Planning and Community Right-to-Know Act as published at 40 CFR 355, 370, and 372, the federal Comprehensive Environmental Response, Compensation, and Liability Act as published in 40 CFR 302, and Section 112(r) of the Federal Clean Air Act as published at 40 CFR 68.

(225 ILCS 732/1-136.51 new)

Sec. 1-136.51. High volume horizontal hydraulic fracturing operations completion report.

(a) Within 60 calendar days after the conclusion of high volume horizontal hydraulic fracturing operations, the permittee shall file a high volume horizontal hydraulic fracturing operations completion report with the Department in hard copy and electronic format (PDF).

(b) The Department shall provide a copy of each completion report submitted to the Department to the Illinois State Geological Survey in electronic format.

(c) The Department shall make available the completion reports on the Department's website no later than 30 days after receipt by the Department.

(d) The high volume horizontal hydraulic fracturing operations completion report shall contain the following information:

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

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

(3) the county where the well is located;

(4) the well name and Department reference number;

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

(6) each source from which the water used in the high volume horizontal hydraulic fracturing operations was drawn, and the specific location of each source, including, but not limited to, the name of the county and latitude and longitude coordinates;

(7) the quantity of hydraulic fracturing flowback recovered from the well and the time period for flowback recovery;

(8) a description of how hydraulic fracturing flowback recovered from the well was disposed or recycled;

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

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

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

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

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

(10) a copy of the hydraulic fracturing string pressure test conducted under subsection (e) of Section 1-136.40, if applicable;

(11) all pressures recorded during the high volume horizontal hydraulic fracturing operations under Section 1-136.46;

(12) plans for how produced water shall be disposed of or recycled as required by Section 1-136.57; if produced water is to be disposed of, the names and locations of Class II injection wells to be used; all Class II injection wells to be used for disposal of produced water must be shown to be in compliance with 62 Ill. Adm. Code 240.360 at the time of the issuance of the high volume horizontal hydraulic fracturing permit; and

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

(e) The high volume horizontal hydraulic fracturing operations completion report must be approved and signed and certified by a licensed professional engineer, licensed professional geologist, or the permittee.

(225 ILCS 732/1-136.52 new)

Sec. 1-136.52. Use of diesel in high volume horizontal hydraulic fracturing operations is prohibited. It is unlawful to perform any high volume horizontal hydraulic fracturing operations by knowingly or recklessly injecting diesel.

(225 ILCS 732/1-136.53 new)

Sec. 1-136.53. Managing natural gas and hydrocarbon fluids during production

(a) For wells regulated by this Part, permittees shall be responsible for minimizing the emissions associated with the venting of hydrocarbon fluids and natural gas during the production phase to safely maximize resource recovery and minimize releases to the environment.

(b) Except for wells covered by subsection (j) of this Section, sand traps, surge vessels, separators, and tanks must be employed as soon as practicable during cleanout operations to safely maximize resource recovery and minimize releases to the environment.

(c) Except for wells covered by subsection (j) of this Section, recovered hydrocarbon fluids must be routed into storage vessels.

(d) Except for wells covered by subsection (j) of this Section, recovered natural gas must be:

(1) routed into a gas gathering line or collection system, or to a generator for onsite energy generation;

(2) provided to the surface landowner of the well site for use for heat or energy generation; or

(3) used for a lawful and useful purpose other than venting or flaring.

(e) If the permittee establishes under Section 1-136.53a 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 subsections (c) and (d) of this Section, the Department shall require the permittee to capture and direct any natural gas produced during the production phase to a flare.

(f) In order to establish technical infeasibility or economic unreasonableness under subsection (e) of this Section, the permittee shall demonstrate, to the Department's satisfaction and for each well site on an annual basis, that taking the actions listed in subsections (c) and (d) of this Section are not cost-effective based on a well site-specific analysis in accordance with Section 1-136.53a.

(g) Any flare used under this Section shall be equipped with a reliable, continuous ignition source over the duration of production.

(h) Permittees that use a flare during the production phase for operations other than emergency conditions shall annually file an updated well site-specific analysis with the Department on a form prescribed by the Department. The analysis shall:

(1) be due one year from the date of the previous submission; and

(2) detail in accordance with Section 1-136.53a whether any changes have occurred that alter the technical infeasibility or economic unreasonableness of the permittee to reduce emissions under subsections (c) and (d) of this Section.

(i) On or after July 1, 2015, all flares used under this Section shall:

(1) operate with a combustion efficiency of at least 98% and in accordance with 40 CFR 60.18;

(2) be certified by the manufacturer of the device; and

(3) be maintained and operated in accordance with manufacturer specifications.

(j) For each wildcat well, delineation well, or low pressure well, permittees shall be responsible for minimizing the emissions associated with the venting of hydrocarbon fluids and natural gas during the production phase by capturing and directing the emissions 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 flare may negatively impact waterways. Flares shall be used during the production phase.

(225 ILCS 732/1-136.53a new)

Sec. 1-136.53a. Determination of economic feasibility for capture and use of produced gas.

(a) For the purposes of determining whether the requirements of subsections (a) and (b) of Section 1-136.48 and subsections (a), (b), and (c) of Section 1-136.53 impose economically unreasonable standards, the application shall provide the Department information relevant to the following areas:

(1) The basis for the gas price used to determine whether it is economically infeasible to connect the well to a natural gas gathering line.

(2) The cost of connecting the well to the line and operating the facilities connecting the well to the line.

(3) The current daily rate of the amount of gas flared from the well.

(4) The amount of estimated gas reserves associated with the well and the amount of gas currently available for sale.

(b) Information provided under paragraphs (2) and (4) of subsection (a) of this Section shall be treated as proprietary trade secret information by the Department and not subject to public disclosure.

(c) The Department may request additional information from the permittee to reach a determination on the economic feasibility of implementing the requirements of subsections (a) and (b) of Section 1-136.48 and subsections (a), (b), and (c) of Section 1-136.53.

(d) The Department shall provide the permittee with a written decision after reviewing any information submitted by the permittee that justifies the claim that the requirements of subsections (a) and (b) of Section 1-136.48 and subsections (a), (b), and (c) of 1-136.53 are not cost effective.

(225 ILCS 732/1-136.54 new)

Sec. 1-136.54. Uncontrolled emissions from storage tanks containing natural gas and hydrocarbon fluids.

(a) In addition to the requirements of Section 1-136.53, uncontrolled emissions exceeding 6 tons per year from storage tanks containing natural gas or hydrocarbon fluids 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.

(b) The permittee shall maintain and operate the flare in accordance with the manufacturer's specifications.

(c) Any flare used under this Section shall be equipped with a reliable continuous ignition source over the duration of production pursuant to the requirements of subsection (i) of Section 1-136.53.

(225 ILCS 732/1-136.55 new)

Sec. 1-136.55. Flaring waiver.

(a) The Department may approve an exemption request made in writing that waives the flaring requirements of Sections 1-136.53 and 1-136.54 only if the permittee demonstrates to the Department's satisfaction 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.

(b) 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.

(c) The Department shall provide the permittee with a written decision.

(225 ILCS 732/1-136.56 new)

Sec. 1-136.56. Annual flaring reports. Pursuant to Sections 1-136.53 and 1-136.54, permittees shall record the amount of gas flared or vented from each high volume horizontal hydraulic fracturing well on an ongoing basis. Every 12 months from the date of the permit issuance under this Part, permittees shall report to the Department the total amount of gas flared or vented from each well during the previous 12 months.

(225 ILCS 732/1-136.57 new)

Sec. 1-136.57. Produced water disposal or recycling, transportation, and reporting requirements.

(a) The permittee shall dispose of or recycle produced water in accordance with the requirements of this Section.

(b) Surface discharge of produced water onto the ground or into any surface water or water drainage way is prohibited.

(c) Except for recycling allowed under subsection (e) of this Section, produced water 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. Unless used for enhanced oil recovery, the Class II injection well must be equipped with an electronic flowmeter and approved by the Department.

(d) Produced water transfer operations from tanks to tanker trucks for transportation offsite 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.

(e) Produced water may be treated and recycled for use in hydraulic fracturing fluid for high volume horizontal hydraulic fracturing operations.

(f) A liquid oilfield waste hauler permitted by the Department under Section 8c of the Illinois Oil and Gas Act shall transport produced water by vehicle for disposal or recycling. The liquid oilfield waste hauler transporting produced water under this Part shall comply with all laws and rules concerning liquid oilfield waste.

(g) Permittees shall submit an annual produced water report to the Department detailing the management of any produced water associated with the permitted well.

(1) The produced water report shall be due to the Department on or before April 30 of each year and shall provide information on the operator's management of any produced water for the prior calendar year and the anticipated management for the next calendar year.

(2) The produced water report shall contain information relative to the amount of produced water from the well, the method by which the produced water was transported and disposed of or recycled, and the destination where the produced water was disposed of or recycled.

(225 ILCS 732/1-136.58 new)

Sec. 1-136.58. Plugging and restoration requirements.

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

(b) If the permittee fails to plug the well in accordance with this Section, the owner of the well shall be responsible for complying with this Section.

(c) If the permittee stimulates the geologic formation in accordance with the permit using a high volume horizontal hydraulic fracturing process, then once commercial production ceases from the well and it is time to plug the well, in addition to all the other requirements, the permittee shall initiate the plugging process using a circulation method starting at the top of the geologic formation stimulated installing a cement plug at least 100 feet above the top of the geologic formation.

(d) Upon completion of the requirements of this Section and Sections 1-136.59, 1-136.60, and 1-136.61 the Department shall release the permit under Section 1-136.17.

(225 ILCS 732/1-136.59 new)

Sec. 1-136.59. Plugging previously abandoned unplugged or insufficiently plugged wells.

(a) Prior to conducting high volume horizontal hydraulic fracturing operations at a well site, the permittee shall plug all previously abandoned unplugged or insufficiently plugged wellbores within 750 feet of any part of the horizontal wellbore that penetrated within 400 vertical feet of the geologic formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations pursuant to the requirements of this Section.

(b) Any abandoned unplugged or insufficiently plugged wellbores within 750 feet of any part of the horizontal well bore that penetrated within 400 vertical feet of the geologic formation that will be stimulated as part of the permittee's proposed high volume horizontal hydraulic fracturing operations shall be designated for plugging by the Department as a condition of the permit that shall be completed before conducting high volume horizontal hydraulic fracturing operations.

(c) This pre-high volume horizontal hydraulic fracturing operations plugging obligation shall be performed in accordance with 62 Ill. Adm. Code 240.1110 and shall be completed before any high volume horizontal hydraulic fracturing operations may begin.

(1) If the permittee does not have the authority to plug an abandoned well within the Plugging and Restoration Fund Program, the Department shall give the permittee authority to enter upon the land, plug the well, and restore the well site consistent with 62 Ill. Adm. Code 240.1610(e).

(2) If the permittee does not have the authority to plug an abandoned well that is not within the Plugging and Restoration Fund Program, either:

(A) the Department shall initiate abandoned well proceedings under Section 19.1 of the Illinois Oil and Gas Act and 62 Ill. Adm. Code 240.1610 in order to grant the permittee authority to plug the abandoned well; or

(B) the permittee shall work with the landowner and the person responsible for the abandoned well to arrange for plugging and restoration.

(d) If the permittee is unable to locate an abandoned unplugged well or insufficiently plugged well identified by the Department for plugging before high volume horizontal hydraulic fracturing operations may begin, the permittee may receive a waiver of the plugging requirement from the Department after demonstrating a diligent effort to locate the abandoned unplugged well or insufficiently plugged well in the field.

(e) Before proceeding with any high volume horizontal hydraulic fracturing operations, the permittee shall provide notice to the Department that the plugging requirements of this Section have been met.

(f) If, during or after performing high volume horizontal hydraulic fracturing operations, there is any evidence of fluids leaking at the surface from abandoned wells, unpermitted wells, or previously plugged wells within 750 feet of any part of the horizontal wellbore:

(1) the permittee shall immediately notify the Department and shut in the well;

(2) the permittee shall plug those wells and restore the well sites in accordance with 62 Ill. Adm. Code 240.870, 240.875, and 240.1110; and

(3) the permittee shall obtain the approval of the Department prior to resuming operations.

(g) If, during or after performing high volume horizontal hydraulic fracturing operations, there is any evidence of damage from the permittee's high volume horizontal hydraulic fracturing operations to a producing well within 750 feet of any part of the horizontal wellbore, the permittee shall be responsible for all repairs to the well construction or the costs of plugging the damaged well.

(225 ILCS 732/1-136.60 new)

Sec. 1-136.60. Restoration of lands other than the well site and production facility.

(a) Unless contractually agreed to the contrary by the permittee and the surface landowner, the permittee shall restore any lands used by the permittee other than the well site and production facility to a condition as closely approximating the pre-drilling conditions that existed before the land was disturbed for any stage of site preparation activities, drilling, and high volume horizontal hydraulic fracturing operations.

(b) Restoration shall be commenced within 6 months after completion of the well site and shall be completed within 12 months.

(c) Restoration shall include, but not be limited to:

(1) repair of tile lines;

(2) repair of fences and barriers;

(3) mitigation of soil compaction and rutting;

(4) application of fertilizer or lime to restore the fertility of disturbed soil; and

(5) repair of soil conservation practices such as terraces and grassed waterways.

(d) The Department shall consult with the University of Illinois Extension and the Department of Agriculture to develop a list of best management practices that provides technical guidance for the proper restoration of items specified in this Section.

(225 ILCS 732/1-136.61 new)

Sec. 1-136.61. Restoration of the well site and production facility.

(a) Unless contractually agreed to the contrary by the permittee and surface landowner, the permittee shall restore the well site and production facility to a condition as closely approximating the pre-drilling conditions that existed before the land was disturbed for any stage of site preparation activities, drilling, and high volume horizontal hydraulic fracturing operations.

(b) Restoration shall include:

(1) All of the requirements set forth in subsection (c) of Section 1-136.60.

(2) Removal of all equipment and materials involved in site preparation, drilling, and high volume horizontal hydraulic fracturing operations, including tank batteries, rock and concrete pads, oil field debris, injection and flow lines at or above the surface, electric power lines and poles extending on or above the surface, tanks, fluids, pipes at or above the surface, secondary containment measures, rock or concrete bases, drilling equipment and supplies, and any and all other equipment, facilities, or materials used during any stage of site preparation work, drilling, or high volume horizontal hydraulic fracturing operations at the well site.

(3) All of the requirements of 62 Ill. Adm. Code 240.1180 and 240.1181.

(c) Restoration and work on the removal of equipment and materials at the well site shall begin within 6 months after plugging the final well on the well site and shall be completed no later than 12 months after the last producing well on the well site has been plugged.

(d) Roads installed as part of the oil and gas operation may only be left in place if provided in the lease or pursuant to agreement with the landowner, as applicable.

(225 ILCS 732/1-136.62 new)

Sec. 1-136.62. Suspension, revocation, remediation, and administrative penalties. The Department may, through the enforcement process set forth in this Section and Sections 1-136.63, 1-136.64, 1-136.65, and 1-136.66, suspend or revoke a high volume horizontal hydraulic fracturing permit, order actions to remediate, or issue administrative penalties for one or more of the following causes:

(1) providing misleading or materially untrue information in a permit application process or in any document or information provided to the Department;

(2) violating any condition of the permit;

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

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

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

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

(7) a determination of pollution or diminution made pursuant to an investigation under Section 1-136.30.

(225 ILCS 732/1-136.63 new)

Sec. 1-136.63. Notice of violation.

(a) When the Department determines to suspend or revoke a permit issued under this Part, orders actions to remediate, or issues administrative penalties under this Section and Sections 1-136.62, 1-136.64, 1-136.65, and 1-136.66, a Notice of Violation shall be completed and delivered to the permittee and to the Director or the Director's designee.

(b) The Notice of Violation shall contain all of the following information:

(1) The name and permit number for the well at issue.

(2) The provision of Section 1-136.62 that applies, a statement specifying the factual nature of the violation and, as applicable, a citation to the specific permit condition alleged to have been violated or to the specific Section of this Part, this Act, the Illinois Oil and Gas Act or the administrative rules adopted under the Illinois Oil and Gas Act alleged to have been violated.

(3) A statement as to whether the permit is immediately suspended by the Notice of Violation and, if so:

(A) a factual explanation indicating an emergency condition posing a significant threat to the public health, aquatic life, wildlife, or the environment if the permit operation is allowed to continue; and

(B) The terms of the suspension, including, but not limited to, whether the suspension is pending a Director's Decision to revoke the permit.

(4) A statement as to whether a remedial action is needed to address the violation and, if so, identification of the remedial action and the time within which the remedial action is required to be completed.

(5) A statement as to whether probationary or permanent modification or conditions on the permit shall be recommended and, if so, the substance of the recommended probationary or permanent modification or conditions.

(6) Any factors known to the person completing the Notice of Violation in aggravation or mitigation of the violation and the existence of any factors indicating that the permit should be conditioned or modified.

(c) The permittee charged with the Notice of Violation may provide the Department, in writing, any information in mitigation of the Notice of Violation within 14 days after the date of receiving the Notice of Violation. The written information may include a proposed alternative to the Department's suggested remedial action needed to address the violation.

(d) If a Notice of Violation includes an immediate permit suspension, the suspension may be stayed at any time by the Department if the permittee requests the stay and submits evidence that demonstrates that there is no significant threat to the public health, aquatic life, wildlife, or the environment if the operation is allowed to continue. Requests for stay must be made in writing to the Department, shall provide the basis for the requested stay, and shall be accompanied by any supporting documents. All requests for stay shall be delivered to the Department's Office of Oil and Gas Resource Management located in Springfield, Illinois or mailed to the Department at Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management. A request for stay shall be decided by the Director or the Director's designee within 5 business days after its receipt.

(225 ILCS 732/1-136.64 new)

Sec. 1-136.64. Director's decision.

(a) Upon receipt of a Notice of Violation, the Director or Director's designee shall conduct an investigation and may affirm, vacate, or modify the Notice of Violation. In determining whether to affirm, vacate, or modify the Notice of Violation, the Director shall consider:

(1) whether the facts support the violation set forth in the Notice of Violation;

(2) the seriousness of the violation, including any harm to public health, aquatic life, wildlife, or the environment or damage to property;

(3) the permittee's history of previous violations, including violations at other locations and under other permits; a violation shall not be counted if the Notice of Violation or Director's Decision is the subject of pending administrative review by the Department under Section 1-136.65 or judicial review under the Administrative Review Law and the rules adopted under that Law, or if the time to request a review has not expired, and thereafter it shall be counted for only 2 years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision; no violation for which the Notice of Violation or Director's Decision has been vacated shall be counted;

(4) the degree of culpability of the permittee;

(5) whether the remedial action to address the violation set forth in the Notice of Violation is completed within the time set forth in the Notice of Violation; and

(6) the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by any person or by the permittee.

(b) Modification to the Notice of Violation may include:

(1) any different or additional remedial actions required to address the violation and the time within which the remedial actions must be completed;

(2) assessment of administrative penalties not to exceed $5,000 per day and per violation;

(3) probationary or permanent modification or conditions on the permit, which may include special monitoring or reporting requirements;

(4) suspension of the permit; and

(5) revocation of the permit.

(c) The Director shall determine whether to assess administrative penalties based on the factors set forth in subsection (a) of this Section. If an administrative penalty is assessed by the Department, the administrative penalty shall be computed as follows:

(1) Administrative violations are violations of any submission, reporting, or notification requirements of this Part, including, but not limited to, failing to properly comply with the reporting and Department notification requirements set forth in the construction, operation, monitoring, disclosure, or production

requirements of this Part or of the permit. Administrative violations shall be assessed on a permittee-specific basis. The Department may assess a per day penalty for each administrative violation as follows:

(A) No previous violation of the same rule: $100.

(B) One previous violation of the same rule: $200.

(C) Two previous violations of the same rule: $300.

(D) Three previous violations of the same rule: $400.

(E) Four or more previous violations of the same rule: $500.

(2) Operating violations are violations of all other requirements of this Part not covered by paragraph (1) of subsection (c) of this Section, including, but not limited to, constructing or operating a well in violation of the construction, operation, monitoring, disclosure, or production requirements of this Part or of the permit. The Department may assess a per day penalty for each operating violation by considering elements of the following:

(A) History of violations:

(i) No previous violation of the same rule: $250.

(ii) One previous violation of the same rule: $500.

(iii) Two previous violations of the same rule: $1,000.

(iv) Three or more previous violations of the same rule: $2,000.

(B) Seriousness:

(i) If the violation had a low degree of probability to cause environmental damage to soil and land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add $100.

(ii) If the violation had a high degree of probability to cause environmental damage to soil or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add $250.

(iii) If the violation caused environmental damage to soil or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add $1,000.

(iv) If the violation created a hazard to the safety of any person: add $2,000.

(C) Permittee's actions:

(i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 1-136.63 or correspondence from the Department and failed to comply: add $1,000.

(ii) If the violation occurred as a result of the permittee's lack of reasonable care: add $500.

(iii) If the violation occurred as a result of the permittee's deliberate conduct, including lack of reasonable maintenance of equipment: add $1,000.

(d) The Director or Director's designee shall serve the permittee with his or her decision at the conclusion of the investigation. The Director's Decision shall be served either personally or by certified mail, receipt return requested, to the permittee. The Director's Decision shall provide that the permittee has the right to request a hearing to contest the Director's Decision under Section 1-136.65.

(e) The Director's Decision shall take effect upon issuance.

(f) The permittee may contest the Director's Decision by submitting a request, in writing, within 30 days after the date of receiving the Director's Decision a hearing under Section 1-136.65. Except as provided under paragraph (2) of subsection (d) of Section 1-136.65, in the event that a hearing is requested, the Director's Decision shall remain in effect until a final order is entered pursuant to the hearing.

(g) Failure of the permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty shall constitute a failure to exhaust all administrative remedies and a waiver of all legal rights to contest the Director's Decision, including the amount of the civil penalty.

(h) The permittee may, within 30 days after the date of receipt of the Director's Decision, submit to the Department, in writing, any mitigating factors that permittee believes to be relevant to the violation cited in the Director's Decision.

(i) Upon further investigation, the Director may enter into a settlement agreement, issue an amended Director's Decision, or issue a replacement Director's Decision.

(1) A settlement agreement shall be issued to:

(A) extend the amount of time provided to complete remedial action necessary to address a violation set forth in the Director's Decision;

(B) reduce the civil penalty assessed in the Director's Decision; or

(C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.

(2) An amended Director's Decision shall be issued to:

(A) extend the amount of time provided to complete remedial action necessary to address a violation set forth in the Director's Decision; or

(B) reduce the civil penalty assessed in the Director's Decision.

(3) A replacement Director's Decision shall be issued to correct an administrative error contained in the Director's Decision or the Notice of Violation.

(4) The permittee shall have no right to administrative hearing associated with the issuance of a settlement agreement or an amended Director's Decision.

(j) If the Director's Decision includes the assessment of an administrative penalty and the permittee named in the Director's Decision does not request a hearing under Section 1-136.65, the administrative penalty assessed shall be paid to the Department in full within 30 days after receiving the Director's Decision.

(k) All administrative penalties assessed and paid to the Department shall be deposited in the Mines and Minerals Regulatory Fund.

(225 ILCS 732/1-136.65 new)

Sec. 1-136.65. Director's decision hearings.

(a) A permittee shall have 30 days from the date of receiving the Director's Decision to submit a written request for a hearing to contest the Director's Decision. The written request for a hearing shall provide the basis for contesting the Director's Decision and be accompanied by any documents evidencing the basis for contesting the Director's Decision. A permittee seeking to contest any Director's Decision in which a civil penalty has been assessed shall submit the assessed amount to the Department by cashier's check or money order, together with a timely written request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount or applicable portion thereof shall be refunded to the permittee at the conclusion of the hearing if the Department does not prevail. All requests for a hearing shall be delivered to the Department's Office of Oil and Gas Resource Management located in Springfield, Illinois or mailed to the Department at Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management.

(b) Upon receipt of a request for a hearing submitted in accordance with all requirements of subsection (a) of this Section, the Department shall provide an opportunity for a formal hearing upon not less than 5 days' written notice mailed to the permittee or person submitting the hearing request. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.

(c) The hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall have all powers necessary to conduct the hearing, including, but not limited to, the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that he or she considers relevant or material.

(d) The hearing shall be conducted in accordance with the following procedures:

(1) Pre-hearing conference.

(A) A pre-hearing conference shall be scheduled within 60 days after the request for hearing:

(i) to define the factual and legal issues to be litigated at the administrative hearing;

(ii) to determine the timing and scope of discovery available to the parties;

(iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify, and a summary of the testimony of each witness;

(iv) to schedule a date for the administrative hearing; and

(v) to arrive at an equitable settlement of the hearing request, if possible.

(B) Pre-hearing conferences under this Section may be conducted through a telephone conference if that procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at the Department's offices located in Springfield, Illinois or at a place designated by the Hearing Officer.

(2) Stays of suspension or revocation. The order of suspension or revocation of a permit based on subsection (f) of Section 1-136.58 may be stayed at any time by the Hearing Officer if requested by the permittee by appropriate motion and evidence is submitted demonstrating that there is no significant threat to the public health, aquatic life, wildlife, or the environment if the operation is allowed to continue. The Hearing Officer shall issue an order granting or denying a motion to stay within 5 business days after it is heard.

(3) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders, and motions for orders compelling discovery. The Hearing Officer shall issue an order granting or denying motions filed within 15 days after service or, if applicable, after the hearing. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the matter being contested.

(4) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued shall be deemed to have waived all right to further

review of the violation or administrative penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the Hearing Officer and shall constitute the Department's final administrative decision as to the matter being contested.

(5) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

(6) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the notice of violation at issue. The amount of any administrative penalty assessed shall be presumed to be proper; however, the permittee may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The permittee shall have the right to challenge the Hearing Officer if the person or permittee believes the Hearing Officer is prejudiced against him or her or has a conflict of interest. If the Hearing Officer disqualifies himself or herself, the Director shall designate a new Hearing Officer. The Hearing Officer shall conduct the hearing and hear the evidence. The Hearing Officer, at the conclusion of the hearing, shall have 30 days to issue recommended findings of fact, recommended conclusions of law, and make recommendations as to the disposition of the case.

(7) The Director or the Director's designee shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. Within 15 days after receiving the Hearing Officer's recommendations, the Department shall issue a final administrative decision.

(e) All Department final administrative decisions set forth in this Section are subject to judicial review under the Administrative Review Law and the rules adopted under that Law.

(f) The costs associated with the administrative hearing shall be borne by the permittee. Foreseeable costs include the costs of transcription services that consist of court reporters attendance at the hearings and transcription of the hearing record into paper and electronic format for all parties as required. All parties shall be responsible for their own attorneys' fees, and the Department shall provide the Hearing Officer and the Hearing room at Department Headquarters. The Hearing Officer shall have the discretion to order the permittee to pay additional costs as appropriate.

(225 ILCS 732/1-136.66 new)

Sec. 1-136.66. Alternative enforcement.

(a) All persons, owners, and permittees regulated under this Act and this Part are also subject to, and required to comply with, the Illinois Oil and Gas Act and 62 Ill. Adm. Code 240.

(b) Any violation of this Part may also include violations of the permittee's Oil and Gas permit related to the same well, the Illinois Oil and Gas Act, and rules adopted under that Act.

(c) All violations related to the same well may be brought as one case at the discretion of the Department.

(d) Failure to meet the burden of proof required for revocation or suspension of a permit under this Act, this Part, the Illinois Oil and Gas Act, or the rules adopted under the Illinois Oil and Gas Act does not mean that the Department necessarily failed to prove other violations under this Act, this Part, the Illinois Oil and Gas Act, or the rules adopted under the Illinois Oil and Gas Act.

(e) Knowing violations of this Part may be a criminal offense as defined in Section 1-100 of this Act, which will be, in addition to any administrative action taken by the Department, referred to the State's Attorney in the county where the violation occurred or the Attorney General's Office.

(f) Any person who violates this Part may also be liable for a civil penalty as defined in Section 1-101 of this Act, which will be in addition to any administrative action taken by the Department.

(225 ILCS 732/1-136.67 new)

Sec. 1-136.67. Medium volume horizontal hydraulic fracturing completion reports.

(a) This Section applies to all horizontal wells in which the total amount of all stages of stimulation treatment using more than 80,000 gallons but less than 300,001 gallons in the pressurized application of hydraulic fracturing fluid to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas are planned, have occurred since June 17, 2013, or are occurring in this State. For any horizontal hydraulic fracturing operations where all combined stages of a stimulation treatment of a horizontal well are by the pressurized application of more than 80,000 gallons but less than 300,001 gallons of hydraulic fracturing fluid and proppant to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas, reporting under subsection (c) of this Section is required. For horizontal hydraulic fracturing operations using hydrocarbon or non-hydrocarbon fluids in gas or liquid form as an element of the hydraulic fracturing fluid, the applicant shall state the total estimated fluid volume that will be used for the hydraulic fracturing treatment at downhole conditions. The proposed volume shall be based on the anticipated downhole pressure and temperature.

(b) Permittees with a high volume horizontal hydraulic fracturing permit are not required to report under subsection (c) of this Section.

(c) Within 60 calendar days after the conclusion of horizontal hydraulic fracturing operations identified in subsection (a) of this Section, the permittee shall file a medium volume horizontal hydraulic fracturing operations completion report with the Department. The medium volume horizontal hydraulic fracturing operations completion report shall contain the following information:

(1) The name and location of the well. The well location shall be surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer and the description of the surveyed well location shall also include the legal description, the GPS latitude and longitude location, and the ground elevation of the well. The Global Positioning System (GPS) location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.

(2) The permittee number and well reference number issued under the Illinois Oil and Gas Act.

(3) The total and per-stage gallons of hydraulic fracturing fluid used at the well, the quantity recovered during the flowback period, and what the permittee did to dispose of, reuse, or recycle the flowback.

(4) The depth of the wellbore, including both total vertical depth and total measured depth.

(5) The length of horizontal wellbore.

(6) The maximum surface treating pressure used.

(7) The formation targeted.

(8) The number of hydraulic fracturing stages.

(9) The total perforated interval and individual perforation intervals.

(225 ILCS 732/1-130 rep.)

Section 10. The Hydraulic Fracturing Regulatory Act is amended by repealing Section 1-130.

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

AMENDMENT NO. 2 TO SENATE BILL 649

AMENDMENT NO. 2. Amend Senate Bill 649, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 3, by replacing lines 13 through 19 with the following:

"(225 ILCS 732/1-23 new)

Sec. 1-23. Permitting timeframe. Notwithstanding any other provision of law, high volume horizontal fracturing operations shall only be allowed under this Act:

(1) at well sites located in the counties of Alexander, Bond, Calhoun, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macoupin, Madison, Marion, Massac, Monroe, Montgomery, Moultrie, Perry, Pope, Pulaski, Randolph, Richland, Saline, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, or Williamson; and

(2) on or after a period of one year after the effective date of this amendatory Act of the 98th General Assembly, in the counties of Adams, Boone, Brown, Bureau, Carroll, Cass, Champaign, DeWitt, Ford, Fulton, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Knox, La Salle, Lee, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Mercer, Morgan, Ogle, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Winnebago, or Woodford.".

AMENDMENT NO. 5 TO SENATE BILL 649

AMENDMENT NO. 5. Amend Senate Bill 649, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Regulatory Sunset Act is amended by adding Section 4.25a as follows:

(5 ILCS 80/4.25a new)

Sec. 4.25a. Act repealed on December 31, 2015. The following Act is repealed on December 31, 2015:

The Medical Practice Act of 1987.

(5 ILCS 80/4.24 rep.)

Section 10. The Regulatory Sunset Act is amended by repealing Section 4.24.

Section 15. The Medical Practice Act of 1987 is amended by changing Sections 2, 3, 7, 7.5, 9, 9.3, 9.5, 13, 17, 18, 19, 21, 22, 24, 33, 36, 37, 38, 40, and 41 as follows:

(225 ILCS 60/2) (from Ch. 111, par. 4400-2)

(Section scheduled to be repealed on December 31, 2014)

Sec. 2. Definitions. For purposes of this Act, the following definitions shall have the following meanings, except where the context requires otherwise:

"Act" means the Medical Practice Act of 1987.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the Department.

"Chiropractic physician" means a person licensed to treat human ailments without the use of drugs and without operative surgery. Nothing in this Act shall be construed to prohibit a chiropractic physician from providing advice regarding the use of non-prescription products or from administering atmospheric oxygen. Nothing in this Act shall be construed to authorize a chiropractic physician to prescribe drugs.

"Department" means the Department of Financial and Professional Regulation.

"Disciplinary Action" means revocation, suspension, probation, supervision, practice modification, reprimand, required education, fines or any other action taken by the Department against a person holding a license.

"Disciplinary Board" means the Medical Disciplinary Board.

"Final Determination" means the governing body's final action taken under the procedure followed by a health care institution, or professional association or society, against any person licensed under the Act in accordance with the bylaws or rules and regulations of such health care institution, or professional association or society.

"Fund" means the Medical Disciplinary Fund.

"Impaired" means the inability to practice medicine with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to deliver competent patient care.

"Licensing Board" means the Medical Licensing Board.

"Physician" means a person licensed under the Medical Practice Act to practice medicine in all of its branches or a chiropractic physician.

"Professional Association" means an association or society of persons licensed under this Act, and operating within the State of Illinois, including but not limited to, medical societies, osteopathic organizations, and chiropractic organizations, but this term shall not be deemed to include hospital medical staffs.

"Program of Care, Counseling, or Treatment" means a written schedule of organized treatment, care, counseling, activities, or education, satisfactory to the Disciplinary Board, designed for the purpose of restoring an impaired person to a condition whereby the impaired person can practice medicine with reasonable skill and safety of a sufficient degree to deliver competent patient care.

"Reinstate" means to change the status of a license from inactive or nonrenewed status to active status.

"Restore" means to remove an encumbrance from a license due to probation, suspension, or revocation.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(Source: P.A. 97-462, eff. 8-19-11; 97-622, eff. 11-23-11.)

(225 ILCS 60/3) (from Ch. 111, par. 4400-3)

(Section scheduled to be repealed on December 31, 2014)

Sec. 3. Licensure requirement. No person shall practice medicine, or any of its branches, or treat human ailments without the use of drugs and without operative surgery, without a valid, active ~~existing~~ license to do so, except that a physician who holds an active license in another state or a second year resident enrolled in a residency program accredited by the Liaison Committee on Graduate Medical Education or the Bureau of Professional Education of the American Osteopathic Association may provide medical services to patients in Illinois during a bonafide emergency in immediate preparation for or during interstate transit.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 60/7) (from Ch. 111, par. 4400-7)

(Section scheduled to be repealed on December 31, 2014)

Sec. 7. Medical Disciplinary Board.

(A) There is hereby created the Illinois State Medical Disciplinary Board. The Disciplinary Board shall consist of 11 members, to be appointed by the Governor by and with the advice and consent of the Senate. All members shall be residents of the State, not more than 6 of whom shall be members of the same political party. All members shall be voting members. Five members shall be physicians licensed to practice medicine in all of its branches in Illinois possessing the degree of doctor of medicine. One member shall be a physician licensed to practice medicine in all its branches in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. One member shall be a chiropractic physician licensed to

practice in Illinois and possessing the degree of doctor of chiropractic. Four members shall be members of the public, who shall not be engaged in any way, directly or indirectly, as providers of health care.

(B) Members of the Disciplinary Board shall be appointed for terms of 4 years. Upon the expiration of the term of any member, their successor shall be appointed for a term of 4 years by the Governor by and with the advice and consent of the Senate. The Governor shall fill any vacancy for the remainder of the unexpired term with the advice and consent of the Senate. Upon recommendation of the Board, any member of the Disciplinary Board may be removed by the Governor for misfeasance, malfeasance, or wilful neglect of duty, after notice, and a public hearing, unless such notice and hearing shall be expressly waived in writing. Each member shall serve on the Disciplinary Board until their successor is appointed and qualified. No member of the Disciplinary Board shall serve more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various social and geographic regions of the State of Illinois are properly represented.

In making the designation of persons to act for the several professions represented on the Disciplinary Board, the Governor shall give due consideration to recommendations by members of the respective professions and by organizations therein.

(C) The Disciplinary Board shall annually elect one of its voting members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until their successor has been elected and qualified.

(D) (Blank).

(E) Six voting members of the Disciplinary Board, at least 4 of whom are physicians, shall constitute a quorum. A vacancy in the membership of the Disciplinary Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Disciplinary Board. Any action taken by the Disciplinary Board under this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately. The Disciplinary Board shall meet at least quarterly. ~~The Disciplinary Board is empowered to adopt all rules and regulations necessary and incident to the powers granted to it under this Act.~~

(F) Each member, and member-officer, of the Disciplinary Board shall receive a per diem stipend as the Secretary shall determine. Each member shall be paid their necessary expenses while engaged in the performance of their duties.

(G) The Secretary shall select a Chief Medical Coordinator and not less than 2 Deputy Medical Coordinators who shall not be members of the Disciplinary Board. Each medical coordinator shall be a physician licensed to practice medicine in all of its branches, and the Secretary shall set their rates of compensation. The Secretary shall assign at least one medical coordinator to a region composed of Cook County and such other counties as the Secretary may deem appropriate, and such medical coordinator or coordinators shall locate their office in Chicago. The Secretary shall assign at least one medical coordinator to a region composed of the balance of counties in the State, and such medical coordinator or coordinators shall locate their office in Springfield. The Chief Medical Coordinator shall be the chief enforcement officer of this Act. None of the functions, powers, or duties of the Department with respect to policies regarding enforcement or discipline under this Act, including the adoption of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Disciplinary Board. ~~Each medical coordinator shall be the chief enforcement officer of this Act in his or her assigned region and shall serve at the will of the Disciplinary Board.~~

The Secretary shall employ, in conformity with the Personnel Code, investigators who are college graduates with at least 2 years of investigative experience or one year of advanced medical education. Upon the written request of the Disciplinary Board, the Secretary shall employ, in conformity with the Personnel Code, such other professional, technical, investigative, and clerical help, either on a full or part-time basis as the Disciplinary Board deems necessary for the proper performance of its duties.

(H) Upon the specific request of the Disciplinary Board, signed by either the chairperson, vice chairperson, or a medical coordinator of the Disciplinary Board, the Department of Human Services, the Department of Healthcare and Family Services, ~~or~~ the Department of State Police , or any other law enforcement agency located in this State shall make available any and all information that they have in their possession regarding a particular case then under investigation by the Disciplinary Board.

(I) Members of the Disciplinary Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Disciplinary Board.

(J) The Disciplinary Board may compile and establish a statewide roster of physicians and other medical professionals, including the several medical specialties, of such physicians and medical professionals, who have agreed to serve from time to time as advisors to the medical coordinators. Such advisors shall assist the medical coordinators or the Disciplinary Board in their investigations and participation in complaints against physicians. Such advisors shall serve under contract and shall be reimbursed at a reasonable rate

for the services provided, plus reasonable expenses incurred. While serving in this capacity, the advisor, for any act undertaken in good faith and in the conduct of his or her duties under this Section, shall be immune from civil suit.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/7.5)

(Section scheduled to be repealed on December 31, 2014)

Sec. 7.5. Complaint Committee.

(a) There shall be a Complaint Committee of the Disciplinary Board composed of at least one of the medical coordinators established by subsection (G) of Section 7 of this Act, the Chief of Medical Investigations (person employed by the Department who is in charge of investigating complaints against physicians and physician assistants), the Chief of Medical Prosecutions (the person employed by the Department who is in charge of prosecuting formal complaints against physicians and physician assistants), and at least 3 ~~voting~~ members of the Disciplinary Board (at least 2 of whom shall be physicians) designated by the Chairperson of the Disciplinary Board with the approval of the Disciplinary Board. ~~The Disciplinary Board members so appointed shall serve one-year terms and may be eligible for reappointment for subsequent terms.~~

(b) The Complaint Committee shall meet at least twice a month to exercise its functions and duties set forth in subsection (c) below. At least 2 members of the Disciplinary Board shall be in attendance in order for any business to be transacted by the Complaint Committee. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

(c) The Complaint Committee shall have the following duties and functions:

(1) To recommend to the Disciplinary Board that a complaint file be closed.

(2) To refer a complaint file to the office of the Chief of Medical Prosecutions ~~(person employed by the Department who is in charge of prosecuting formal complaints against licensees)~~ for review.

(3) To make a decision in conjunction with the Chief of Medical Prosecutions regarding action to be taken on a complaint file.

(d) In determining what action to take or whether to proceed with prosecution of a complaint, the Complaint Committee shall consider, but not be limited to, the following factors: sufficiency of the evidence presented, prosecutorial merit under Section 22 of this Act, any recommendation made by the Department, and insufficient cooperation from complaining parties.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/9) (from Ch. 111, par. 4400-9)

(Section scheduled to be repealed on December 31, 2014)

Sec. 9. Application for license. Each applicant for a license shall:

(A) Make application on blank forms prepared and furnished by the Department.

(B) Submit evidence satisfactory to the Department that the applicant:

(1) is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act;

(2) has the preliminary and professional education required by this Act;

(3) (blank); and

(4) is physically, mentally, and professionally capable of practicing medicine with reasonable judgment, skill, and safety. In determining physical and ~~,~~ mental ~~and professional~~ capacity under this Section, the Licensing Board may, upon a showing of a possible incapacity or conduct or activities that would constitute grounds for discipline under this Act, compel any applicant to submit to a mental or physical examination and evaluation, or both, as provided for in Section 22 of this Act. The Licensing Board may condition or restrict any license, subject to the same terms and conditions as are provided for the Disciplinary Board under Section 22 of this Act. Any such condition of a restricted license shall provide that the Chief Medical Coordinator or Deputy Medical Coordinator shall have the authority to review the subject physician's compliance with such conditions or restrictions, including, where appropriate, the physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records of patients.

In determining professional capacity under this Section, an individual may be required to complete such additional testing, training, or remedial education as the Licensing Board may deem necessary in order to establish the applicant's present capacity to practice medicine with reasonable

judgment, skill, and safety. The Licensing Board may consider the following criteria, as they relate to an applicant, as part of its determination of professional capacity:

(1) Medical research in an established research facility, hospital, college or university, or private corporation.

(2) Specialized training or education.

(3) Publication of original work in learned, medical, or scientific journals.

(4) Participation in federal, State, local, or international public health programs or organizations.

(5) Professional service in a federal veterans or military institution.

(6) Any other professional activities deemed to maintain and enhance the clinical capabilities of the applicant.

Any applicant applying for a license to practice medicine in all of its branches or for a license as a chiropractic physician who has not been engaged in the active practice of medicine or has not been enrolled in a medical program for 2 years prior to application must submit proof of professional capacity to the Licensing Board.

Any applicant applying for a temporary license that has not been engaged in the active practice of medicine or has not been enrolled in a medical program for longer than 5 years prior to application must submit proof of professional capacity to the Licensing Board.

(C) Designate specifically the name, location, and kind of professional school, college, or institution of which the applicant is a graduate and the category under which the applicant seeks, and will undertake, to practice.

(D) Pay to the Department at the time of application the required fees.

(E) Pursuant to Department rules, as required, pass an examination authorized by the Department to determine the applicant's fitness to receive a license.

(F) Complete the application process within 3 years from the date of application. If the process has not been completed within 3 years, the application shall expire, application fees shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/9.3)

(Section scheduled to be repealed on December 31, 2014)

Sec. 9.3. Withdrawal of application. Any applicant applying for a license or permit under this Act may withdraw his or her application at any time. If an applicant withdraws his or her application after receipt of a written Notice of Intent to Deny License or Permit, then the withdrawal shall be reported to the Federation of State Medical Boards and the National Practitioner Data Bank.

(Source: P.A. 98-601, eff. 12-30-13.)

(225 ILCS 60/9.5)

(Section scheduled to be repealed on December 31, 2014)

Sec. 9.5. Social Security Number on license application. In addition to any other information required to be contained in the application, every application for an original license under this Act shall include the applicant's Social Security Number, which shall be retained in the agency's records pertaining to the license. As soon as practical, the Department shall assign a customer's identification number to each applicant for a license.

Every application for a renewal or reinstated ~~restored~~ license shall require the applicant's customer identification number.

(Source: P.A. 97-400, eff. 1-1-12.)

(225 ILCS 60/13) (from Ch. 111, par. 4400-13)

(Section scheduled to be repealed on December 31, 2014)

Sec. 13. Medical students. Candidates for the degree of doctor of medicine, doctor of osteopathy, or doctor of osteopathic medicine enrolled in a medical or osteopathic college, accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation ~~Bureau of Professional Education~~ of the American Osteopathic Association or its successor, may practice under the direct, on-premises supervision of a physician who is licensed to practice medicine in all its branches in Illinois and who is a member of the faculty of an accredited medical or osteopathic college.

(Source: P.A. 89-702, eff. 7-1-97.)

(225 ILCS 60/17) (from Ch. 111, par. 4400-17)

(Section scheduled to be repealed on December 31, 2014)

Sec. 17. Temporary license. Persons holding the degree of Doctor of Medicine, persons holding the degree of Doctor of Osteopathy or Doctor of Osteopathic Medicine, and persons holding the degree of Doctor of Chiropractic or persons who have satisfied the requirements therefor and are eligible to receive

such degree from a medical, osteopathic, or chiropractic school, who wish to pursue programs of graduate or specialty training in this State, may receive without examination, in the discretion of the Department, a 3-year temporary license. In order to receive a 3-year temporary license hereunder, an applicant shall submit evidence satisfactory to the Department that the applicant:

(A) Is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act;

(B) Has been accepted or appointed for specialty or residency training by a hospital situated in this State or a training program in hospitals or facilities maintained by the State of Illinois or affiliated training facilities which is approved by the Department for the purpose of such training under this Act. The applicant shall indicate the beginning and ending dates of the period for which the applicant has been accepted or appointed;

(C) Has or will satisfy the professional education requirements of Section 11 of this Act which are effective at the date of application except for postgraduate clinical training;

(D) Is physically, mentally, and professionally capable of practicing medicine or treating human ailments without the use of drugs and without operative surgery with reasonable judgment, skill, and safety. In determining physical, mental and professional capacity under this Section, the Licensing Board may, upon a showing of a possible incapacity, compel an applicant to submit to a mental or physical examination and evaluation, or both, and may condition or restrict any temporary license, subject to the same terms and conditions as are provided for the Disciplinary Board under Section 22 of this Act. Any such condition of restricted temporary license shall provide that the Chief Medical Coordinator or Deputy Medical Coordinator shall have the authority to review the subject physician's compliance with such conditions or restrictions, including, where appropriate, the physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records of patients.

Three-year temporary licenses issued pursuant to this Section shall be valid only for the period of time designated therein, and may be extended or renewed pursuant to the rules of the Department, and if a temporary license is thereafter extended, it shall not extend beyond completion of the residency program. The holder of a valid 3-year temporary license shall be entitled thereby to perform only such acts as may be prescribed by and incidental to his or her program of residency training; he or she shall not be entitled to otherwise engage in the practice of medicine in this State unless fully licensed in this State.

A 3-year temporary license may be revoked or suspended by the Department upon proof that the holder thereof has engaged in the practice of medicine in this State outside of the program of his or her residency or specialty training, or if the holder shall fail to supply the Department, within 10 days of its request, with information as to his or her current status and activities in his or her specialty training program. Such a revocation or suspension shall comply with the procedures set forth in subsection (d) of Section 37 of this Act.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/18) (from Ch. 111, par. 4400-18)

(Section scheduled to be repealed on December 31, 2014)

Sec. 18. Visiting professor, physician, or resident permits.

(A) Visiting professor permit.

(1) A visiting professor permit shall entitle a person to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery provided:

(a) the person maintains an equivalent authorization to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery in good standing in his or her native licensing jurisdiction during the period of the visiting professor permit;

(b) the person has received a faculty appointment to teach in a medical, osteopathic or chiropractic school in Illinois; and

(c) the Department may prescribe the information necessary to establish an applicant's eligibility for a permit. This information shall include without limitation (i) a statement from the dean of the medical school at which the applicant will be employed describing the applicant's qualifications and (ii) a statement from the dean of the medical school listing every affiliated

institution in which the applicant will be providing instruction as part of the medical school's education program and justifying any clinical activities at each of the institutions listed by the dean.

(2) Application for visiting professor permits shall be made to the Department, in writing, on forms prescribed by the Department and shall be accompanied by the required fee established by rule, which shall not be refundable. Any application shall require the information as, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant.

(3) A visiting professor permit shall be valid for no longer than 2 years from the date of issuance or until the time the faculty appointment is terminated, whichever occurs first, and may be renewed only in accordance with subdivision (A)(6) of this Section.

(4) The applicant may be required to appear before the Licensing Board for an interview prior to, and as a requirement for, the issuance of the original permit and the renewal.

(5) Persons holding a permit under this Section shall only practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery in the State of Illinois in their official capacity under their contract within the medical school itself and any affiliated institution in which the permit holder is providing instruction as part of the medical school's educational program and for which the medical school has assumed direct responsibility.

(6) After the initial renewal of a visiting professor permit, a visiting professor permit shall be valid until the last day of the next physician license renewal period, as set by rule, and may only be renewed for applicants who meet the following requirements:

(i) have obtained the required continuing education hours as set by rule; and

(ii) have paid the fee prescribed for a license under Section 21 of this Act.

For initial renewal, the visiting professor must successfully pass a general competency examination authorized by the Department by rule, unless he or she was issued an initial visiting professor permit on or after January 1, 2007, but prior to July 1, 2007.

(B) Visiting physician permit.

(1) The Department may, in its discretion, issue a temporary visiting physician permit, without examination, provided:

(a) (blank);

(b) that the person maintains an equivalent authorization to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery in good standing in his or her native licensing jurisdiction during the period of the temporary visiting physician permit;

(c) that the person has received an invitation or appointment to study, demonstrate, or perform a specific medical, osteopathic, chiropractic or clinical subject or technique in a medical, osteopathic, or chiropractic school, a state or national medical, osteopathic, or chiropractic professional association or society conference or meeting, a hospital licensed under the Hospital Licensing Act, a hospital organized under the University of Illinois Hospital Act, or a facility operated pursuant to the Ambulatory Surgical Treatment Center Act; and

(d) that the temporary visiting physician permit shall only permit the holder to practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery within the scope of the medical, osteopathic, chiropractic, or clinical studies, or in conjunction with the state or national medical, osteopathic, or chiropractic professional association or society conference or meeting, for which the holder was invited or appointed.

(2) The application for the temporary visiting physician permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by the required fee established by rule, which shall not be refundable. The application shall require information that, in the judgment of the Department, will enable the Department to pass on the qualification of the applicant, and the necessity for the granting of a temporary visiting physician permit.

(3) A temporary visiting physician permit shall be valid for no longer than (i) 180 days from the date of issuance or (ii) until the time the medical, osteopathic, chiropractic, or clinical studies are completed, or the state or national medical, osteopathic, or chiropractic professional association or society conference or meeting has concluded, whichever occurs first. <u>The temporary visiting physician permit may be issued multiple times to a visiting physician under this paragraph (3) as long as the total number of days it is active do not exceed 180 days within a 365-day period.</u>

(4) The applicant for a temporary visiting physician permit may be required to appear

before the Licensing Board for an interview prior to, and as a requirement for, the issuance of a temporary visiting physician permit.

(5) A limited temporary visiting physician permit shall be issued to a physician licensed in another state who has been requested to perform emergency procedures in Illinois if he or she meets the requirements as established by rule.

(C) Visiting resident permit.

(1) The Department may, in its discretion, issue a temporary visiting resident permit, without examination, provided:

(a) (blank);

(b) that the person maintains an equivalent authorization to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery in good standing in his or her native licensing jurisdiction during the period of the temporary visiting resident permit;

(c) that the applicant is enrolled in a postgraduate clinical training program outside the State of Illinois that is approved by the Department;

(d) that the individual has been invited or appointed for a specific period of time to perform a portion of that post graduate clinical training program under the supervision of an Illinois licensed physician in an Illinois patient care clinic or facility that is affiliated with the out-of-State post graduate training program; and

(e) that the temporary visiting resident permit shall only permit the holder to practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery within the scope of the medical, osteopathic, chiropractic or clinical studies for which the holder was invited or appointed.

(2) The application for the temporary visiting resident permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by the required fee established by rule. The application shall require information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant.

(3) A temporary visiting resident permit shall be valid for 180 days from the date of issuance or until the time the medical, osteopathic, chiropractic, or clinical studies are completed, whichever occurs first.

(4) The applicant for a temporary visiting resident permit may be required to appear before the Licensing Board for an interview prior to, and as a requirement for, the issuance of a temporary visiting resident permit.

(Source: P.A. 96-398, eff. 8-13-09; 97-622, eff. 11-23-11.)

(225 ILCS 60/19) (from Ch. 111, par. 4400-19)

(Section scheduled to be repealed on December 31, 2014)

Sec. 19. Licensure by endorsement. The Department may, in its discretion, issue a license by endorsement to any person who is currently licensed to practice medicine in all of its branches, or a chiropractic physician, in any other state, territory, country or province, upon the following conditions and submitting evidence satisfactory to the Department of the following:

(A) (Blank);

(B) That the applicant is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act;

(C) That the applicant is physically, mentally and professionally capable of practicing medicine with reasonable judgment, skill and safety. In determining physical, mental and professional capacity under this Section the Licensing Board may, upon a showing of a possible incapacity, compel an applicant to submit to a mental or physical examination and evaluation, or both, in the same manner as provided in Section 22 and may condition or restrict any license, subject to the same terms and conditions as are provided for the Disciplinary Board under Section 22 of this Act.

(D) That if the applicant seeks to practice medicine in all of its branches:

(1) if the applicant was licensed in another jurisdiction prior to January 1, 1988, that the applicant has satisfied the educational requirements of paragraph (1) of subsection (A) or paragraph (2) of subsection (A) of Section 11 of this Act; or

(2) if the applicant was licensed in another jurisdiction after December 31, 1987,

that the applicant has satisfied the educational requirements of paragraph (A)(2) of Section 11 of this Act; and

(3) the requirements for a license to practice medicine in all of its branches in the particular state, territory, country or province in which the applicant is licensed are deemed by the Department to have been substantially equivalent to the requirements for a license to practice medicine in all of its branches in force in this State at the date of the applicant's license;

(E) That if the applicant seeks to treat human ailments without the use of drugs and without operative surgery:

(1) the applicant is a graduate of a chiropractic school or college approved by the Department at the time of their graduation;

(2) the requirements for the applicant's license to practice the treatment of human ailments without the use of drugs are deemed by the Department to have been substantially equivalent to the requirements for a license to practice in this State at the date of the applicant's license;

(F) That the Department may, in its discretion, issue a license by endorsement to any graduate of a medical or osteopathic college, reputable and in good standing in the judgment of the Department, who has passed an examination for admission to the United States Public Health Service, or who has passed any other examination deemed by the Department to have been at least equal in all substantial respects to the examination required for admission to any such medical corps;

(G) That applications for licenses by endorsement shall be filed with the Department, under oath, on forms prepared and furnished by the Department, and shall set forth, and applicants therefor shall supply such information respecting the life, education, professional practice, and moral character of applicants as the Department may require to be filed for its use;

(H) That the applicant undergo the criminal background check established under Section 9.7 of this Act.

In the exercise of its discretion under this Section, the Department is empowered to consider and evaluate each applicant on an individual basis. It may take into account, among other things: the extent to which the applicant will bring unique experience and skills to the State of Illinois or ~~,~~ the extent to which there is or is not available to the Department~~,~~ authentic and definitive information concerning the quality of medical education and clinical training which the applicant has had. Under no circumstances shall a license be issued under the provisions of this Section to any person who has previously taken and failed the written examination conducted by the Department for such license. In the exercise of its discretion under this Section, the Department may require an applicant to successfully complete an examination as recommended by the Licensing Board. The Department may also request the applicant to submit, and may consider as evidence of moral character, evidence from 2 or 3 individuals licensed under this Act. Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fees shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.
(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/21) (from Ch. 111, par. 4400-21)

(Section scheduled to be repealed on December 31, 2014)

Sec. 21. License renewal; reinstatement ~~restoration~~; inactive status; disposition and collection of fees.

(A) Renewal. The expiration date and renewal period for each license issued under this Act shall be set by rule. The holder of a license may renew the license by paying the required fee. The holder of a license may also renew the license within 90 days after its expiration by complying with the requirements for renewal and payment of an additional fee. A license renewal within 90 days after expiration shall be effective retroactively to the expiration date.

The Department shall mail to each licensee under this Act, at his or her address of record, at least 60 days in advance of the expiration date of his or her license, a renewal notice. No such license shall be deemed to have lapsed until 90 days after the expiration date and after such notice has been mailed by the Department as herein provided.

(B) Reinstatement ~~Restoration.~~ Any licensee who has permitted his or her license to lapse or who has had his or her license on inactive status may have his or her license reinstated ~~restored~~ by making application to the Department and filing proof acceptable to the Department of his or her fitness to have the license reinstated ~~restored~~, including evidence certifying to active practice in another jurisdiction satisfactory to the Department, proof of meeting the continuing education requirements for one renewal period, and by paying the required reinstatement ~~restoration~~ fee.

If the licensee has not maintained an active practice in another jurisdiction satisfactory to the Department, the Licensing Board shall determine, by an evaluation program established by rule, the applicant's fitness to resume active status and may require the licensee to complete a period of evaluated

clinical experience and may require successful completion of a practical examination specified by the Licensing Board.

However, any registrant whose license has expired while he or she has been engaged (a) in Federal Service on active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, the Public Health Service or the State Militia called into the service or training of the United States of America, or (b) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license reinstated ~~or restored~~ without paying any lapsed renewal fees, if within 2 years after honorable termination of such service, training, or education, he or she furnishes to the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

(C) Inactive licenses. Any licensee who notifies the Department, in writing on forms prescribed by the Department, may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

Any licensee requesting reinstatement ~~restoration~~ from inactive status shall be required to pay the current renewal fee, provide proof of meeting the continuing education requirements for the period of time the license is inactive not to exceed one renewal period, and shall be required to reinstate ~~restore~~ his or her license as provided in subsection (B).

Any licensee whose license is in an inactive status shall not practice in the State of Illinois.

(D) Disposition of monies collected. All monies collected under this Act by the Department shall be deposited in the Illinois State Medical Disciplinary Fund in the State Treasury, and used only for the following purposes: (a) by the Disciplinary Board and Licensing Board in the exercise of its powers and performance of its duties, as such use is made by the Department with full consideration of all recommendations of the Disciplinary Board and Licensing Board, (b) for costs directly related to persons licensed under this Act, and (c) for direct and allocable indirect costs related to the public purposes of the Department.

Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law (20 ILCS 2105/2105-300).

The State Comptroller shall order and the State Treasurer shall transfer an amount equal to $1,100,000 from the Illinois State Medical Disciplinary Fund to the Local Government Tax Fund on each of the following dates: July 1, 2014, October 1, 2014, January 1, 2015, July 1, 2017, October 1, 2017, and January 1, 2018. These transfers shall constitute repayment of the $6,600,000 transfer made under Section 6z-18 of the State Finance Act.

All earnings received from investment of monies in the Illinois State Medical Disciplinary Fund shall be deposited in the Illinois State Medical Disciplinary Fund and shall be used for the same purposes as fees deposited in such Fund.

(E) Fees. The following fees are nonrefundable.

(1) Applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining the applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

(2) Before July 1, 2018, the fee for a license under Section 9 of this Act is $700. Beginning on July 1, 2018, the fee for a license under Section 9 of this Act is $500.

(3) Before July 1, 2018, the fee for a license under Section 19 of this Act is $700. Beginning on July 1, 2018, the fee for a license under Section 19 of this Act is $500.

(4) Before July 1, 2018, the fee for the renewal of a license for a resident of Illinois shall be calculated at the rate of $230 per year, and beginning on July 1, 2018, the fee for the renewal of a license shall be $167, except for licensees who were issued a license within 12 months of the expiration date of the license, before July 1, 2018, the fee for the renewal shall be $230, and beginning on July 1, 2018 that fee will be $167. Before July 1, 2018, the fee for the renewal of a license for a nonresident shall be calculated at the rate of $460 per year, and beginning on July 1, 2018, the fee for the renewal of a license for a nonresident shall be $250, except for licensees who were issued a license within 12 months of the expiration date of the license, before July 1, 2018, the fee for the renewal shall be $460, and beginning on July 1, 2018 that fee will be $250.

(5) The fee for the reinstatement ~~restoration~~ of a license other than from inactive status, is $230. In addition, payment of all lapsed renewal fees not to exceed $1,400 is required.

(6) The fee for a 3-year temporary license under Section 17 is $230.

(7) The fee for the issuance of a duplicate license, for the issuance of a replacement

license for a license which has been lost or destroyed, or for the issuance of a license with a change of name or address other than during the renewal period is $20. No fee is required for name and address changes on Department records when no duplicate license is issued.

(8) The fee to be paid for a license record for any purpose is $20.

(9) The fee to be paid to have the scoring of an examination, administered by the Department, reviewed and verified, is $20 plus any fees charged by the applicable testing service.

(10) The fee to be paid by a licensee for a wall certificate showing his or her license shall be the actual cost of producing the certificate as determined by the Department.

(11) The fee for a roster of persons licensed as physicians in this State shall be the actual cost of producing such a roster as determined by the Department.

(F) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or permit ~~certificate~~ or deny the application, without hearing. If, after termination or denial, the person seeks a license or permit ~~certificate~~, he or she shall apply to the Department for reinstatement ~~restoration~~ or issuance of the license or permit ~~certificate~~ and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for reinstatement ~~restoration~~ of a license or permit ~~certificate~~ to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 97-622, eff. 11-23-11; 98-3, eff. 3-8-13.)

(225 ILCS 60/22) (from Ch. 111, par. 4400-22)

(Section scheduled to be repealed on December 31, 2014)

Sec. 22. Disciplinary action.

(A) The Department may revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under this Act ~~to practice medicine, or a chiropractic physician~~, including imposing fines not to exceed $10,000 for each violation, upon any of the following grounds:

(1) Performance of an elective abortion in any place, locale, facility, or institution other than:

(a) a facility licensed pursuant to the Ambulatory Surgical Treatment Center Act;

(b) an institution licensed under the Hospital Licensing Act;

(c) an ambulatory surgical treatment center or hospitalization or care facility maintained by the State or any agency thereof, where such department or agency has authority under law to establish and enforce standards for the ambulatory surgical treatment centers, hospitalization, or care facilities under its management and control;

(d) ambulatory surgical treatment centers, hospitalization or care facilities maintained by the Federal Government; or

(e) ambulatory surgical treatment centers, hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation.

(2) Performance of an abortion procedure in a wilful and wanton manner on a woman who was not pregnant at the time the abortion procedure was performed.

(3) A plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States of any crime that is a felony.

(4) Gross negligence in practice under this Act.

(5) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(6) Obtaining any fee by fraud, deceit, or misrepresentation.

(7) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances which results in the inability to practice with reasonable judgment, skill or safety.

(8) Practicing under a false or, except as provided by law, an assumed name.

(9) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(10) Making a false or misleading statement regarding their skill or the efficacy or value of the medicine, treatment, or remedy prescribed by them at their direction in the treatment of any disease or other condition of the body or mind.

(11) Allowing another person or organization to use their license, procured under this Act, to practice.

(12) Adverse ~~Disciplinary~~ action taken by ~~of~~ another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof. This includes any adverse action taken by a State or federal agency that prohibits a medical doctor, doctor of osteopathy, doctor of osteopathic medicine, or doctor of chiropractic from providing services to the agency's participants.

(13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Secretary, after consideration of the recommendation of the Disciplinary Board.

(14) Violation of the prohibition against fee splitting in Section 22.2 of this Act.

(15) A finding by the Disciplinary Board that the registrant after having his or her license placed on probationary status or subjected to conditions or restrictions violated the terms of the probation or failed to comply with such terms or conditions.

(16) Abandonment of a patient.

(17) Prescribing, selling, administering, distributing, giving or self-administering any drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(18) Promotion of the sale of drugs, devices, appliances or goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine, or the treating, operating or prescribing for any human condition by a method, means or procedure which the licensee refuses to divulge upon demand of the Department.

(20) Immoral conduct in the commission of any act including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice.

(21) Wilfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(22) Wilful omission to file or record, or wilfully impeding the filing or recording, or inducing another person to omit to file or record, medical reports as required by law, or wilfully failing to report an instance of suspected abuse or neglect as required by law.

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

(25) Gross and wilful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing such false statements for collection of monies for services not rendered from the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Illinois Public Aid Code.

(26) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill or safety.

(28) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice under this Act with reasonable judgment, skill or safety.

(29) Cheating on or attempt to subvert the licensing examinations administered under

this Act.

(30) Wilfully or negligently violating the confidentiality between physician and patient except as required by law.

(31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.

(32) Aiding and abetting an individual not licensed under this Act in the practice of a profession licensed under this Act.

(33) Violating state or federal laws or regulations relating to controlled substances, legend drugs, or ephedra as defined in the Ephedra Prohibition Act.

(34) Failure to report to the Department any adverse final action taken against them by another licensing jurisdiction (any other state or any territory of the United States or any foreign state or country), by any peer review body, by any health care institution, by any professional society or association related to practice under this Act, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(35) Failure to report to the Department surrender of a license or authorization to practice as a medical doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(36) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(37) Failure to provide copies of medical records as required by law.

(38) Failure to furnish the Department, its investigators or representatives, relevant information, legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.

(39) Violating the Health Care Worker Self-Referral Act.

(40) Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995.

(41) Failure to establish and maintain records of patient care and treatment as required by this law.

(42) Entering into an excessive number of written collaborative agreements with licensed advanced practice nurses resulting in an inability to adequately collaborate.

(43) Repeated failure to adequately collaborate with a licensed advanced practice nurse.

(44) Violating the Compassionate Use of Medical Cannabis Pilot Program Act.

(45) Entering into an excessive number of written collaborative agreements with licensed prescribing psychologists resulting in an inability to adequately collaborate.

(46) Repeated failure to adequately collaborate with a licensed prescribing psychologist.

Except for actions involving the ground numbered (26), all proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9), (26), and (29), no action shall be commenced more than 10 years after the date of the incident or act alleged to have violated this Section. For actions involving the ground numbered (26), a pattern of practice or other behavior includes all incidents alleged to be part of the pattern of practice or other behavior that occurred, or a report pursuant to Section 23 of this Act received, within the 10-year period preceding the filing of the complaint. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of 2 years from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Departmental order based upon a finding by the Disciplinary Board that they have been determined to be recovered from mental illness by the court and upon the Disciplinary Board's recommendation that they be permitted to resume their practice.

The Department may refuse to issue or take disciplinary action concerning the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied as determined by the Illinois Department of Revenue.

The Department, upon the recommendation of the Disciplinary Board, shall adopt rules which set forth standards to be used in determining:

(a) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(b) what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and

(d) what constitutes gross negligence in the practice of medicine.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Disciplinary Board or the Licensing Board, upon a showing of a possible violation, may compel, in the case of the Disciplinary Board, any individual who is licensed to practice under this Act or holds a permit to practice under this Act, or, in the case of the Licensing Board, any individual who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination and evaluation, or both, which may include a substance abuse or sexual offender evaluation, as required by the Licensing Board or Disciplinary Board and at the expense of the Department. The Disciplinary Board or Licensing Board shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination and evaluation, or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed chiropractic physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination and evaluation pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing. The Disciplinary Board, the Licensing Board, or the Department may order the examining physician or any member of the multidisciplinary team to provide to the Department, the Disciplinary Board, or the Licensing Board any and all records, including business records, that relate to the examination and evaluation, including any supplemental testing performed. The Disciplinary Board, the Licensing Board, or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this examination and evaluation of the licensee, permit holder, or applicant, including testimony concerning any supplemental testing or documents relating to the examination and evaluation. No information, report, record, or other documents in any way related to the examination and evaluation shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee, permit holder, or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee, permit holder, or applicant ordered to undergo an evaluation and examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination and evaluation, or both, when directed, shall result in an automatic suspension, without hearing, until such time as the individual submits to the examination. If the Disciplinary Board or Licensing Board finds a physician unable to practice following an examination and evaluation because of the reasons set forth in this Section, the Disciplinary Board or Licensing Board shall require such physician to submit to care, counseling, or treatment by physicians, or other health care professionals, approved or designated by the Disciplinary Board, as a condition for issued, continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated,

renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Secretary for a determination as to whether the licensee shall have their license suspended immediately, pending a hearing by the Disciplinary Board. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Disciplinary Board within 15 days after such suspension and completed without appreciable delay. The Disciplinary Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Disciplinary Board that they can resume practice in compliance with acceptable and prevailing standards under the provisions of their license.

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed $10,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Medical Disciplinary Fund.

All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

(B) The Department shall revoke the license or permit issued under this Act to practice medicine or a chiropractic physician who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or permit is revoked under this subsection B shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Disciplinary Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Board's recommendation, the Department shall impose, for the first violation, a civil penalty of $1,000 and for a second or subsequent violation, a civil penalty of $5,000.

(Source: P.A. 97-622, eff. 11-23-11; 98-601, eff. 12-30-13; 98-668, eff. 6-25-14.)

(225 ILCS 60/24) (from Ch. 111, par. 4400-24)

(Section scheduled to be repealed on December 31, 2014)

Sec. 24. Report of violations; medical associations.

(a) Any physician licensed under this Act, the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Chiropractic Society, the Illinois Prairie State Chiropractic Association, or any component societies of any of these 4 groups, and any other person, may report to the Disciplinary Board any information the physician, association, society, or person may have that appears to show that a physician is or may be in violation of any of the provisions of Section 22 of this Act.

(b) The Department may enter into agreements with the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Prairie State Chiropractic Association, or the Illinois Chiropractic Society to allow these organizations to assist the Disciplinary Board in the review of alleged violations of this Act. Subject to the approval of the Department, any organization party to such an agreement may subcontract with other individuals or organizations to assist in review.

(c) Any physician, association, society, or person participating in good faith in the making of a report under this Act or participating in or assisting with an investigation or review under this Act shall have immunity from any civil, criminal, or other liability that might result by reason of those actions.

(d) The medical information in the custody of an entity under contract with the Department participating in an investigation or review shall be privileged and confidential to the same extent as are information and reports under the provisions of Part 21 of Article VIII of the Code of Civil Procedure.

(e) Upon request by the Department after a mandatory report has been filed with the Department, an attorney for any party seeking to recover damages for injuries or death by reason of medical, hospital, or other healing art malpractice shall provide patient records related to the physician involved in the disciplinary proceeding to the Department within 30 days of the Department's request for use by the Department in any disciplinary matter under this Act. An attorney who provides patient records to the

Department in accordance with this requirement shall not be deemed to have violated any attorney-client privilege. Notwithstanding any other provision of law, consent by a patient shall not be required for the provision of patient records in accordance with this requirement.

(f) For the purpose of any civil or criminal proceedings, the good faith of any physician, association, society or person shall be presumed.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/33) (from Ch. 111, par. 4400-33)

(Section scheduled to be repealed on December 31, 2014)

Sec. 33. Legend drugs.

(a) Any person licensed under this Act to practice medicine in all of its branches shall be authorized to purchase legend drugs requiring an order of a person authorized to prescribe drugs, and to dispense such legend drugs in the regular course of practicing medicine. The dispensing of such legend drugs shall be the personal act of the person licensed under this Act and may not be delegated to any other person not licensed under this Act or the Pharmacy Practice Act unless such delegated dispensing functions are under the direct supervision of the physician authorized to dispense legend drugs. Except when dispensing manufacturers' samples or other legend drugs in a maximum 72 hour supply, persons licensed under this Act shall maintain a book or file of prescriptions as required in the Pharmacy Practice Act. Any person licensed under this Act who dispenses any drug or medicine shall dispense such drug or medicine in good faith and shall affix to the box, bottle, vessel or package containing the same a label indicating (1) ~~(a)~~ the date on which such drug or medicine is dispensed; (2) ~~(b)~~ the name of the patient; (3) ~~(c)~~ the last name of the person dispensing such drug or medicine; (4) ~~(d)~~ the directions for use thereof; and (5) ~~(e)~~ the proprietary name or names or, if there are none, the established name or names of the drug or medicine, the dosage and quantity, except as otherwise authorized by regulation of the Department.

(b) The ~~foregoing~~ labeling requirements set forth in subsection (a) shall not apply to drugs or medicines in a package which bears a label of the manufacturer containing information describing its contents which is in compliance with requirements of the Federal Food, Drug, and Cosmetic Act and the Illinois Food, Drug, and Cosmetic Act. "Drug" and "medicine" have the meanings ~~meaning~~ ascribed to them in the Pharmacy Practice Act, as now or hereafter amended; "good faith" has the meaning ascribed to it in subsection (u) ~~(v)~~ of Section 102 of the Illinois Controlled Substances Act. ~~"Illinois Controlled Substances Act", approved August 16, 1971, as amended.~~

(c) Prior to dispensing a prescription to a patient, the physician shall offer a written prescription to the patient which the patient may elect to have filled by the physician or any licensed pharmacy.

(d) A violation of any provision of this Section shall constitute a violation of this Act and shall be grounds for disciplinary action provided for in this Act.

(e) Nothing in this Section shall be construed to authorize a chiropractic physician to prescribe drugs.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/36) (from Ch. 111, par. 4400-36)

(Section scheduled to be repealed on December 31, 2014)

Sec. 36. Investigation; notice.

(a) Upon the motion of either the Department or the Disciplinary Board or upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for suspension or revocation under Section 22 of this Act, the Department shall investigate the actions of any person, so accused, who holds or represents that they hold a license. Such person is hereinafter called the accused.

(b) The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Disciplinary Board, direct them to file their written answer thereto to the Disciplinary Board under oath within 20 days after the service on them of such notice and inform them that if they fail to file such answer default will be taken against them and their license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of their practice, as the Department may deem proper taken with regard thereto. The Department shall, at least 14 days prior to the date set for the hearing, notify in writing any person who filed a complaint against the accused of the time and place for the hearing of the charges against the accused before the Disciplinary Board and inform such person whether he or she may provide testimony at the hearing.

(c) Where a physician has been found, upon complaint and investigation of the Department, and after hearing, to have performed an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was performed, the Department shall automatically revoke the license of such physician to practice medicine in Illinois.

(d) Such written notice and any notice in such proceedings thereafter may be served by delivery of the same, personally, to the accused person, or by mailing the same by registered or certified mail to the accused person's address of record.

(e) All information gathered by the Department during its investigation including information subpoenaed under Section 23 or 38 of this Act and the investigative file shall be kept for the confidential use of the Secretary, Disciplinary Board, the Medical Coordinators, persons employed by contract to advise the Medical Coordinator or the Department, the Disciplinary Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation to a health care licensing body of this State or another state or jurisdiction pursuant to an official request made by that licensing body. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense or, in the case of disclosure to a health care licensing body, only for investigations and disciplinary action proceedings with regard to a license issued by that licensing body.

(Source: P.A. 96-1372, eff. 7-29-10; 97-449, eff. 1-1-12; 97-622, eff. 11-23-11.)

(225 ILCS 60/37) (from Ch. 111, par. 4400-37)

(Section scheduled to be repealed on December 31, 2014)

Sec. 37. Disciplinary actions.

(a) At the time and place fixed in the notice, the Disciplinary Board provided for in this Act shall proceed to hear the charges, and the accused person shall be accorded ample opportunity to present in person, or by counsel, such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The Disciplinary Board may continue such hearing from time to time. If the Disciplinary Board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing has been continued, the Department shall continue such hearing for a period not to exceed 30 days.

(b) In case the accused person, after receiving notice, fails to file an answer, their license may, in the discretion of the Secretary, having received first the recommendation of the Disciplinary Board, be suspended, revoked or placed on probationary status, or the Secretary may take whatever disciplinary action as he or she may deem proper, including limiting the scope, nature, or extent of said person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(c) The Disciplinary Board has the authority to recommend to the Secretary that probation be granted or that other disciplinary or non-disciplinary action, including the limitation of the scope, nature or extent of a person's practice, be taken as it deems proper. If disciplinary or non-disciplinary action, other than suspension or revocation, is taken the Disciplinary Board may recommend that the Secretary impose reasonable limitations and requirements upon the accused registrant to insure compliance with the terms of the probation or other disciplinary action including, but not limited to, regular reporting by the accused to the Department of their actions, placing themselves under the care of a qualified physician for treatment, or limiting their practice in such manner as the Secretary may require.

(d) The Secretary, after consultation with the Chief Medical Coordinator or Deputy Medical Coordinator, may temporarily suspend the license of a physician without a hearing, simultaneously with the institution of proceedings for a hearing provided under this Section if the Secretary finds that evidence in his or her possession indicates that a physician's continuation in practice would constitute an immediate danger to the public. In the event that the Secretary suspends, temporarily, the license of a physician without a hearing, a hearing by the Disciplinary Board shall be held within 15 days after such suspension has occurred and shall be concluded without appreciable delay.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/38) (from Ch. 111, par. 4400-38)

(Section scheduled to be repealed on December 31, 2014)

Sec. 38. Subpoena; oaths.

(a) The Disciplinary Board or Department has power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as is prescribed by law for judicial procedure in civil cases.

(b) The Disciplinary Board, upon a determination that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 22 has occurred or is occurring, may subpoena the medical and hospital records of individual patients of physicians licensed under this Act, provided, that prior to the submission of such records to the Disciplinary Board, all information indicating the identity

of the patient shall be removed and deleted. Notwithstanding the foregoing, the Disciplinary Board and Department shall possess the power to subpoena copies of hospital or medical records in mandatory report cases under Section 23 alleging death or permanent bodily injury when consent to obtain records is not provided by a patient or legal representative. Prior to submission of the records to the Disciplinary Board, all information indicating the identity of the patient shall be removed and deleted. All medical records and other information received pursuant to subpoena shall be confidential and shall be afforded the same status as is proved information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure. The use of such records shall be restricted to members of the Disciplinary Board, the medical coordinators, and appropriate staff of the Department designated by the Disciplinary Board for the purpose of determining the existence of one or more grounds for discipline of the physician as provided for by Section 22 of this Act. Any such review of individual patients' records shall be conducted by the Disciplinary Board in strict confidentiality, provided that such patient records shall be admissible in a disciplinary hearing, before the Disciplinary Board, when necessary to substantiate the grounds for discipline alleged against the physician licensed under this Act, and provided further, that nothing herein shall be deemed to supersede the provisions of Part 21 of Article VIII of the "Code of Civil Procedure", as now or hereafter amended, to the extent applicable.

(c) The Secretary, and any member of the Disciplinary Board each have power to administer oaths at any hearing which the Disciplinary Board or Department is authorized by law to conduct.

(d) The Disciplinary Board, upon a determination that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 22 has occurred or is occurring on the business premises of a physician licensed under this Act, may issue an order authorizing an appropriately qualified investigator employed by the Department to enter upon the business premises with due consideration for patient care of the subject of the investigation so as to inspect the physical premises and equipment and furnishings therein. No such order shall include the right of inspection of business, medical, or personnel records located on the premises. For purposes of this Section, "business premises" is defined as the office or offices where the physician conducts the practice of medicine. Any such order shall expire and become void five business days after its issuance by the Disciplinary Board. The execution of any such order shall be valid only during the normal business hours of the facility or office to be inspected.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/40) (from Ch. 111, par. 4400-40)

(Section scheduled to be repealed on December 31, 2014)

Sec. 40. Findings and recommendations; rehearing.

(a) The Disciplinary Board shall present to the Secretary a written report of its findings and recommendations. A copy of such report shall be served upon the accused person, either personally or by registered or certified mail. Within 20 days after such service, the accused person may present to the Department their motion, in writing, for a rehearing, which written motion shall specify the particular ground therefor. If the accused person orders and pays for a transcript of the record as provided in Section 39, the time elapsing thereafter and before such transcript is ready for delivery to them shall not be counted as part of such 20 days.

(b) At the expiration of the time allowed for filing a motion for rehearing, the Secretary may take the action recommended by the Disciplinary Board. Upon the suspension, revocation, placement on probationary status, or the taking of any other disciplinary action, including the limiting of the scope, nature, or extent of one's practice, deemed proper by the Department, with regard to the license or ~~, certificate or visiting professor~~ permit, the accused shall surrender their license or permit to the Department, if ordered to do so by the Department, and upon their failure or refusal so to do, the Department may seize the same.

(c) Each ~~certificate of~~ order of revocation, suspension, or other disciplinary action shall contain a brief, concise statement of the ground or grounds upon which the Department's action is based, as well as the specific terms and conditions of such action. This document shall be retained as a permanent record by the Disciplinary Board and the Secretary.

(d) The Department shall at least annually publish a list of the names of all persons disciplined under this Act in the preceding 12 months. Such lists shall be available by the Department on its website.

(e) In those instances where an order of revocation, suspension, or other disciplinary action has been rendered by virtue of a physician's physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice medicine with reasonable judgment, skill, or safety, the Department shall only permit this document, and the record of the hearing incident thereto, to be observed, inspected, viewed, or copied pursuant to court order.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/41) (from Ch. 111, par. 4400-41)

(Section scheduled to be repealed on December 31, 2014)

Sec. 41. Administrative review; certification of record.

(a) All final administrative decisions of the Department are subject to judicial review pursuant to the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides; but if the party is not a resident of this State, the venue shall be in Sangamon County.

(c) The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Exhibits shall be certified without cost. Failure on the part of the plaintiff to file a receipt in court shall be grounds for dismissal of the action. During the pendency and hearing of any and all judicial proceedings incident to the disciplinary action the sanctions imposed upon the accused by the Department because of acts or omissions related to the delivery of direct patient care as specified in the Department's final administrative decision, shall as a matter of public policy remain in full force and effect in order to protect the public pending final resolution of any of the proceedings.
(Source: P.A. 97-622, eff. 11-23-11.)

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

Under the rules, the foregoing **Senate Bill No. 649**, with House Amendments numbered 1, 2 and 5, was referred to the Secretary's Desk.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 6291, sponsored by Senator McConnaughay, was taken up, read by title a first time and referred to the Committee on Assignments.

At the hour of 1:48 o'clock p.m., pursuant to **House Joint Resolution No. 116**, the Chair announced the Senate stand adjourned until Tuesday, December 2, 2014, at 12:00 o'clock noon, or until the call of the President.