

98TH GENERAL ASSEMBLY
State of Illinois
2013 and 2014
HB2615

Introduced 2/21/2013, by Rep. John E. Bradley - David Reis - Naomi D. Jakobsson - Mike Bost - Ann Williams, et al.

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.826 new

Creates the Illinois Hydraulic Fracturing Regulatory Act. Prohibits high volume horizontal hydraulic fracturing operations performed without a permit. Regulates where high volume horizontal hydraulic fracturing operations are proposed, planned, or occurring may be located. Provides requirements for permit applications, modification, suspension, and revocation of permits, insurance, well construction and drilling, disclosures, water quality monitoring, investigation and enforcement, violations and penalties, and administrative review. Authorizes the Department of Natural Resources to adopt rules as may be necessary to accomplish the purposes of this Act. Amends the State Finance Act. Creates the Mines and Minerals Regulatory Fund. Effective immediately.

LRB098 10864 MGM 41398 b

CORRECTIONAL BUDGET
AND IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT MAY
APPLY

A BILL FOR

HB2615

LRB098 10864 MGM 41398 b

1 AN ACT concerning regulation.

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

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

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

8 "Agency" means the Illinois Environmental Protection
9 Agency.

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

12 "Aquifer" means saturated (with groundwater) soils and
13 geologic materials that are sufficiently permeable to readily
14 yield economically useful quantities (at least 70 gallons per
15 minute) of fresh water to wells, springs, or streams under
16 ordinary hydraulic gradients.

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

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

21 "Chemical" means any element, chemical compound, or
22 mixture of elements or compounds that has its own specific name
23 or identity, such as a Chemical Abstracts Service number,

HB2615

- 2 -

LRB098 10864 MGM 41398 b

1 regardless of whether the chemical is subject to the
2 requirements of paragraph (2) of subsection (g) of 29 Code of
3 Federal Regulations §1910.1200.

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

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

10 "Completion combustion device" means any ignition device,

11 installed horizontally or vertically, used in exploration and
12 production operations to combust otherwise vented emissions.

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

15 "Department" means the Illinois Department of Natural
16 Resources.

17 "Director" means the Director of Natural Resources.

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

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

HB2615

- 3 -

LRB098 10864 MGM 41398 b

1 re-fracturing. "Flowback period" ends with either well shut in
2 or when the well is producing continuously to the flow line or
3 to a storage vessel for collection, whichever occurs first.

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

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

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

16 "Health professional" means a physician, physician
17 assistant, nurse practitioner, a registered professional
18 nurse, emergency medical technician, or other individual
19

20 appropriately licensed or registered to provide health care
21 services.

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

HB2615

- 4 -

LRB098 10864 MGM 41398 b

1 or gas.

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

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

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

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

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

26 "Hydraulic fracturing fluid" means the mixture of the base

HB2615

- 5 -

LRB098 10864 MGM 41398 b

1 fluid and all the hydraulic fracturing additives, used to
2 perform high volume horizontal hydraulic fracturing.

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

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

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

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

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

23 "Oil" means natural crude oil or petroleum and other
24 hydrocarbons, regardless of gravity, which are produced at the
25 well in liquid form by ordinary production methods or by the
26 use of an oil and gas separator and which are not the result of

HB2615

- 6 -

LRB098 10864 MGM 41398 b

1 condensation of gas after it leaves the underground reservoir.

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

5 "Owner" shall have the same meaning as provided in Section

6 1 of the Illinois Oil and Gas Act.

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

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

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

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

18 "Pollution or diminution" means:

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

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

22 (B) detection of any constituent in item (i) of
23 subparagraph (A) of paragraph (3) of subsection (a) of
24 35 Ill. Adm. Code 620.310 equal to or above the listed
25 preventive response criteria in any Class I, Class II,
26 or Class III groundwater;

HB2615

- 7 -

LRB098 10864 MGM 41398 b

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

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

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

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

14

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

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

24 "Public water supply" means all mains, pipes, and
25 structures through which water is obtained and distributed to
26 the public, including wells and well structures, intakes and
27 cribs, pumping stations, treatment plants, reservoirs, and

HB2615

- 8 -

LRB098 10864 MGM 41398 b

1 storage tanks and appurtenances, collectively or severally,
2 actually used or intended for use for the purpose of furnishing
3 water for drinking or general domestic use, and which serves at
4 least 15 service connections or which regularly serves at least
5 25 persons at least 60 days per year.

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

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

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

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

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

20 "Total water volume" means the total quantity of water from
21 all sources used in the high volume horizontal hydraulic
22

23 fracturing operations, including surface water, groundwater,
24 produced water, or recycled water.

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

HB2615

- 9 -

LRB098 10864 MGM 41398 b

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

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

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

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

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

24 "Wildlife" means any bird or mammal that are by nature wild
25 by way of distinction from those that are naturally tame and
26 are ordinarily living unconfined in a state of nature without

HB2615

- 10 -

LRB098 10864 MGM 41398 b

1 the care of man.

2 Section 10. Intergovernmental cooperation. The Department
3 shall have the primary authority to administer the provisions
4 of this Act. The Illinois State Geological Survey, the Illinois
5 State Water Survey, and the Agency shall be advised of high
6 volume horizontal hydraulic fracturing permit applications
7 received by the Department and lend assistance as required by
8 the provisions of this Act.

9 Section 15. Powers and duties.

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

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

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

24 (d) For the purpose of determining compliance with the

HB2615

- 11 -

LRB098 10864 MGM 41398 b

1 provisions of this Act and any orders or rules entered or
2 adopted under this Act, the Department shall have the right at
3 all times to go upon and inspect properties where high volume
4 horizontal hydraulic fracturing operations are being or have
5 been conducted.

6 (e) The Department shall make any inquiries as it may deem
7 proper to determine whether a violation of this Act or any
8 orders or rules entered or adopted under this Act exists or is

9 imminent. In the exercise of these powers, the Department shall
10 have the authority to collect data; require testing and
11 sampling; to make investigation and inspections; to examine
12 properties, including records and logs; to examine, check, and
13 test hydrocarbon wells; to hold hearings; to adopt
14 administrative rules; and to take any action as may be
15 reasonably necessary to enforce this Act.

16 (f) The Department may specify the manner in which all
17 information required to be submitted under this Act is
18 submitted.

19 Section 20. Applicability. This Act applies to all wells
20 where high volume horizontal hydraulic fracturing operations
21 are planned, have occurred, or are occurring in this State. The
22 provisions of this Act shall be in addition to the provisions
23 of the Illinois Oil and Gas Act. However, if there is a
24 conflict, the provisions of the Illinois Oil and Gas Act are
25 superseded by this Act.

HB2615

- 12 -

LRB098 10864 MGM 41398 b

1 Section 25. Setbacks and prohibitions.

2 (a) Except as otherwise provided in this Section, no well
3 site where high volume horizontal hydraulic fracturing
4 operations are proposed, planned, or occurring may be located
5 as follows. Unless specified otherwise, all distances shall be
6 measured from the closest edge of the well site:

7 (1) within 500 feet measured horizontally from any
8 residence or place of worship unless the owner of the
9 residence or the governing body of the place of worship
10 otherwise expressly agrees in writing to a closer well
11 location;

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

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

17 spring used for human or domestic animal consumption,
18 unless the owner or owners of the well or developed spring
19 otherwise expressly agrees or agree in writing to a closer
20 well location;

21 (4) within 300 feet measured horizontally from the
22 center of a perennial stream or from the ordinary high
23 water mark of any river, natural or artificial lake, pond,
24 or reservoir;

25 (5) within 750 feet of a nature preserve or a site on

HB2615

- 13 -

LRB098 10864 MGM 41398 b

1 the Register of Land and Water Reserves;

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

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

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

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

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

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

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

26

(d) It is unlawful to perform any high volume horizontal

HB2615

- 14 -

LRB098 10864 MGM 41398 b

1 hydraulic fracturing operations by knowingly or recklessly
2 injecting diesel or any petroleum distillates.

3 Section 30. High volume horizontal hydraulic fracturing
4 permit required.

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

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

18 Section 35. High volume horizontal hydraulic fracturing
19 permit application.

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

HB2615

- 15 -

LRB098 10864 MGM 41398 b

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

3 (2) disclosure of all findings of a serious violation
4 or an equivalent violation under federal or state laws or

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

9 (3) proof of insurance to cover injuries, damages, or
10 loss related to pollution or diminution in the amount of at
11 least \$5,000,0000, from an insurance carrier authorized,
12 licensed, or permitted to do this insurance business in
13 this State that holds at least an A- rating by A.M. Best &
14 Co. or any comparable rating service.

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

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

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

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

26 (3) a statement whether the proposed location of the

HB2615

- 16 -

LRB098 10864 MGM 41398 b

1 well site is in compliance with the requirements of Section
2 25 of this Act and a plat, which shows the proposed surface
3 location of the well site, providing the distance in feet,
4 from the surface location of the well site to the features
5 described in subsection (a) of Section 25 of this Act;

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

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

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

13

- 14 (C) the actual depth or the approximate depth at
which the well to be drilled deviates from vertical;
- 15 (D) the angle and direction of any nonvertical
16 portion of the wellbore until the well reaches its
17 total target depth or its actual final depth; and
- 18 (E) the estimated length and direction of the
19 proposed horizontal lateral or wellbore;
- 20 (5) the estimated depth and elevation, according to the
21 most recent publication of the Illinois State Geological
22 Survey of Groundwater for the location of the well, of the
23 lowest potential fresh water along the entire length of the
24 proposed wellbore;
- 25 (6) a detailed description of the proposed high volume
26 horizontal hydraulic fracturing operations, including, but

HB2615

- 17 -

LRB098 10864 MGM 41398 b

- 1 not limited to, the following:
- 2 (A) the formation affected by the high volume
3 horizontal hydraulic fracturing operations, including,
4 but not limited to, geologic name and geologic
5 description of the formation that will be stimulated by
6 the operation;
- 7 (B) the anticipated surface treating pressure
8 range;
- 9 (C) the maximum anticipated injection treating
10 pressure;
- 11 (D) the estimated or calculated fracture pressure
12 of the producing and confining zones; and
- 13 (E) the planned depth of all proposed perforations
14 or depth to the top of the open hole section;
- 15 (7) plat showing all known previous well bores within
16 750 feet of any part of the horizontal well bore that
17 penetrated within 400 vertical feet of the formation that
18 will be stimulated as part of the high volume horizontal
19 hydraulic fracturing operations;
- 20 (8) unless the applicant documents why the information
21

22 is not available at the time the application is submitted,
23 a chemical disclosure report identifying each chemical and
24 proppant anticipated to be used in hydraulic fracturing
25 fluid for each stage of the hydraulic fracturing operations
26 including the following:

(A) the total volume of water anticipated to be

HB2615

- 18 -

LRB098 10864 MGM 41398 b

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

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

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

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

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

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

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

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

HB2615

- 19 -

LRB098 10864 MGM 41398 b

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

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

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

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

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

HB2615

- 20 -

LRB098 10864 MGM 41398 b

1 (12) a well site safety plan to address proper safety
2 measures to be employed during high volume horizontal
3 hydraulic fracturing operations for the protection of
4 persons on the site as well as the general public. Within
5 15 calendar days after submitting the permit application to
6 the Department, the applicant must provide a copy of the

- 7 plan to the county or counties in which hydraulic
8 fracturing operations will occur;
- 9 (13) a containment plan describing the containment
10 practices and equipment to be used and the area of the well
11 site where containment systems will be employed;
- 12 (14) a casing and cementing plan that describes the
13 casing and cementing practices to be employed, including
14 the size of each string of pipe, the starting point, and
15 depth to which each string is to be set and the extent to
16 which each string is to be cemented;
- 17 (15) a traffic management plan that identifies the
18 anticipated roads, streets, and highways that will be used
19 for access to and egress from the well site. The traffic
20 management plan will include a point of contact to discuss
21 issues related to traffic management. Within 10 calendar
22 days after submitting the permit application to the
23 Department, the applicant must provide a copy of the
24 traffic management plan to the county or counties in which
25 the well site is located;
- 26 (16) the names and addresses of all owners of any real

HB2615

- 21 -

LRB098 10864 MGM 41398 b

- 1 property within 1,500 feet of the proposed well site, as
2 disclosed by the records in the office of the recorder of
3 the county or counties;
- 4 (17) drafts of the specific public notice and general
5 public notice as required by Section 40 of this Act;
- 6 (18) statement that the well site at which the high
7 volume horizontal hydraulic fracturing operation will be
8 conducted will be restored in compliance with Section
9 240.1181 of Title 62 of the Illinois Administrative Code
10 and Section 95 of this Act;
- 11 (19) proof of insurance to cover injuries, damages, or
12 loss related to pollution in the amount of at least
13 \$5,000,000; and
- 14 (20) any other relevant information which the
15

Department may, by rule, require.

16 (c) Where an application is made to conduct high volume
17 horizontal fracturing operations at a well site located within
18 the limits of any city, village, or incorporated town, the
19 application shall state the name of the city village, or
20 incorporated town and be accompanied with a certified copy of
21 the official consent for the hydraulic fracturing operations to
22 occur of the municipal authorities where the well site is
23 proposed to be located. No permit shall be issued unless
24 consent is secured and filed with the permit application. In
25 the event that an amended location is selected, the original
26 permit shall not be valid unless a new certified consent is

HB2615

- 22 -

LRB098 10864 MGM 41398 b

1 filed for the amended location.

2 (d) The hydraulic fracturing permit application shall be
3 accompanied by a bond as required by subsection (a) of Section
4 65 of this Act.

5 (e) Each application for a permit under this Act shall
6 include payment of a non-refundable permit fee. The applicable
7 permit fee shall be deposited into the Mines and Minerals
8 Regulatory Fund for the Department to use to administer and
9 enforce this Act and otherwise support the operations and
10 programs of the Office of Mines and Minerals. The Department
11 shall not initiate its review of the permit application until
12 the applicable fee under this subsection has been submitted to
13 and received by the Department.

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

21 "I certify, under penalty of perjury as provided by law
22 and under penalty of refusal, suspension, or revocation of
23

24 a high volume horizontal hydraulic fracturing permit, that
25 this application and all attachments are true, accurate,
26 and complete to the best of my knowledge".
(g) The permit application shall be submitted to the

HB2615

- 23 -

LRB098 10864 MGM 41398 b

1 Department in both electronic and hard copy format. The
2 electronic format shall be searchable.

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

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

23 If at any time during the review period the Department
24 determines that the permit application is not complete under
25 this Act, does not meet the requirements of this Section, or
26 requires additional information, the Department shall notify

HB2615

- 24 -

LRB098 10864 MGM 41398 b

1 the applicant in writing of the application's deficiencies and
2 allow the applicant to correct the deficiencies and provide the
3 Department any information requested to complete the
4 application. If the applicant fails to provide adequate
5 supplemental information within the review period, the
6 Department may reject the application.

7 Section 40. Public notice.

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

14 (b) Within 5 calendar days after the Department's receipt
15 of the permit application and notice to the applicant that the
16 high volume horizontal hydraulic fracturing permit application
17 was received, the Department shall provide the Agency, Illinois
18 State Water Survey, and Illinois State Geological Survey with
19 notice of the application.

20 (c) Upon notification that the Department has received the
21 high volume horizontal hydraulic fracturing permit
22 application, the applicant shall provide the following public
23 notice:

24 (1) Applicants shall mail specific public notice by
25 U.S. Postal Service certified mail, return receipt

HB2615

- 25 -

LRB098 10864 MGM 41398 b

1 requested, within 5 calendar days after notification by the
2 Department that the permit application was received, to all
3 persons identified as owners of real property within 1,500
4 feet of the proposed well site, as disclosed by the records
5 in the office of the recorder of the county or counties,
6 and to each municipality and county in which the well site
7 is proposed to be located.

8 (2) Applicants shall provide general public notice by
9 publication, once each week for 2 consecutive weeks

10 beginning no later than 3 calendar days after notification
11 by the Department that the permit application was received,
12 in a newspaper of general circulation published in each
13 county where the well proposed for high volume horizontal
14 hydraulic fracturing operations is proposed to be located.

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

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

19 (B) the date the application for high volume
20 horizontal hydraulic fracturing permit was filed;

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

26 (D) the proposed well name, reference number

HB2615

- 26 -

LRB098 10864 MGM 41398 b

1 assigned by the Department, and the address and legal
2 description of the well site and its unit area;

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

7 (F) the Department's website and the address and
8 telephone number for the Department's Oil and Gas
9 Division;

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

16 (d) After providing the public notice as required under
17 paragraph (2) of subsection (c) of this Section, the applicant

18

19 shall supplement its permit application by providing the
20 Department with a certification and documentation that the
21 applicant fulfilled the public notice requirements of this
22 Section. The Department shall not issue a permit until the
23 applicant has provided the supplemental material required
under this subsection.

24 (e) If multiple applications are submitted at the same time
25 for wells located on the same well site, the applicant may use
26 one public notice for all applications provided the notice is

HB2615

- 27 -

LRB098 10864 MGM 41398 b

1 clear that it pertains to multiple applications and conforms to
2 the requirements of this Section. Notice shall not constitute
3 standing for purposes of requesting a public hearing or for
4 standing to appeal the decision of the Department in accordance
5 with the Administrative Review Law.

6 Section 45. Public comment periods.

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

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

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

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

24 Section 50. High volume horizontal hydraulic fracturing

HB2615

- 28 -

LRB098 10864 MGM 41398 b

1 permit; hearing.

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

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

HB2615

- 29 -

LRB098 10864 MGM 41398 b

1 that the petition is frivolous, or that the petitioner has
2 failed to allege facts in support of an interest that is or may
3 be adversely affected, the petitioner shall be allowed to
4 participate in the hearing in the same manner as the party

5 requesting the hearing.

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

HB2615

- 30 -

LRB098 10864 MGM 41398 b

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

5 Section 53. High volume horizontal hydraulic fracturing
6 permit; determination; judicial review.

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

11 (1) the well location restrictions of Section 25 of
12 this Act have been satisfied;

13 (2) the application meets the requirements of Section
14 35 of this Act;

15 (3) the plans required to be submitted with the
16 application under Section 35 of this Act are adequate and
17 effective;

18 (4) the proposed hydraulic fracturing operations will
19 be conducted in a manner that will protect the public
20 health and safety and prevent pollution or diminution of
21 any water source;

22 (5) the work plan required under Section 80 of this Act
23 has been submitted to the Department;

24 (6) the applicant or any parent, subsidiary, or
25 affiliate thereof has not failed to abate a violation of

HB2615

- 31 -

LRB098 10864 MGM 41398 b

1 this Act or the Illinois Oil and Gas Act;

2 (7) the Class II injection wells to be used for
3 disposal of hydraulic fracturing flowback comply with all
4 applicable requirements for mechanical integrity testing,
5 including that the well has been tested within the previous
6 5 years; and

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

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

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

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

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

20 (4) any information known to the Department as the
21 public entity responsible for regulating high volume
22

horizontal hydraulic fracturing operations, including, but
23 not limited to, inspections of the proposed well site as
24 necessary to ensure adequate review of the application.
25 (c) The Department shall, by U.S. Mail and electronic
26 transmission, provide the applicant with a copy of the high

HB2615

- 32 -

LRB098 10864 MGM 41398 b

1 volume horizontal hydraulic fracturing permit as issued or its
2 final administrative decision denying the permit to the
3 applicant and shall, by U.S. Mail or electronic transmission,
4 provide a copy of the permit as issued or the final
5 administrative decision to any person or unit of local
6 government who received specific public notice under Section 40
7 of this Act or submitted comments or participated in any public
8 hearing under Section 50 of this Act.

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

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

19 Section 55. High volume horizontal hydraulic fracturing
20 permit; conditions; restriction; modifications.

21 (a) Each permit issued by the Department under this Act
22 shall require the permittee to comply with all provisions of
23 this Act and all other applicable local, State, and federal
24 laws, rules, and regulations in effect at the time the permit
25 is issued. All plans submitted with the application under

HB2615

- 33 -

LRB098 10864 MGM 41398 b

1 Section 35 shall be conditions of the permit.

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

7 (c) No permit issued under this Act may be modified without
8 approval of the Department. If the Department determines that
9 the proposed modifications constitute a significant deviation
10 from the terms of the original application and permit approval,
11 or presents a serious risk to public health, life, property,
12 aquatic life, or wildlife, the Department shall provide the
13 opportunities for comment and hearing required under Sections
14 45 and 50 of this Act. The Department shall provide notice of
15 the proposed modification and opportunity for comment and
16 hearing to the persons who received specific public notice
17 under Section 40 of this Act and shall publish the notice and
18 the proposed modification on its website. When applying for a
19 modified permit, the permittee shall submit a modification fee
20 to the Department. The fee shall be deposited into the Mines
21 and Minerals Regulatory Fund. The Department shall adopt rules
22 regarding procedures for a permit modification.

23 Section 60. High volume horizontal hydraulic fracturing
24 permit; denial, suspension, or revocation.

25 (a) The Department may suspend, revoke, or refuse to issue

HB2615

- 34 -

LRB098 10864 MGM 41398 b

1 a high volume horizontal hydraulic fracturing permit under this
2 Act for one or more of the following causes:

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

6 (2) violating any condition of the permit;

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

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

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

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

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

HB2615

- 35 -

LRB098 10864 MGM 41398 b

1 (c) The order of suspension or revocation of a permit shall
2 take effect upon issuance of the order. The permittee may
3 request, in writing, within 30 days after the date of receiving
4 the notice, a hearing. Except as provided under subsection (d)
5 of this Section, in the event a hearing is requested, the order
6 shall remain in effect until a final order is entered pursuant
7 to the hearing.

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

13 (e) The hearing shall be held at a time and place
14 designated by the Department. The Director of the Department or
15 any administrative law judge designated by him or her have the
16 power to administer oaths and affirmations, subpoena witnesses
17

18 and compel their attendance, take evidence, and require the
19 production of books, papers, correspondence, and other records
or information that he or she considers relevant or material.

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

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

25 Section 65. Hydraulic fracturing permit; bonds.

HB2615

- 36 -

LRB098 10864 MGM 41398 b

1 (a) An applicant for a high volume horizontal hydraulic
2 fracturing permit under this Act shall provide a bond, executed
3 by a surety authorized to transact business in this State. The
4 bond shall be in the amount of \$50,000 per permit or a blanket
5 bond of \$500,000 for all permits. If the applicant is required
6 to submit a bond to the Department under the Illinois Oil and
7 Gas Act, the applicant's submission of a bond under this
8 Section shall satisfy the bonding requirements provided for in
9 the Illinois Oil and Gas Act. In lieu of a bond, the applicant
10 may provide other collateral securities such as cash,
11 certificates of deposit, or irrevocable letters of credit under
12 the terms and conditions as the Department may provide by rule.

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

22 (c) If, after notice and hearing, the Department determines
23 that any of the requirements of this Act or rules adopted under
24 this Act or the orders of the Department have not been complied
25 with within the time limit set by any notice of violation

26 issued under this Act, the permittee's bond or other collateral

HB2615

- 37 -

LRB098 10864 MGM 41398 b

1 securities shall be forfeited. Forfeiture under this
2 subsection shall not limit any duty of the permittee to
3 mitigate or remediate harms or foreclose enforcement by the
4 Department or the Agency. In no way will payment under this
5 bond exceed the aggregate penalty as specified.

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

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

15 Section 70. Well preparation, construction, and drilling.

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

22 (b) Site preparation standards shall be as follows:

23 (1) The access road to the well site must be located in
24 accordance with access rights identified in the Illinois
25 Oil and Gas Act and located as far as practical from

HB2615

- 38 -

LRB098 10864 MGM 41398 b

1 occupied structures, places of assembly, and property
2 lines of unleased property.

3 (2) Unless otherwise approved or directed by the
4

5 Department, all topsoil stripped to facilitate the
6 construction of the well pad and access roads must be
7 stockpiled, stabilized, and remain on site for use in
8 either partial or final reclamation. In the event it is
9 anticipated that the final reclamation shall take place in
10 excess of one year from drilling the well the topsoil may
11 be disposed of in any lawful manner provided the operator
12 reclaims the site with topsoil of similar characteristics
13 of the topsoil removed.

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

20 (c) Site maintenance standards shall be as follows:

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

23 (2) Fueling tanks shall be subject to Section 25 of
24 this Act.

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

HB2615

- 39 -

LRB098 10864 MGM 41398 b

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

5 (d) All wells shall be constructed, and casing and
6 cementing activities shall be conducted, in a manner that shall
7 provide for control of the well at all times, prevent the
8 migration of oil, gas, and other fluids into the fresh
9 groundwater and coal seams, and prevent pollution or diminution
10 of fresh groundwater. In addition to any of the Department's
11 casing and cementing requirements, the following shall apply:
12

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

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

17 (3) Surface casing shall be centralized at the shoe,
18 above and below a stage collar or diverting tool, if run,
19 and through usable-quality water zones. In non-deviated
20 holes, pipe centralization as follows is required: a
21 centralizer shall be placed every fourth joint from the
22 cement shoe to the ground surface or to the bottom of the
23 cellar. All centralizers shall meet specifications in, or
24 equivalent to, API spec 10D, Specification for Bow-Spring
25 Casing Centralizers; API Spec 10 TR4, Technical Report on
26 Considerations Regarding Selection of Centralizers for

HB2615

- 40 -

LRB098 10864 MGM 41398 b

1 Primary Cementing Operations; and API RP 10D-2,
2 Recommended Practice for Centralizer Placement and Stop
3 Collar Testing; The Department may require additional
4 centralization as necessary to ensure the integrity of the
5 well design is adequate. All centralizers must conform to
6 the current industry standards published by the American
7 Petroleum Institute.

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

14 (A) secure the casing in the wellbore;

15 (B) isolate and protect fresh groundwater;

16 (C) isolate abnormally pressured zones, lost
17 circulation zones, and any potential flow zones
18 including hydrocarbon and fluid-bearing zones;

19 (D) properly control formation pressure and any
20

pressure from drilling, completion and production;

21 (E) protect the casing from corrosion and
22 degradation; and

23 (F) prevent gas flow in the annulus.

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

HB2615

- 41 -

LRB098 10864 MGM 41398 b

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

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

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

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

22 (10) Surface casing shall be used and set to a depth of
23 at least 200 feet, or 100 feet below the base of the
24 deepest fresh water, whichever is deeper, but no more than
25 200 feet below the base of the deepest fresh water and
26 prior to encountering any hydrocarbon-bearing zones. The

HB2615

- 42 -

LRB098 10864 MGM 41398 b

1 surface casing must be run and cemented as soon as
2 practicable after the hole has been adequately circulated
3 and conditioned.

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

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

18 Intermediate casing must be set to protect fresh water
19 if surface casing was set above the base of the deepest
20 fresh water, if additional fresh water was found below the
21 surface casing shoe, or both. Intermediate casing used to
22 isolate fresh water must not be used as the production
23 string in the well in which it is installed, and may not be
24 perforated for purposes of conducting a hydraulic fracture
25 treatment through it.

26 When intermediate casing is installed to protect fresh

HB2615

- 43 -

LRB098 10864 MGM 41398 b

1 water, the operator shall set a full string of new
2 intermediate casing at least 100 feet below the base of the
3 deepest fresh water and bring cement to the surface. In
4 instances where intermediate casing was set solely to
5 protect fresh water encountered below the surface casing
6

7 shoe, and cementing to the surface is technically
8 infeasible, would result in lost circulation, or both,
9 cement must be brought to a minimum of 600 feet above the
10 shallowest fresh water zone encountered below the surface
11 casing shoe or to the surface if the fresh water zone is
12 less than 600 feet from the surface. The location and
13 depths of any hydrocarbon-bearing zones or fresh water
14 zones that are open to the wellbore above the casing shoe
15 must be confirmed by coring, electric logs, or testing and
16 must be reported to the Department.

17 In the case that intermediate casing was set for a
18 reason other than to protect strata that contains fresh
19 water, the intermediate casing string shall be cemented
20 from the shoe to a point at least 600 true vertical feet
21 above the shoe. If there is a hydrocarbon bearing zone
22 capable of producing exposed above the intermediate casing
23 shoe, the casing shall be cemented from the shoe to a point
24 at least 600 true vertical feet above the shallowest
25 hydrocarbon bearing zone or to a point at least 200 feet
26 above the shoe of the next shallower casing string that was
set and cemented in the well (or to the surface if less

HB2615

- 44 -

LRB098 10864 MGM 41398 b

1 than 200 feet).

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

10 (14) Production casing must be run and fully cemented
11 to 500 feet above the top perforated zone, if possible. The
12 Department must be notified at least 24 hours prior to
13 production casing cementing operations. Cementing must be
14

15 by the pump and plug method with a minimum of 25% excess
16 cement.

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

20 (16) After the setting and cementing of a casing
21 string, except the conductor casing, and prior to further
22 drilling, the casing string shall be tested with fresh
23 water, mud, or brine to at least the maximum anticipated
24 treatment pressure but no less than 0.22 psi per foot of
25 casing string length or 1,500 psi, whichever is greater,
26 for at least 30 minutes with less than a 5% pressure loss.
The pressure test shall not exceed 70% of the minimum

HB2615

- 45 -

LRB098 10864 MGM 41398 b

1 internal yield. If the pressure declines more than 5% or if
2 there are other indications of a leak, corrective action
3 shall be taken before conducting further drilling and high
4 volume horizontal hydraulic fracturing operations. The
5 operator shall contact the Department's District Office
6 for any county in which the well is located at least 24
7 hours prior to conducting a pressure test to enable an
8 inspector to be present when the test is done. A record of
9 the pressure test must be maintained by the operator and
10 must be submitted to the Department on a form prescribed by
11 the Department prior to conducting high volume horizontal
12 hydraulic fracturing operations. The actual pressure must
13 not exceed the test pressure at any time during high volume
14 horizontal hydraulic fracturing operations.

15 (17) Any hydraulic fracturing string used in the high
16 volume horizontal hydraulic fracturing operations must be
17 either strung into a production liner or run with a packer
18 set at least 100 feet below the deepest cement top and must
19 be tested to not less than the maximum anticipated treating
20 pressure minus the annulus pressure applied between the
21 fracturing string and the production or immediate casing.
22

23 The pressure test shall be considered successful if the
24 pressure applied has been held for 30 minutes with no more
25 than 5% pressure loss. A function-tested relief valve and
26 diversion line must be installed and used to divert flow
from the hydraulic fracturing string-casing annulus to a

HB2615

- 46 -

LRB098 10864 MGM 41398 b

1 covered watertight steel tank in case of hydraulic
2 fracturing string failure. The relief valve must be set to
3 limit the annular pressure to no more than 95% of the
4 working pressure rating of the casings forming the annulus.
5 The annulus between the hydraulic fracturing string and
6 casing must be pressurized to at least 250 psi and
7 monitored.

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

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

24 (1) The operator shall use blowout prevention
25 equipment after setting casing with a competent casing
26 seat. Blowout prevention equipment shall be in good

HB2615

- 47 -

LRB098 10864 MGM 41398 b

1 working condition at all times.

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

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

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

21 (5) Pressure testing of the blowout preventer and
22 related equipment for any drilling or completion
23 operation must be performed. Testing must be conducted
24 in accordance with industry standards. Testing of the
25 blowout preventer shall include testing after the
26 blowout preventer is installed on the well but prior to

HB2615

- 48 -

LRB098 10864 MGM 41398 b

1 drilling below the last cemented casing seat. Pressure
2 control equipment, including the blowout preventer,
3 that fails any pressure test shall not be used until it
4 is repaired and passes the pressure test.

5 (6) A remote blowout preventer actuator, that is
6 powered by a source other than rig hydraulics, shall be
7 located at least 50 feet from the wellhead and have an
8

appropriate rated working pressure.

9 Section 75. High volume horizontal hydraulic fracturing
10 operations.

11 (a) General.

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

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

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

23 (b) Integrity tests and monitoring.

24 (1) Before the commencement of high volume horizontal
25 hydraulic fracturing operations, all mechanical integrity

HB2615

- 49 -

LRB098 10864 MGM 41398 b

1 tests required under subsection (d) of Section 70 and this
2 subsection must be successfully completed.

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

16 (3) The pressure exerted on treating equipment

17 including valves, lines, manifolds, hydraulic fracturing
18 head or tree, casing and hydraulic fracturing string, if
19 used, must not exceed 95% of the working pressure rating of
20 the weakest component. The high volume horizontal
21 hydraulic fracturing treatment pressure must not exceed
22 the test pressure of any given component at any time during
23 high volume horizontal hydraulic fracturing operations.

24 (4) During high volume horizontal hydraulic fracturing
25 operations, all annulus pressures, the injection pressure,
26 and the rate of injection shall be continuously monitored

HB2615

- 50 -

LRB098 10864 MGM 41398 b

1 and recorded. The records of the monitoring shall be
2 maintained by the operator and shall be provided to the
3 Department upon request at any time during the period up to
4 and including 5 years after the well is permanently plugged
5 or abandoned.

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

18 (c) Fluid and waste management.

19 (1) For the purposes of storage at the well site and
20 except as provided in paragraph (2) of this subsection,
21 hydraulic fracturing additives, hydraulic fracturing
22 fluid, hydraulic fracturing flowback, and produced water
23 shall be stored in above-ground tanks during all phases of
24 drilling, high volume horizontal hydraulic fracturing, and
25

production operations until removed for proper disposal.
26 For the purposes of centralized storage off site for

HB2615

- 51 -

LRB098 10864 MGM 41398 b

1 potential reuse prior to disposal, hydraulic fracturing
2 additives, hydraulic fracturing fluid, hydraulic
3 fracturing flowback, and produced water shall be stored in
4 above-ground tanks.

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

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

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

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

HB2615

- 52 -

LRB098 10864 MGM 41398 b

1 (D) the liner shall have sufficient elongation to
2 cover the bottom and interior sides of the pit with the

3 edges secured with at least a 12 inch deep anchor
4 trench around the pit perimeter to prevent any slippage
5 or destruction of the liner materials; and

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

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

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

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

23 (6) Tanks, piping, and conveyances, including valves,
24 must be constructed of suitable materials, be of sufficient
25 pressure rating, be able to resist corrosion, and be
26 maintained in a leak-free condition. Fluid transfer

HB2615

- 53 -

LRB098 10864 MGM 41398 b

1 operations from tanks to tanker trucks must be supervised
2 at the truck and at the tank if the tank is not visible to
3 the truck operator from the truck. During transfer
4 operations, all interconnecting piping must be supervised
5 if not visible to transfer personnel at the truck and tank.

6 (7) Hydraulic fracturing flowback must be tested for
7 volatile organic chemicals, semi-volatile organic
8 chemicals, inorganic chemicals, heavy metals, and
9 naturally occurring radioactive material prior to removal
10 from the site. Testing shall occur once per well site and
11

12 the analytical results shall be filed with the Department
13 and the Agency, and provided to the liquid oilfield waste
14 transportation and disposal operators. Prior to plugging
15 and site restoration, the ground adjacent to the storage
16 tanks and any hydraulic fracturing flowback reserve pit
must be measured for radioactivity.

17 (8) Hydraulic fracturing flowback may only be disposed
18 of by injection into a Class II injection well that is
19 below interface between fresh water and naturally
20 occurring Class IV groundwater. Produced water may be
21 disposed of by injection in a permitted water flood
22 operation. Hydraulic fracturing flowback and produced
23 water may be treated and recycled for use in hydraulic
24 fracturing fluid for high volume horizontal hydraulic
25 fracturing operations.

26 (9) Discharge of hydraulic fracturing fluids,

HB2615

- 54 -

LRB098 10864 MGM 41398 b

1 hydraulic fracturing flowback, and produced water into any
2 surface water or water drainage way is prohibited.

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

12 (11) Drill cuttings, drilling fluids, and drilling
13 wastes not containing oil-based mud or polymer-based mud
14 may be stored in tanks or pits. Pits used to store
15 cuttings, fluids, and drilling wastes from wells not using
16 fresh water mud shall be subject to the construction
17 standards identified in (2) of this Section. Drill cuttings
18 not contaminated with oil-based mud or polymer-based mud
19

20 may be disposed of onsite subject to the approval of the
21 Department. Drill cuttings contaminated with oil-based mud
22 or polymer-based mud shall not be disposed of on site.
23 Annular disposal of drill cuttings or fluid is prohibited.

24 (12) Any release of hydraulic fracturing fluid,
25 hydraulic fracturing additive, or hydraulic fracturing
26 flowback, used or generated during or after high volume
horizontal hydraulic fracturing operations shall be

HB2615

- 55 -

LRB098 10864 MGM 41398 b

1 immediately cleaned up and remediated pursuant to
2 Department requirements. Any release of hydraulic
3 fracturing fluid or hydraulic fracturing flowback in
4 excess of 1 barrel, shall be reported to the Department.
5 Any release of a hydraulic fracturing additive shall be
6 reported to the Department in accordance with the
7 appropriate reportable quantity thresholds established
8 under the federal Emergency Planning and Community
9 Right-to-Know Act as published in the Code of Federal
10 Regulations (CFR), 40 CFR Parts 355, 370, and 372, the
11 federal Comprehensive Environmental Response,
12 Compensation, and Liability Act as published in 40 CFR Part
13 302, and subsection (r) of Section 112 of the Federal Clean
14 Air Act as published in 40 CFR Part 68. Any release of
15 produced water in excess of 5 barrels shall be cleaned up,
16 remediated, and reported pursuant to Department
17 requirements.

18 (13) Secondary containment for tanks required under
19 this subsection and additive staging areas is required.
20 Secondary containment measures may include, as deemed
21 appropriate by the Department, one or a combination of the
22 following: dikes, liners, pads, impoundments, curbs,
23 sumps, or other structures or equipment capable of
24 containing the substance. Any secondary containment must
25 be sufficient to contain 110% of the total capacity of the
26 single largest container or tank within a common

HB2615

- 56 -

LRB098 10864 MGM 41398 b

1 containment area. No more than one hour before initiating
2 any stage of the high volume horizontal hydraulic
3 fracturing operations, all secondary containment must be
4 visually inspected to ensure all structures and equipment
5 are in place and in proper working order. The results of
6 this inspection must be recorded and documented by the
7 operator, and available to the Department upon request.

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

14 (15) Operators operating wells permitted under this
15 Act must submit an annual report to the Department
16 detailing the management of any produced water associated
17 with the permitted well. The report shall be due to the
18 Department no later than April 30th of each year and shall
19 provide information on the operator's management of any
20 produced water for the prior calendar year. The report
21 shall contain information relative to the amount of
22 produced water the well permitted under this Act produced,
23 the method with which the produced water was disposed, and
24 the destination where the produced water was disposed in
25 addition to any other information the Department
26 determines is necessary by rule.

HB2615

- 57 -

LRB098 10864 MGM 41398 b

1 (d) Hydraulic fracturing fluid shall be confined to the
2 targeted formation designated in the permit. If the hydraulic
3 fracturing fluid or hydraulic fracturing flowback are
4 migrating into the freshwater zone or to the surface from the
5 well in question or from other wells, the permittee shall

6 immediately notify the Department and shut in the well until
7 remedial action that prevents the fluid migration is completed.
8 The permittee shall obtain the approval of the Department prior
9 to resuming operations.

10 (e) Emissions controls.

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

14 (2) Except as otherwise provided in paragraph (8) of
15 this subsection (e), permittees shall be responsible for
16 managing gas and hydrocarbon fluids produced during the
17 flowback period by routing recovered hydrocarbon fluids to
18 one or more storage vessels or re-injected into the well or
19 another well, and routing recovered natural gas into a flow
20 line or collection system, re-injecting the gas into the
21 well or another well, using the gas as an on-site fuel
22 source, or using the gas for another useful purpose that a
23 purchased fuel or raw material would serve, with no direct
24 release to the atmosphere.

25 (3) If it is technically infeasible or economically
26 unreasonable to minimize emissions associated with the

HB2615

- 58 -

LRB098 10864 MGM 41398 b

1 venting of hydrocarbon fluids and natural gas during the
2 flowback period using the methods specified in paragraph
3 (2) of this subsection (e), the permittee shall capture and
4 direct the emissions to a completion combustion device,
5 except in conditions that may result in a fire hazard or
6 explosion, or where high heat emissions from a completion
7 combustion device may negatively impact waterways.
8 Completion combustion devices must be equipped with a
9 reliable continuous ignition source over the duration of
10 the flowback period.

11 (4) Except as otherwise provided in paragraph (8) of
12 this subsection (e), permittees shall be responsible for
13 minimizing the emissions associated with venting of
14

hydrocarbon fluids and natural gas during the production
15 phase by:

16 (A) routing the recovered fluids into storage
17 vessels and (i) routing the recovered gas into a gas
18 gathering line, collection system, or to a generator
19 for onsite energy generation, providing that gas to the
20 surface owner of the well site for use for heat or
21 energy generation, or (ii) using another method other
22 than venting; and

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

HB2615

- 59 -

LRB098 10864 MGM 41398 b

1 (5) If the permittee establishes that it is technically
2 infeasible or economically unreasonable to minimize
3 emissions associated with the venting of hydrocarbon
4 fluids and natural gas during production using the methods
5 specified in paragraph (4) of this subsection (e), the
6 Department shall require the permittee to capture and
7 direct any natural gas produced during the production phase
8 to a flare. Any flare used pursuant to this paragraph shall
9 be equipped with a reliable continuous ignition source over
10 the duration of production. In order to establish technical
11 infeasibility or economic unreasonableness under this
12 paragraph (5), the permittee must demonstrate, for each
13 well site on an annual basis, that taking the actions
14 listed in paragraph (4) of this subsection (e) are not cost
15 effective based on a site-specific analysis. Permittees
16 that use a flare during the production phase for operations
17 other than emergency conditions shall file an updated
18 site-specific analysis annually with the Department. The
19 analysis shall be due one year from the date of the
20 previous submission and shall detail whether any changes
21 have occurred that alter the technical infeasibility or
22

23 economic unreasonableness of the permittee to reduce their
24 emissions in accordance with paragraph (4) of this
25 subsection (e).

26 (6) Uncontrolled emissions exceeding 6 tons per year
from storage tanks shall be recovered and routed to a flare

HB2615

- 60 -

LRB098 10864 MGM 41398 b

1 that is designed in accordance with 40 CFR 60.18 and is
2 certified by the manufacturer of the device. The permittee
3 shall maintain and operate the flare in accordance with
4 manufacturer specifications. Any flare used under this
5 paragraph must be equipped with a reliable continuous
6 ignition source over the duration of production.

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

19 (8) For each wildcat well, delineation well, or low
20 pressure well, permittees shall be responsible for
21 minimizing the emissions associated with venting of
22 hydrocarbon fluids and natural gas during the flowback
23 period and production phase by capturing and directing the
24 emissions to a completion combustion device during the
25 flowback period and to a flare during the production phase,
26 except in conditions that may result in a fire hazard or

HB2615

- 61 -

LRB098 10864 MGM 41398 b

1 explosion, or where high heat emissions from a completion
2 combustion device or flare may negatively impact
3 waterways. Completion combustion devices and flares shall
4 be equipped with a reliable continuous ignition source over
5 the duration of the flowback period and the production
6 phase, as applicable.

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

14 (10) Permittees shall employ practices for control of
15 fugitive dust related to their operations. These practices
16 shall include, but are not limited to, the use of speed
17 restrictions, regular road maintenance, and restriction of
18 construction activity during high-wind days. Additional
19 management practices such as road surfacing, wind breaks
20 and barriers, or automation of wells to reduce truck
21 traffic may also be required by the Department if
22 technologically feasible and economically reasonable to
23 minimize fugitive dust emissions.

24 (11) Permittees shall record and report to the
25 Department on an annual basis the amount of gas flared or
26 vented from each high volume horizontal hydraulic

HB2615

- 62 -

LRB098 10864 MGM 41398 b

1 fracturing well. Three years after the effective date of
2 the first high-volume horizontal hydraulic fracturing well
3 permit issued by the Department, and every 3 years
4 thereafter, the Department shall prepare a report that
5 analyzes the amount of gas that has been flared or vented
6 and make recommendations to the General Assembly on whether
7 steps should be taken to reduce the amount of gas that is
8

being flared or vented in this State.

9 (f) High volume horizontal hydraulic fracturing operations
10 completion report. Within 60 calendar days after the conclusion
11 of high volume horizontal hydraulic fracturing operations, the
12 operator shall file a high volume horizontal hydraulic
13 fracturing operations completion report with the Department. A
14 copy of each completion report submitted to the Department
15 shall be provided by the Department to the Illinois State
16 Geological Survey. The completion reports required by this
17 Section shall be considered public information and shall be
18 made available on the Department's website. The high volume
19 horizontal hydraulic fracturing operations completion report
20 shall contain the following information:

- 21 (1) the permittee name as listed in the permit
22 application;
- 23 (2) the dates of the high volume horizontal hydraulic
24 fracturing operations;
- 25 (3) the county where the well is located;
- 26 (4) the well name and Department reference number;

HB2615

- 63 -

LRB098 10864 MGM 41398 b

- 1 (5) the total water volume used in the high volume
2 horizontal hydraulic fracturing operations of the well,
3 and the type and total volume of the base fluid used if
4 something other than water;
- 5 (6) each source from which the water used in the high
6 volume horizontal hydraulic fracturing operations was
7 drawn, and the specific location of each source, including,
8 but not limited to, the name of the county and latitude and
9 longitude coordinates;
- 10 (7) the quantity of hydraulic fracturing flowback
11 recovered from the well;
- 12 (8) a description of how hydraulic fracturing flowback
13 recovered from the well was disposed and, if applicable,
14 reused;
- 15 (9) a chemical disclosure report identifying each
16

17 chemical and proppant used in hydraulic fracturing fluid
18 for each stage of the hydraulic fracturing operations
19 including the following:

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

24 (B) each hydraulic fracturing additive used in the
25 hydraulic fracturing fluid, including the trade name,
26 vendor, a brief descriptor of the intended use or
function of each hydraulic fracturing additive, and

HB2615

- 64 -

LRB098 10864 MGM 41398 b

1 the Material Safety Data Sheet (MSDS), if applicable;

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

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

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

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

13 Section 77. Chemical disclosure; trade secret protection.

14 (a) If the chemical disclosure information required by
15 paragraph (8) of subsection (b) of Section 35 of this Act is
16 not submitted at the time of permit application, then the
17 permittee, applicant, or person who will perform high volume
18 horizontal hydraulic fracturing operations at the well shall
19 submit this information to the Department in electronic format
20 no less than 21 calendar days prior to performing the high
21 volume horizontal hydraulic fracturing operations. The
22 permittee shall not cause or allow any stimulation of the well
23 if it is not in compliance with this Section. Nothing in this

24 Section shall prohibit the person performing high volume
25 horizontal hydraulic fracturing operations from adjusting or

HB2615

- 65 -

LRB098 10864 MGM 41398 b

1 altering the contents of the fluid during the treatment process
2 to respond to unexpected conditions, as long as the permittee
3 or the person performing the high volume horizontal hydraulic
4 fracturing operations notifies the Department by electronic
5 mail within 24 hours of the departure from the initial
6 treatment design and includes a brief explanation of the reason
7 for the departure.

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

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

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

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

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

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

HB2615

- 66 -

LRB098 10864 MGM 41398 b

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

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

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

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

20 (g) Upon submission or within 5 calendar days of submission
21 of chemical disclosure information to the Department under this
22 Section, Section 35, or Section 75 of this Act under a claim of
23 trade secret, the person that claimed trade secret protection
24 shall provide a justification of the claim containing the
25 following: a detailed description of the procedures used by the
26 person to safeguard the information from becoming available to

HB2615

- 67 -

LRB098 10864 MGM 41398 b

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

10 (h) Chemical disclosure information furnished under this
11

12 Section, Section 35, or Section 75 of this Act under a claim of
13 trade secret shall be protected from disclosure as a trade
14 secret if the Department determines that the statement of
15 justification demonstrates that:

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

19 (2) the information has competitive value.

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

HB2615

- 68 -

LRB098 10864 MGM 41398 b

1 disseminated, or otherwise become a matter of general public
2 knowledge.

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

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

13 (k) Except as otherwise provided in subsections (l) and (m)
14 of this Section, the Department must maintain the
15 confidentiality of chemical disclosure information furnished
16 under this Section, Section 35, or Section 75 of this Act under
17 a claim of trade secret, until the Department receives official
18 notification of a final order by a reviewing body with proper
19

jurisdiction that is not subject to further appeal rejecting a
20 grant of trade secret protection for that information.

21 (l) The Department shall adopt rules for the provision of
22 information furnished under a claim of trade secret to a health
23 professional who states a need for the information and
24 articulates why the information is needed. The health
25 professional may share that information with other persons as
26 may be professionally necessary, including, but not limited to,

HB2615

- 69 -

LRB098 10864 MGM 41398 b

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

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

HB2615

- 70 -

LRB098 10864 MGM 41398 b

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

16 Section 80. Water quality monitoring.

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

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

25 (2) a sampling plan and protocol, including

HB2615

- 71 -

LRB098 10864 MGM 41398 b

1 notification to the Department at least 7 calendar days
2 prior to sample collection;

3 (3) the name and contact information of an independent
4 third party under the supervision of a professional
5 engineer or professional geologist that shall be
6

7 designated to conduct sampling to establish a baseline as
8 provided for under subsection (b) of this Section;

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

15 (5) the name and contact information of an independent
16 testing laboratory, certified to perform the required
17 laboratory method, to conduct the analysis required under
18 subsections (b) and (c) of this Section;

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

25 (7) identification of practicable contingency
26 measures, including provision for alternative drinking
water supplies, which could be implemented in the event of

HB2615

- 72 -

LRB098 10864 MGM 41398 b

1 pollution or diminution of a water source as provided for
2 in Section 83.

3 (b) Prior to conducting high volume horizontal hydraulic
4 fracturing operations on a well, a permittee shall retain an
5 independent third party, as required within paragraph (3) of
6 subsection (a) of this Section, and shall conduct baseline
7 water quality sampling of all water sources within 1,500 feet
8 of the well site prior to any fracturing activities. The
9 samples collected by the independent third party, under the
10 supervision of a professional engineer or professional
11 geologist, shall be analyzed by an independent testing
12 laboratory in accordance with paragraph (4) of subsection (a)
13 of this Section. Testing shall be done by collection of a
14

15 minimum of 3 samples for each water source required to be
16 tested under this Section. The permittee shall, within 7
17 calendar days after receipt of results of tests conducted under
18 this subsection, submit the results to the Department or to the
19 owner of the water source under a non-disclosure agreement
20 under subsection (d) of this Section. The Department shall post
21 the results on its website within 7 calendar days after
22 receipt. The results shall, at a minimum, include a detailed
23 description of the sampling and testing conducted under this
24 subsection, the chain of custody of the samples, and quality
control of the testing.

25 (c) After baseline tests are conducted under subsection (b)
26 of this Section and following issuance of a permit by the

HB2615

- 73 -

LRB098 10864 MGM 41398 b

1 Department, the permittee shall have all water sources
2 subjected to sampling under subsection (b) of this Section. All
3 water sources shall be sampled and tested in the same manner 6
4 months, 18 months, and 30 months after the high volume
5 horizontal hydraulic fracturing operations have been
6 completed. Sampling of a water source under this subsection is
7 not required if the water source was sampled under this
8 subsection or subsection (b) within the previous month. The
9 permittee shall notify the Department at least 7 calendar days
10 prior to taking the sample. The permittee shall, within 7
11 calendar days after receipt of results of tests conducted under
12 this subsection (c), submit the results to the Department or to
13 the owner of the water source pursuant to a non-disclosure
14 agreement under subsection (d) of this Section. The results
15 shall include, at a minimum, a detailed description of the
16 sampling and testing conducted under this subsection, the chain
17 of custody of the samples, and quality control of the testing.

18 (d) Sampling of private water wells or ponds wholly
19 contained within private property shall not be required where
20 the owner of the private property declines, expressly and in
21 writing, to provide access or permission for sampling. The
22

23 owners of private property may condition access or permission
24 for sampling of a private water well or pond wholly within the
25 property or a portion of any perennial stream or river that
26 flows through the property under a non-disclosure agreement,
which must include the following terms and conditions:

HB2615

- 74 -

LRB098 10864 MGM 41398 b

- 1 (1) the permittee shall provide the results of the
2 water quality testing to the property owners;
- 3 (2) the permittee shall retain the results of the water
4 quality testing until at least one year after completion of
5 all monitoring under this Section for review by the
6 Department upon request;
- 7 (3) the permittee shall not file with the Department
8 the results of the water quality testing, except under
9 paragraph (4) of subsection (d) of this Section; and
- 10 (4) the permittee shall notify the Department within 7
11 calendar days of its receipt of the water quality data
12 where any testing under subsection (c) of this Section
13 indicates that concentrations exceed the standards or
14 criteria referenced in the definition of pollution or
15 diminution under Section 5 of this Act.
- 16 (e) Each set of samples collected under subsections (b) and
17 (c) of this Section shall include analyses for:
- 18 (1) pH;
- 19 (2) total dissolved solids, dissolved methane,
20 dissolved propane, dissolved ethane, alkalinity, and
21 specific conductance;
- 22 (3) chloride, sulfate, arsenic, barium, calcium,
23 chromium, iron, magnesium, selenium, cadmium, lead,
24 manganese, mercury, and silver;
- 25 (4) BTEX; and
- 26 (5) gross alpha and beta particles to determine the

HB2615

- 75 -

LRB098 10864 MGM 41398 b

1 presence of any naturally occurring radioactive materials.
2 Sampling shall, at a minimum, be consistent with the work
3 plan and allow for a determination of whether any hydraulic
4 fracturing additive or other contaminant has caused pollution
5 or diminution for purposes of Sections 83 and 85 of this Act.

6 Section 83. Order authority.

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

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

20 (c) Any person conducting or who has conducted high volume
21 horizontal hydraulic fracturing operations shall supply any
22 information requested by the Department to assist the
23 Department. The Department shall give due consideration to any
24 information submitted during the course of the investigation.

25 (d) If sampling results or other information obtained as

HB2615

- 76 -

LRB098 10864 MGM 41398 b

1 part of the investigation or the results of tests conducted
2 under subsection (c) of Section 80 of this Act indicate that
3 concentrations exceed the standards or criteria referenced by
4 pollution or diminution under Section 5 of this Act, the
5 Department shall issue an order to the permittee as necessary
6 to require permanent or temporary replacement of a water
7 source. In addition to any other penalty available under the
8 law and consistent with the Department's order, the permittee

9 shall restore or replace the affected supply with an
10 alternative source of water adequate in quantity and quality
11 for the purposes served by the water source. The quality of a
12 restored or replaced water source shall meet or exceed the
13 quality of the original water source based upon the results of
14 the baseline test results under subsection (b) of Section 80
15 for that water source, or other available information. The
16 Department may require the permittee to take immediate action,
17 including but not limited to, repair, replacement, alteration,
18 or prohibition of operation of equipment permitted by the
19 Department. The Department may issue conditions within any
20 order to protect the public health or welfare or the
21 environment.

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

HB2615

- 77 -

LRB098 10864 MGM 41398 b

1 uses.

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

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

15 (h) The Department shall publish, on its website, lists of
16 confirmed cases of pollution or diminution that result from
17

18 high volume horizontal hydraulic fracturing operations. This
19 information shall be searchable by county.

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

23 Section 85. Presumption of pollution or diminution.

24 (a) This Section establishes a rebuttable presumption for
25 the purposes of evidence and liability under State law
regarding claims of pollution or diminution of a water source

HB2615

- 78 -

LRB098 10864 MGM 41398 b

1 and for use regarding the investigation and order authority
2 under Section 83.

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

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

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

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

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

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

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

26

(3) the pollution or diminution occurred as the result

HB2615

- 79 -

LRB098 10864 MGM 41398 b

1 of an identifiable cause other than the high volume
2 horizontal hydraulic fracturing operations.

3 Section 87. Water quality investigation and enforcement.

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

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

21 (c) A person who has reason to believe they have incurred
22 contamination of a water source as a result of high volume
23 horizontal hydraulic fracturing may notify the Agency and
24 request an investigation be conducted. The Agency shall forward
25 this request to the Department for consideration of an

HB2615

- 80 -

LRB098 10864 MGM 41398 b

1 investigation under Section 83 of this Act. If the Agency is
2 provided with notice under subsection (f) of Section 83, the
3 Agency shall conduct an investigation to determine whether
4

5 pollution or diminution is continuing to occur at the location
6 subject to the order, as well as locations identified by the
7 Department or at any other water source within 1,500 feet of
8 the well site. Any person conducting or who has conducted high
9 volume horizontal hydraulic fracturing operations shall supply
10 any information requested to assist the Agency in its
11 investigation. The Agency shall give due consideration to any
12 information submitted during the course of the investigation.

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

15 Section 95. Plugging; restoration.

16 (a) The permittee shall perform and complete plugging of
17 the well and restoration of the well site in accordance with
18 the Illinois Oil and Gas Act and any and all rules adopted
19 thereunder. The permittee shall bear all costs related to
20 plugging of the well and reclamation of the well site. If the
21 permittee fails to plug the well in accordance with this
22 Section, the owner of the well shall be responsible for
23 complying with this Section.

24 (b) Prior to conducting high volume horizontal hydraulic
25 fracturing operations at a well site, the permittee shall cause

HB2615

- 81 -

LRB098 10864 MGM 41398 b

1 to be plugged all previously unplugged well bores within 750
2 feet of any part of the horizontal well bore that penetrated
3 within 400 vertical feet of the formation that will be
4 stimulated as part of the high volume horizontal hydraulic
5 fracturing operations.

6 (c) For well sites where high volume horizontal hydraulic
7 fracturing operations were permitted to occur, the operator
8 shall restore any lands used by the operator other than the
9 well site and production facility to a condition as closely
10 approximating the pre-drilling conditions that existed before
11 the land was disturbed for any stage of site preparation
12 activities, drilling, and high volume horizontal hydraulic

13 fracturing operations. Restoration shall be commenced within 6
14 months of completion of the well site and completed within 12
15 months. Restoration shall include, but is not limited to,
16 repair of tile lines, repair of fences and barriers, mitigation
17 of soil compaction and rutting, application of fertilizer or
18 lime to restore the fertility of disturbed soil, and repair of
19 soil conservation practices such as terraces and grassed
20 waterways.

21 (d) Unless contractually agreed to the contrary by the
22 permittee and surface owner, the permittee shall restore the
23 well site and production facility in accordance with the
24 applicable restoration requirements in subsection (c) of this
25 Section and shall remove all equipment and materials involved
26 in site preparation, drilling, and high volume horizontal

HB2615

- 82 -

LRB098 10864 MGM 41398 b

1 hydraulic fracturing operations, including tank batteries,
2 rock and concrete pads, oil field debris, injection and flow
3 lines at or above the surface, electric power lines and poles
4 extending on or above the surface, tanks, fluids, pipes at or
5 above the surface, secondary containment measures, rock or
6 concrete bases, drilling equipment and supplies, and any and
7 all other equipment, facilities, or materials used during any
8 stage of site preparation work, drilling, or hydraulic
9 fracturing operations at the well site. Work on the removal of
10 equipment and materials at the well site shall begin within 6
11 months after plugging the final well on the well site and be
12 completed no later than 12 months after the last producing well
13 on the well site has been plugged. Roads installed as part of
14 the oil and gas operation may be left in place if provided in
15 the lease or pursuant to agreement with the surface owner, as
16 applicable.

17 Section 97. Seismicity.

18 (a) For purposes of this Section, "induced seismicity"
19 means an earthquake event that is felt, recorded by the
20 national seismic network, and attributable to a Class II

21 injection well used for disposal of flow-back and produced
22 fluid from hydraulic fracturing operations.

23 (b) The Department shall adopt rules, in consultation with
24 the Illinois State Geological Survey, establishing a protocol
25 for controlling operational activity of Class II injection

HB2615

- 83 -

LRB098 10864 MGM 41398 b

1 wells in an instance of induced seismicity.

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

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

12 Section 99. Department report. Two years after the
13 effective date of the first high volume horizontal hydraulic
14 fracturing permit issued by the Department, and every 3 years
15 thereafter, the Department shall prepare a report that examines
16 the following:

17 (1) the number of high volume horizontal hydraulic
18 fracturing permits issued by the Department, on an annual
19 basis;

20 (2) a map showing the locations in this State where
21 high volume horizontal hydraulic fracturing operations
22 have been permitted by the Department;

23 (3) identification of the latest scientific research,
24 best practices, and technological improvements related to
25 high volume horizontal hydraulic fracturing operations and

HB2615

- 84 -

LRB098 10864 MGM 41398 b

1 methods to protect the environment and public health;

2 (4) confirmed environmental impacts in this State due

3 to high volume horizontal hydraulic fracturing operations,

4 including, but not limited to, any reportable release of

5 hydraulic fracturing flowback, hydraulic fracturing fluid,

6 and hydraulic fracturing additive;

7 (5) confirmed public health impacts in this State due

8 to high volume horizontal hydraulic fracturing operations;

9 (6) a comparison of the revenues generated under

10 subsection (e) of Section 35 of this Act to the

11 Department's costs associated with implementing and

12 administering provisions of this Act;

13 (7) a comparison of the revenues generated under

14 subsection (e) of Section 87 of this Act to the Agency's

15 costs associated with implementing and administering

16 provisions of this Act;

17 (8) a description of any modifications to existing

18 programs, practices, or rules related to high volume

19 horizontal hydraulic fracturing operations made by the

20 Department;

21 (9) any problems or issues the Department identifies as

22 it implements and administers the provisions of this Act;

23 (10) any recommendations for legislative action by the

24 General Assembly to address the findings in the report; and

25 (11) any other information the Department deems

26 relevant regarding its specific experiences implementing

HB2615

- 85 -

LRB098 10864 MGM 41398 b

1 and administering the provisions of this Act and,

2 generally, high volume horizontal hydraulic fracturing

3 operations.

4 The first report shall also examine any studies issued by

5 the United States Environmental Protection Agency regarding

6 high volume horizontal hydraulic fracturing operations. The

7 report required by this Section shall be provided to the

8

General Assembly and Governor.

9 Section 100. Criminal offenses; penalties.

10 (a) Except as otherwise provided in this Section, it shall
11 be a Class A misdemeanor to knowingly violate this Act, its
12 rules, or any permit or term or condition thereof, or knowingly
13 to submit any false information under this Act or regulations
14 adopted thereunder, or under any permit or term or condition
15 thereof. A person convicted or sentenced under this subsection
16 (a) shall be subject to a fine of not to exceed \$10,000 for
17 each day of violation.

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

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

20 (2) subsection (d) of Section 25 of this Act;

21 (3) subsection (a) of Section 30 of this Act;

22 (4) paragraph (9) of subsection (c) of Section 75 of
23 this Act; or

24 (5) subsection (a) of Section 87 of this Act.

25 A person convicted or sentenced for any knowing violation

HB2615

- 86 -

LRB098 10864 MGM 41398 b

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

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

17 this subsection (c) is subject to a fine of not to exceed
18 \$25,000 for each day of violation. A person who commits a
19 second or subsequent knowing violation of this subsection (c)
20 commits a Class 3 felony and, in addition to any other
21 penalties provided by law, is subject to a fine not to exceed
22 \$50,000 for each day of violation.

23 (d) Any criminal action provided for under this Section
24 shall be brought by the State's Attorney of the county in which
25 the violation occurred or by the Attorney General and shall be
26 conducted in accordance with the applicable provision of the

HB2615

- 87 -

LRB098 10864 MGM 41398 b

1 Code of Criminal Procedure of 1963. For criminal conduct in
2 this Section, the period for commencing prosecution shall not
3 begin to run until the offense is discovered by or reported to
4 a State or local agency having authority to investigate
5 violations of this Act.

6 Section 101. Violations; civil penalties and injunctions.

7 (a) Except as otherwise provided in this Section, any
8 person who violates any provision of this Act or any rule or
9 order adopted under this Act or any permit issued under this
10 Act shall be liable for a civil penalty not to exceed \$50,000
11 for the violation and an additional civil penalty not to exceed
12 \$10,000 for each day during which the violation continues.

13 (b) Any person who violates any requirements or
14 prohibitions of provisions listed in this subsection (b) is
15 subject to a civil penalty not to exceed \$100,000 for the
16 violation and an additional civil penalty not to exceed \$20,000
17 for each day during which the violation continues. The
18 following are violations are subject to the penalties of this
19 subsection (b):

- 20 (1) subsection (c) of Section 25 of this Act;
- 21 (2) subsection (d) of Section 25 of this Act;
- 22 (3) subsection (a) of Section 30 of this Act;
- 23 (4) paragraph (9) of subsection (c) of Section 75 of
24 this Act; or

25

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

HB2615

- 88 -

LRB098 10864 MGM 41398 b

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

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

18 (e) The State's Attorney of the county in which the
19 violation occurred, or the Attorney General, shall bring
20 actions under this Section in the name of the People of the
21 State of Illinois. Without limiting any other authority that
22 may exist for the awarding of attorney's fees and costs, a
23 court of competent jurisdiction may award costs and reasonable
24 attorney's fees, including the reasonable costs of expert
25 witnesses and consultants, to the State's Attorney or the
26 Attorney General in a case where he or she has prevailed

HB2615

- 89 -

LRB098 10864 MGM 41398 b

1 against a person who has committed a knowing or repeated
2 violation of this Act, any rule adopted under this Act, or the
3 permit or term or condition of the permit.

4 (f) All final orders imposing civil penalties under this
5 Section shall prescribe the time for payment of those
6 penalties. If any penalty is not paid within the time
7 prescribed, interest on penalty at the rate set forth in
8 subsection (a) of Section 1003 of the Illinois Income Tax Act,
9 shall be paid for the period from the date payment is due until
10 the date payment is received. However, if the time for payment
11 is stayed during the pendency of an appeal, interest shall not
12 accrue during stay.

13 Section 102. Other relief.

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

HB2615

- 90 -

LRB098 10864 MGM 41398 b

1 civil action to require compliance with the provisions of this
2 Act, or any rule, order, or permit issued under this Act.

3 (b) Any person having an interest that is or may be
4 adversely affected may commence a civil action against the
5 Department on his or her own behalf to compel compliance with
6 this Act where there is alleged a failure of the Department to
7 perform any act or duty under this Act that is not
8 discretionary with the Department. No action may be commenced
9 under this subsection (b) prior to 60 days after the plaintiff
10 has given notice in writing of the action to the Department,
11 except that such action may be brought immediately after the
12 notification in the case where the violation or order

13 complained of constitutes an imminent threat to the health or
14 safety of the plaintiff or would immediately affect a legal
15 interest of the plaintiff.

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

25 (d) Any person who is injured in his or her person or
26 property through the violation by any operator of any rule,

HB2615

- 91 -

LRB098 10864 MGM 41398 b

1 order, or permit issued under this Act may bring an action for
2 damages (including reasonable attorney and expert witness
3 fees). Nothing in this subsection (d) shall affect any of the
4 rights established by or limits imposed under the Workers'
5 Compensation Act.

6 (e) Any action brought under this Section may be brought
7 only in the county in which the high volume horizontal
8 hydraulic fracturing operation complained of is located.

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

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

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

19 Section 105. Violations, complaints, and notice; website.
20 The Department shall maintain a detailed database that is

21 readily accessible to the public on the Department's website.
22 The database shall show each violation found by the Department
23 regarding high volume horizontal hydraulic fracturing
24 operations and the associated well owners, operators, and
25 subcontractors. When the Department determines that any person

HB2615

- 92 -

LRB098 10864 MGM 41398 b

1 has violated this Act, the Department shall provide notice by
2 U.S. Postal Service certified mail, return receipt requested,
3 of the Department's determination to all persons required to
4 receive specific public notice under Section 40 of this Act
5 within 7 calendar days after the determination. The Department
6 shall also post the notice on the Department's website. The
7 notice shall include a detailed, plain language description of
8 the violation and a detailed, plain language description of all
9 known risks to public health, life, property, aquatic life, and
10 wildlife resulting from the violation.

11 Section 110. Public information; website.

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

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

HB2615

- 93 -

LRB098 10864 MGM 41398 b

1 to high volume horizontal hydraulic fracturing operations on
2 wells that, at a minimum, include, for each well it permits,
3 the identity of its operators, its waste disposal, its chemical
4 disclosure information, and any complaints or violations under
5 this Act. The website created under this Section shall allow
6 users to search for completion reports by well name and
7 location, dates of fracturing and drilling operations,
8 operator, and by chemical additives.

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

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

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

HB2615

- 94 -

LRB098 10864 MGM 41398 b

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

7 Section 140. Severability. The provisions of this Act are

8 severable under Section 1.31 of the Statute on Statutes.

9 Section 150. The State Finance Act is amended by adding
10 Section 5.826 as follows:

11 (30 ILCS 105/5.826 new)

12 Sec. 5.826. The Mines and Minerals Regulatory Fund.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.