TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 240
THE ILLINOIS OIL AND GAS ACT

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September 6, 2019; amended at 43 Ill. Reg. 11524, effective September 24, 2019; amended at 45 Ill. Reg. 13907, effective October 25, 2021; amended at 46 Ill. Reg. 20013, effective January 1, 2023.

SUBPART A: GENERAL PROVISIONS

Section 240.10 Definitions

"Act" – means the Illinois Oil and Gas Act [225 ILCS 725].

"Annular or Casing Injection/Disposal Well" – means a well into which fluids are injected between the surface casing and the well bore, the surface casing and the production casing, and/or the production casing and the tubing, or a well into which fluids are injected which does not have production casing, tubing and packer.

"Cement" – means all petroleum industry cements meeting the requirements set forth in "Specifications for Oil Well Cements and Cement Additives", API Standard 10A, January 1974, published by the American Petroleum Institute, 1220 L Street, Northwest, Washington DC 20005 (this incorporation does not include any later publications or editions), except as provided in Subpart K.

"Class II Fluids" means:

Produced water and/or other fluids brought to the surface in connection with drilling, completion, workover and plugging of oil and natural gas wells; enhanced recovery operations; or natural gas storage operations;

Produced water and/or other fluids from above, that prior to re-injection have been:

used on site for purposes integrally associated to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

chemically treated or altered to the extent necessary to make them usable for purposes integrally related to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations, or natural gas storage operations;

commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act (42 USC 6901 et seq. (RCRA));

Fresh water from groundwater or surface water sources that is used for purposes integrally related or associated with oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) that are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash) that are an integral part of natural gas storage operations, unless the gas plant or gas dehydration plant wastes are classified as hazardous under RCRA.

"Class II UIC Well" – means an injection, disposal or commercial disposal well into which fluids are injected:

That are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

For enhanced recovery of oil or natural gas; and

For storage of hydrocarbons that are liquid at standard temperature and pressure.

"Commercial Disposal Well" – means a permitted Class II well for which the permittee receives deliveries of Class II fluids by tank truck and charges a fee for the specific purpose of disposal of Class II fluids.

"Commercial Production" − means oil and/or gas has been produced and sold from a well.

"Convert" – means to change an oil, gas, Class II UIC, water supply, observation or gas storage well to another of those types of wells, requiring the issuance of a new permit.

"Department" – means *the Department of Natural Resources* (Section 1 of the Act), with main offices located at One Natural Resources Way, Springfield IL 62702.

"Directional Drilling" – means the controlled directional drilling when the bottom of the well bore is directed away from the vertical position.

"Director" – means the Director of the Department of Natural Resources or his or her designee.

"Disposal Well" – means a Class II UIC well into which fluids brought to the surface in connection with oil or natural gas production are injected into a non-productive oil or gas zone for purposes other than enhanced oil recovery.

"District Office" – means the Department's office for the district in which the well is located.

"Enhanced Oil Recovery" – means *any* secondary or tertiary *recovery method used in an effort to recover hydrocarbons from a pool by injection of fluids, gases or other substances to maintain, restore or augment natural reservoir energy, or by introducing gases, chemicals, other substances or heat or by in-situ combustion, or by any combination thereof.* (Section 1 of the Act)

"Enhanced Oil Recovery Injection Well" – means a Class II UIC well used for enhanced oil recovery.

"Flowline" – means all injection, produced water, oil or gas flowlines located within the boundaries of a lease or unit, or gathering lines between leases to a centralized storage area, or to the point where the lines connect with a primary transportation pipeline.

"Fresh water" – means surface and subsurface water in its natural state useful for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, and that will support aquatic life and contains less than 10,000 ppm total dissolved solids.

"General Oilfield Waste" – means oily rags, chemical containers including any unused chemicals, oil filters and gaskets, used motor oil, lubricating oils, hydraulic fluids, diesel fuels, paint and solvent wastes and other similar wastes generated during drilling, completion, production and plugging activities and that are not exempt from the provisions of Subtitle C of RCRA.

"Injection Well" – means an enhanced oil recovery injection well or disposal well.

"Liquid Oilfield Waste" – means *oilfield brines*, produced waters, *Class II fluids, tank and pit crude oil bottom sediments, and drilling and completion fluids, to the extent those wastes are now or hereafter exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976.* (Section 8c of the Act)

"Liquid Oilfield Waste Hauler" – means a person holding a permit to operate a liquid oilfield waste transportation system.

"Material Misrepresentation" – means knowingly submitting any untrue, misstated, misleading or deceptive information, or a document containing that information, or with knowledge of the concealment, suppression or omission of any information, in or from an application, permit, required record, or any other document required by the Act or this Part, that causes the Department to act differently than it would have if it had known the undisclosed or true information.

"Office" – means the Office of Oil and Gas Resource Management within the Department of Natural Resources.

"Orphan Well" – means *a well for which:*

> *no fee assessment under Section 19.7 of the Act has been paid or no other bond coverage has been provided for 2 consecutive years;*
>
> *no oil or gas has been produced from the well or from the lease or unit on which the well is located for 2 consecutive years; and*
>
> *no permittee or owner can be identified or located by the Department. Orphaned wells include wells that may have been drilled for purposes other than those for which a permit is required under the Act if the well is a conduit for oil or saltwater intrusions into freshwater zones or onto the surface which may be caused by oil and gas operations.* (Section 1 of the Act)

"Owner" – means *the person who has the right to drill into and produce from any pool, and to appropriate the production either for the person or for the person and another, or others, or solely for others, excluding the mineral owner's royalty if the right to drill and produce has been granted under an oil and gas lease. An owner may also be a person granted the right to drill and operate an injection*

(Class II UIC) well independent of the right to drill for and produce oil or gas. When the right to drill, produce, and appropriate production is held by more than one person, then all persons holding these rights may designate the owner by a written operating agreement or similar written agreement. In the absence of such an agreement, and subject to the provisions of Sections 22.2 and 23.1 through 23.16 of the Act, the owner shall be the person designated in writing by a majority in interest of the persons holding these rights. (Section 1 of the Act)

"Permit" – means *the Department's written authorization allowing*:

a well or test hole *to be drilled, deepened, converted and/or operated by an owner* (Section 1 of the Act); or

a tank battery or concrete storage structure to be constructed and operated; or

operation of a liquid oilfield waste transportation system or engage in lease road oiling.

"Permittee" – means the *owner holding or required to hold the permit, and who is also responsible for paying assessments in accordance with Section 19.7 of* the *Act and, where applicable, executing and filing the bond associated with the well as principal and who is responsible for compliance with all statutory and regulatory requirements pertaining to the well. When the right and responsibility for operating a well is vested in a receiver or trustee appointed by a court of competent jurisdiction, the permit shall be issued to the receiver or trustee*. (Section 1 of the Act) Permittee also means the owner or person required to hold the permit for a tank battery, pit, or concrete storage structure or a permit to engage in liquid oilfield waste hauling, lease road oiling, or test well and test hole drilling.

"Person" – means *any natural person, corporation, association, partnership, governmental agency or other legal entity, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.* (Section 1 of the Act)

"PRF" − means the Department's Plugging and Restoration Fund, established under Section 6 of the Act.

"Pool" – means *a natural underground reservoir containing, in whole or in part, a natural accumulation of oil or gas, or both. Each productive zone or stratum of a general structure, which is completely separated from any other zone or stratum in the structure, is deemed a separate "pool"*. (Section 1 of the Act)

"Primary Oil Recovery" – means the initial drilling of a well in the effort to recover hydrocarbons for a pool that is not currently, nor was previously, subject to enhanced oil recovery.

"Post-Primary Oil Recovery" – means the drilling of a well in an effort to recover hydrocarbons from a pool that was previously subject to primary oil recovery or to enhanced oil recovery.

"Produced Water" – means water regardless of chloride and total dissolved solids (TDS) content that is produced in conjunction with oil and/or natural gas production and natural gas storage operations.

"Production Casing" – means the string of casing placed in a well and used for the purpose of isolating the production or injection formation.

"Repressure" – means to increase the reservoir pressure by the introduction of gas, air or water or other fluid into the reservoir.

"Reservoir" – for the purpose of this Part, is interchangeable with the term "pool".

"Rotary Drilling" – means the hydraulic process of drilling a well for oil or gas as that method is commonly used in the industry.

"Shooting" – means the exploding of nitroglycerin or other high explosives in a well for the purpose of increasing the production of oil or gas.

"Surface Waters" – means any river, stream, lake, pond or intermittent stream.

"Tank" – means a vessel into which oil or water is gathered, produced or stored.

"Tank Battery" – means one or more open or closed top tanks, of any capacity, that are located on a lease, unit or adjacent property, for the purpose of collecting, separating and/or storing crude oil and/or other liquid oilfield wastes that are generated as a result of oil and gas production operations.

"Undeveloped Limits of a Mine" – means that portion of a mine where the entries have not been driven to the boundaries of the mine property.

"Vacuum" – means pressure that is reduced below the pressure of the atmosphere.

"Water Drainage Way" – means any drainage ditch, roadside ditch, grassy waterway or any other natural or manmade surface or underground water drainage

system.

"Well" – means any drill hole required to be permitted under Section 6(2) of the Act, including coal or mineral groundwater monitoring wells, structure test holes, coal test holes, and mineral test holes, and any other well required to be permitted under Sections 6 and 12 of the Act, including oil and gas production wells, water supply wells, Class II UIC injection wells, gas storage and gas storage monitoring wells, orphan wells, unpermitted leaking drill holes and plugged wells.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.125 Notice

a) Except for notices of noncompliance issued under Section 240.140 and Director's decisions issued under Section 240.160, whenever the Department is required by the Act or this Part to serve notice upon a permittee, the Department shall give written notice to that person, personally or by certified mail with return receipt requested, sent to the address submitted by permittee as set forth in Section 240.1710. *Permittees shall sign certified mail returned receipts for all mail received from the Department.* (Section 9.1(b) of the Act)

b) Notice by Publication

1) *If notice sent by certified mail is returned unsigned or undelivered, and upon due inquiry, the permittee cannot be found for personal delivery, the Department shall provide written notice of a hearing or other proceeding by a single publication of the notice in a newspaper published in the county where the well or wells at issue are located*. (Section 9.1(c) of the Act)

2) *If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining county in this State having a circulation in the county where the well or wells are located.* (Section 9.1(c) of the Act)

3) *The Department shall, within 10 days after the publication of the newspaper notice, send a copy of the notice,* by certified mail with return receipt requested, to the address submitted by the permittee as set forth in Section 240.1710. (Section 9.1(c) of the Act)

4) *The certificate of an authorized representative of the Department that newspaper notice was published and that a copy of the newspaper notice*

has been sent to the permittee pursuant to subsection (b)(3) *is evidence that the Department has properly provided notice to the permittee for the hearing or other proceeding.* (Section 9.1(c) of the Act)

5) *Any notice required to be provided to a permittee under the Act or this Part shall include the identification of the well or wells at issue, the date, time, place and nature of the hearing or other proceeding, and the name and contact information of the Department where additional information can be obtained.* (Section 9.1(d) of the Act)

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.131 Unitization Hearings

a) Commencement of Action
Where separately owned tracts of land are underlain by all or a portion of a common pool of oil or gas or both, an interested person may petition the Department for an order unitizing those tracts, that is to combine those tracts within a unified operation, pursuant to Section 23.3 of the Act. The petition for a unitization order shall contain the following:

1) *A legal description of the land and geologic description of the reservoirs within the proposed unit area;*

2) *The names of all persons owning or having an interest in the oil and gas rights in the proposed unit area as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the unit area is situated, and their addresses, if known. If the address of any person* or the name of any owner *is unknown, the petition shall so indicate* and shall state whether due diligence was used in locating the unknown address or unknown owner;

3) *A statement of the type of operations contemplated for the unit area;*

4) *A copy of a proposed plan of unitization signed by persons owning not less than 51% of the working interest underlying the surface within the area proposed to be unitized, which the petitioner considers fair, reasonable and equitable; said plan of unitization shall include (or provide in a separate unit operating agreement, if there be more than one working interest owner, a copy of which shall accompany the petition) the following:*

A) *A plan for allocating to each separately owned tract in the unit area its share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost;* the plan shall include the participation factors for each tract and a detailed description of the methodology and supporting data used to calculate the participation factors.

B) *A provision indicating how unit expense shall be determined and charged to the several owners, including a provision for carrying or otherwise financing any working interest owner who has not executed the proposed plan of unitization and who elects to be carried or otherwise financed, and allowing the unit operator, for the benefit of those working interest owners who have paid the development and operating costs, the recovery of not more than 150% of such person's actual share of development costs of the unit plus operating costs, with interest. Recovery of the money advanced to owners wishing to be financed, for development and operating costs of the unit, together with such other sums provided for herein, shall only be recoverable from such owner's share of unit production from the unit area.*

C) *A procedure and basis upon which wells, equipment, and other properties of the several working interest owners within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor.*

D) *A plan for maintaining effective supervision and conduct of unit operations, in respect to which each working interest owner shall have a vote with a value corresponding to the percentage of unit expense chargeable against the interest of such owner.*

E) A summary of the total cumulative production to date, the estimated additional total recoverable reserves from the proposed unit and the estimated total development cost and operating cost of the unit;

5) The name and addresses of the proposed operator or operators of the unit;

6) A map showing the tracts or group of leases included within the proposed unit area, the location of the proposed injection well or wells and the name, permit number, and location of all oil and gas wells, including

abandoned wells, active wells and dry holes and the reservoirs in which all such wells are currently completed, and the names of all operators offsetting the proposed unit area and the name, description and depth of the producing zones in those areas;

7) A map showing the structure of the geologic horizon that best represents the structure of the proposed reservoirs to be unitized;

8) A listing of the reservoirs to be unitized and a map showing the productive portion, thickness, and extent of each reservoir;

9) An induction or electric log of a representative well completed in the proposed unitized reservoirs;

10) A description of the injection medium to be used, its source and the estimated amounts to be injected daily;

11) A description of the proposed plan of development of the area included within the unit;

12) An allegation of the facts required to be found by the Department under Section 23.5 of the Act. The required facts are as follows:

A) *That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;*

B) *That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;*

C) *That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;*

D) That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;

E) That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners; and

F) That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable.

b) Execution and Filing

1) The petition for an order creating a unit pursuant to Section 23.3 of the Act shall be sent to the Department at One Natural Resources Way, Springfield IL 62702.

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's address shall be stated on the petition. The signature of the petitioner or his or her representative constitutes a certificate that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there is good ground to support the petition. The petition shall be accompanied by a non-refundable application fee in the amount of $2,500.

3) If the Department finds the petition deficient relative to the requirements of subsection (a), subsection (b)(2) or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

c) Notice of Hearing

1) *Upon the receipt of an accepted petition for unitization, the Department shall fix the time and place for a public hearing, which shall be no less than 30 days nor more than 60 days after the date of the filing of said petition.* The Department shall prepare a notice of hearing, which *shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceedings, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands contained within the proposed unit area.* (Section 23.4 of the Act) The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting an entry of appearance in writing to the Department

and that person shall be deemed a party of record in the proceeding.

2) The Department shall mail the notice to the petitioner who shall then serve notice in the following manner:

A) By mailing the notice by U.S. Postal Service certified mail, return receipt requested, *directed to the persons named in the petition at their last known addresses* at least 20 days prior to the hearing; and

B) *By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks,* with the first notice appearing at least 20 days prior to the hearing, *in a newspaper of general circulation published in each county containing some portion of the proposed unit area.* (Section 23.4 of the Act)

3) Whenever the Department determines that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect that person's rights or property, the Department shall cause notice to be sent to the person, as provided in this subsection (c).

d) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:

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

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

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

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

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

e) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

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

D) To consider and rule upon procedural requests;

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

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his or her own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in the Circuit Court.

3) All participants in the hearing shall have the right to be represented by counsel.

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

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.

6) Preliminary Matters: When applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of service of the notice of hearing, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

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

f) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

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

3) Order of Proof: The petitioner shall open the proof. Other parties of

record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that party. If the failure to appear at a pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.131(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry. The Department shall render a decision within 30 days after the hearing unless all parties that have appeared agree to waive this requirement.

2) The order shall grant the petition for unitization if based on the record the Hearing Officer finds all of the following:

A) *That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;*

B) *That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;*

C) *That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;*

D) *That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;*

E) *That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners;* and

F) *That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable*. (Section 23.5 of the Act)

3) If the petition is granted the order shall provide for the authorization of the unit and unitized operation, as proposed by the petitioner, upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and that are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and

royalty owners, and for the protection of correlative rights and the prevention of waste. The order shall state the time the unit operation shall become effective and the manner in which and the circumstances under which the unit operation shall terminate.

4) Except as provided in subsection (j)(5), the order shall deny and dismiss the petition for unitization if, based on the record, the Hearing Officer finds that the petitioner has failed to establish the requirements for formation of a unit set forth in subsection (j)(2). An order denying and dismissing a petition for unitization shall be entered within 30 days after the hearing. *Such order shall set forth the reasons for dismissal, and the same shall be promptly filed by the petitioner, if notice was filed under* Section 23.3(2) of the Act, *in the recorder's office of the county or counties wherein the land is situated.* (Section 23.6 of the Act)

5) As an alternative to denying the petition for unitization, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner in order to avoid dismissal. If the petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine the documents. If the petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of the hearing to all parties of record.

k) *Approval of Plan of Utilization − Effective Date of Order*
No order of the Department providing for unit operations shall become effective unless and until the plan of unitization has been approved in writing by those persons who, under the order, will be required to pay at least 51% of the unit expense, and also by the persons owning at least 51% of the unit production or proceeds thereof that will be credited to interests which are free of unit expense, including but not limited to, royalties, overriding royalties, carried interests, net profit interests, and production payments, and the Director has made such a finding, either in the order providing for unit operations or in a supplemental order, that the plan of unitization has been so approved; provided, however, that if any person is obligated to pay 51% or more, but less than 100% of the unit expense, the approval of that person and at least one other such person shall be required; and if one person entitled to production or proceeds thereof will be credited to interests which are free of unit expense, owns 51% or more, but less than 100%, the approval of that person and at least one other such person shall be required. If the plan of unitization has not been so approved at the time the order providing for unit operations is issued, the Department shall, upon petition and notice, hold such supplemental hearings as may be required to determine if and when the plan of unitization has been so approved and shall issue a

supplemental order evidencing such approval. If the requisite number of persons and the requisite percentage of interests in the unit area do not approve the plan of unitization within a period of 6 months from the date on which the order providing for unit operations is made, such order shall be revoked by the Department unless for good cause shown the Department extends said time for an additional period of time not to exceed one year. (Section 23.8 of the Act)

l) *Notice of Order − Recordation*
Within 10 days after an order has been issued, a copy of the order shall be mailed by the Department to each person or his or her attorney of record who has entered an appearance in the matter pursuant to which the order is issued. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the unit is situated a copy of the order providing for unit operations.

m) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 38 Ill. Reg. 18717, effective August 29, 2014)

Section 240.132 Integration Hearings

a) Commencement of Action
When the oil or gas rights within a drilling unit are separately owned and the owners of those rights have not voluntarily agreed to integrate or pool those rights to develop the oil or gas, an owner may petition the Department for an order integrating those rights, pursuant to Section 22.2 of the Act. The petition for an order integrating interests shall contain the following:

1) The name and address of the petitioner;

2) The petitioner's reasons for desiring to integrate the separately owned interests;

3) A legal land description of the drilling unit sought to be established;

4) A geologic report of the area where the proposed drilling unit is to be located, indicating the potential presence of reservoirs;

5) A description of the interest owned by the petitioner and each person named in the petition;

6) The names of all persons who have not agreed to integrate their interests owning or having an interest in the oil and gas rights in the proposed drilling unit as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the drilling unit is situated, and their addresses, if known. If the address of any person is unknown, the petition shall so indicate;

7) A statement that the owners have not agreed to integrate their interests;

8) A statement that the petitioner has exercised due diligence to locate each owner and that a bona fide effort was made to reach an agreement with each owner as to how the unit would be developed;

9) A statement that no action has been commenced by the owners seeking permission to drill pursuant to the provisions of the Oil and Gas Rights Act [765 ILCS 520];

10) Any other information relevant to protect correlative rights of the parties sought to be affected by the order.

b) Execution and Filing

1) The petition for an order requiring integration pursuant to Section 22.2 of the Act shall be sent to the Department at One Natural Resources Way, Springfield IL 62702.

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's address shall be stated on the petition. The signature of the petitioner or the petitioner's representative constitutes a certificate that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there is good ground to support the petition. The petition shall be accompanied by a non-refundable application fee in the amount of $1,500.

3) If the Department finds the petition deficient relative to the requirements of subsection (a), subsection (b)(2) or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

c) Notice of Hearing

1) Upon the receipt of an accepted petition for integration, the Department will fix the time and place for a hearing.

2) The Department shall prepare a notice of hearing that shall issue in the name of the State of Illinois and shall be signed by the Director. The notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands embraced within the proposed drilling unit. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting an entry of appearance in writing to the Department and that person shall be deemed a party of record in the proceeding.

3) The Department shall mail the notice to the petitioner who shall then serve notice in the following manner:

A) By mailing the notice by U.S. Postal Service certified mail, return receipt requested, directed to the persons named in the petition at their last known addresses at least 20 days prior to the hearing; and

B) By publication of the notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.

4) Whenever the Department shall determines that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect that person's rights or property, the Department shall cause notice to be sent to the person, as provided in this subsection (c).

d) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:

A) Simplify the factual and legal issues presented by the hearing

request;

B) Receive stipulations, admissions of fact and the contents and authenticity of documents;

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

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

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

e) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

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

D) To consider and rule upon procedural requests;

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

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be

produced to any party of record on his or her own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in the Circuit Court.

3) All participants in the hearing shall have the right to be represented by counsel.

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

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.

6) Preliminary Matters: When applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

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

f) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be

admitted, except when precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

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

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of any emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that party. If the failure to appear at a pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.132(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) *In making the determination of integrating separately owned interests, and determining to whom the permit should be issued, the Department may consider:*

A) *The reasons requiring the integration of separate interests;*

B) *The respective interests of the parties in the drilling unit sought to be established, and the pool or pools in the field where the proposed drilling unit is located;*

C) *Any parties' prior or present compliance with the Act and the Department's rules; and*

D) *Any other information relevant to protect the correlative rights of the parties sought to be affected by the integration order.*

3) Each order integrating separately owned interests *shall authorize the drilling, testing, completing, equipping, and operation of a well on the drilling unit; provide who may drill and operate the well; prescribe the time and manner in which all the owners in the drilling unit may elect to participate therein; and make provision for the payment by all those who elect to participate therein of the reasonable actual cost thereof, plus a reasonable charge for supervision and interest. Should an owner not elect*

to voluntarily participate in the risk and costs of the drilling, testing, completing and operation of a well as determined by the Department, the integration order shall provide either that:

A) *The nonparticipating owner shall surrender a leasehold interest to the participating owners on a basis and for such terms and consideration the Department finds fair and reasonable; or*

B) *The nonparticipating owner shall share in a proportionate part of the production of oil and gas from the drilling unit determined by the Department, and pay a proportionate part of operation cost after the participating owners have recovered from the production of oil or gas from a well all actual costs in the drilling, testing, completing and operation of the well plus a penalty to be determined by the Department of not less than 100% nor more than 300% of such actual costs.*

4) *For the purpose of this Section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a 7/8 interest in and to said rights and a lessor to the extent of the remaining 1/8 interest therein.*

5) *In the event of any dispute relative to costs and expenses of drilling, testing, equipping, completing and operating a well, the Department shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the integration order of the Department, shall have a lien on the mineral leasehold estate or rights owned by the other owners therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon said unit are a charge against such interest by order of the Department or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the integration order.* (Section 22.2 of the Act)

6) As an alternative to denying the petition for integration, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner in order to avoid dismissal. If the petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine the documents. If the petitioner fails to comply with the interim order, the petition shall be denied. The

Department shall send notice of the hearing to all parties of record.

7) An integration order establishing a drilling unit shall terminate one year from the effective date of the order unless a well has been drilled on the unit within that time. If a well has been drilled on the unit within that time, the integration order shall terminate when the well is plugged.

k) Notice of Order − Recordation
Within 10 days after an order has been issued, a copy of the order shall be mailed by the Department to each person or his or her attorney of record who has entered an appearance in the matter pursuant to which the order is issued and to each working interest owner who has not agreed to an integration. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the drilling unit is situated a copy of the order providing for integration of the separate interests.

l) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 38 Ill. Reg. 18717, effective August 29, 2014)

Section 240.133 Hearings to Establish Pool-Wide Drilling Units

a) Commencement of Action

1) Any interested person may petition the Department for a hearing to *establish a drilling unit or units for the production of oil and gas or either of them for each pool* to which the interested person owns some portion of the oil and gas. (Section 21.1 of the Act)

2) The petition for hearing to establish a drilling unit or units shall contain the following:

A) The name and address of the petitioner;

B) A legal description of the size of the drilling unit sought to be established;

C) A legal description of the extent of the reservoir to which the drilling unit or units are sought to be established;

D) A list of the names and addresses of all permittees of oil or gas interests in the reservoir;

E) A geologic description of the pool and an isopach and structure map of the reservoir, for which the drilling unit is sought showing the productive limits of the reservoir;

F) A plat showing all oil and gas or water injection or storage wells completed within the pool (reservoir);

G) Geologic and engineering reports outlining the reasons for and data supporting the proposed size of the drilling unit or units.

3) If the establishment of a drilling unit or units would require the integration of separately owned interests in the drilling unit or units, the petitioner may contemporaneously file a petition under Section 240.132 and the matters shall then be consolidated and heard together.

b) Execution and Filing

1) The petition to establish drilling units shall be sent to the Department at One Natural Resources Way, Springfield IL 62702.

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's address shall be stated on the petition. The signature of the petitioner or his or her representative constitutes a certificate that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there is good ground to support the petition. The petition shall be accompanied by a non-refundable application fee in the amount of $2,500.

3) If the Department finds the petition deficient relative to the requirements of subsection (a), subsection (b)(2) or Section 240.250(b), the petition shall not be accepted and the Department shall return the petition to the applicant with a statement as to the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. A returned petition shall not be considered filed until the deficiencies have been cured.

c) Notice of Hearing

1) Upon the receipt of an accepted petition to establish drilling units, the

Department shall fix the time and place for a hearing.

2) The Department shall prepare a notice of hearing, which shall issue in the name of the State of Illinois and shall be signed by the Director. The notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the affected lands. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting an entry of appearance in writing to the Department and that person shall be deemed a party of record in the proceeding.

3) The Department shall mail the notice to the petitioner who shall then serve notice in the following manner:

A) By mailing the notice by U.S. Postal Service certified mail with return receipt, directed to the persons named in the petition pursuant to subsection (a)(2)(D) at their last known addresses at least 20 days prior to the hearing; and

B) By publication of the notice for service on those persons whose addresses are unknown or whose names are unknown and for those owners of unleased mineral rights, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.

4) Whenever the Department determines that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect that person's rights or property, the Department shall cause notice to be sent to the person, as provided in this subsection (c).

d) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:

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

B) Receive stipulations, admissions of fact and of the contents and

authenticity of documents;

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

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

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

e) Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

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

D) To consider and rule upon procedural requests;

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

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The

Hearing Officer shall base that determination on the same standards used to determine parties in the Circuit Court.

3) All participants in the hearing shall have the right to be represented by counsel.

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

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.

6) When applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

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

f) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

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

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

g) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

h) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

i) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that party. If the failure to appear at a pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the situation on or

before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.133(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) The order shall grant the petition based on the record if the Hearing Officer finds that establishing the drilling unit will prevent waste, protect the correlative rights of the owners in the pools, and prevent the unnecessary drilling of wells.

3) No drilling unit shall be established *which requires the allocation of more than 40 acres of surface area nor less than 10 acres of surface area to an individual well for production of oil from a pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) provided, however, that the Department may permit the allocation of greater acreage to an individual well* and *provided further that the spacing of wells in any pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) shall not include the fixing of a pattern except with respect to the 2 nearest external boundary lines of each drilling unit.* (Section 21.1 of the Act)

4) The drilling units established by an order under this Section *shall be of approximately uniform size and shape for each entire pool, except that where circumstances reasonably require, the Department may grant exceptions to the size or shape of any drilling unit or units,* in which case the order shall state the particular circumstances that require the exception.

5) *Each order establishing drilling units shall specify the size and shape of the unit, which shall be such as will result in the efficient and economical development of the pool as a whole,* and subject to the provisions of subsection (j)(3), *the size of no drilling unit shall be smaller than the maximum area that can be efficiently and economically drained by one well.*

6) *Each order establishing drilling units for a pool shall cover all lands determined or believed to be underlain by such pool. Each order establishing drilling units may be modified by the Department to change the size thereof, or to permit the drilling of additional wells.*

7) *Each order establishing drilling units shall prohibit the drilling of more than one well on any drilling unit for the production of oil or gas from the particular pool with respect to which the drilling unit is established* and subject to the provisions of subsection (j)(3) *shall specify the location for the drilling of such well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells drilled or drilling at the time of the application. If the Department finds, after notice and hearing,* notice being made as provided in this Section to all parties of record in the proceeding, *that surface conditions would substantially add to the burden or hazard of drilling such well at the specified location, or for some other reason it would be inequitable or unreasonable to require a well to be drilled at the specified location, the Department may issue an order permitting the well to be drilled at a location other than that specified in the order establishing drilling units.*

8) *After the date of the notice for a hearing called to establish drilling units, no additional well shall be commenced for production from the pool until the order establishing drilling units has been issued unless the commencement of the well is authorized by order of the Department.*

9) *After an order establishing a drilling unit or units has been issued by the Department, the commencement of drilling of any well or wells into the pool with regard to which such unit was established for the purpose of producing oil or gas therefrom, at a location other than that authorized by the order, or by order granting exception to the original spacing order is hereby prohibited.* (Section 21.1 of the Act)

10) As an alternative to denying the petition for a drilling unit, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner in order to avoid dismissal. If the petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine the documents. If the petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of the hearing to all parties of record.

k) Order − Final Administrative Decision

The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 38 Ill. Reg. 18717, effective August 29, 2014)

Section 240.134 Lease Validation Petitions

a) The following definitions are applicable to this Subpart:

"Current Permittee" means the permittee of record for wells located within the prior oil and gas leases.

"New Oil and Gas Leases" means recorded operative oil and gas lease instruments or assignments of those oil and gas leases or recorded after the prior oil and gas leases, submitted by the proposed permittee in support of an application for a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part and describing all or a portion of the lands described in the prior oil and gas leases.

"Prior Oil and Gas Leases" means recorded oil and gas lease instruments or assignments of those oil and gas leases in place when the Department granted the current permittee a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part on the lands covered by the prior oil and gas leases.

"Proposed Permittee" means the person seeking to obtain a new permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part that is located on lands covered by prior oil and gas leases upon which a current permittee was previously granted a permit by the Department.

b) Petition
A proposed permittee seeking a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part that is located on lands subject to a prior oil and gas lease or leases under which the current permittee was previously granted a permit by the Department may submit a petition requesting the Department to determine whether the new oil and gas leases submitted by the proposed permittee in support of the permit application are operative on the basis that the prior oil and gas leases covering the same lands have terminated due to nondevelopment or nonproduction.

c) Contents of the petition shall include:

1) the name and address of the proposed permittee;

2) the proposed permittee's reason for requesting a determination from the Department;

3) a copy of prior oil and gas leases at issue;

4) a copy of new oil and gas leases at issue; and

5) a copy of an *affidavit of nondevelopment or nonproduction* signed by the mineral owners or other *knowledgeable individuals familiar with the history of development and production of oil or gas as to* the *lands* (Section 6.2 of the Act) covered by the prior oil and gas leases, and properly recorded in the county where the lands subject to the new oil and gas leases are located.

d) Execution and Filing

1) The petition to validate the new oil and gas leases in accordance with this Section shall be sent to the Department offices located at One Natural Resources Way, Springfield IL 62702.

2) Every petition shall be signed by the proposed permittee or his or her representative and the proposed permittee's address shall be stated on the petition. The signature of the proposed permittee or his or her representative constitutes a certificate by him or her that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there are good grounds to support the petition. The petition shall be accompanied by a *nonrefundable* application *fee* in the amount *of $1,000* (Section 6.2 of the Act).

3) If the Department finds the petition deficient relative to the requirements of subsection (b) or (c), the petition shall not be accepted and the Department shall return the petition to the proposed permittee with a statement of the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. The proposed permittee shall have 60 days to remedy the deficiencies and resubmit the petition to the Department. If the proposed permittee does not respond to the Department within 60 days, the petition shall be dismissed.

e) Review of Petition; Rebuttable Presumption

1) Within 14 days after receipt of the petition, the Department shall review the petition and determine if it creates a rebuttable presumption that the prior oil and gas leases have terminated due to nondevelopment or nonproduction and are of no further force and effect and that the new oil and gas leases are operative and effective.

2) *To create a rebuttable presumption, affidavits of nondevelopment or nonproduction from knowledgeable individuals familiar with the history of development and production of oil or gas* from those *lands, together with other evidence provided to or available from the Department, shall reasonably indicate that there has been no development or production of oil and gas on the lands described in the prior oil and gas leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the leases.* (Section 6.2 of the Act)

3) Upon a determination of a rebuttable presumption that the prior oil and gas leases are terminated, the Department shall notify the proposed permittee of the finding and send notice to the current permittee as set forth in subsection (f).

4) If the Department previously denied a petition based on prior oil and gas leases that are later subject to a court order or judgment declaring that the prior oil and gas leases are terminated, the proposed permittee shall submit the judgment to the Department. Upon receipt and review of the court order or judgment, the Department will issue a final order declaring the prior oil and gas leases terminated as set forth in subsection (p).

f) Service of Determination on Current Permittee
Upon the Department's determination of a rebuttable presumption that the prior oil and gas leases have terminated due to nonproduction or nondevelopment and are of no further force and effect and that the new oil and gas leases are operative and effective, *the Department shall* serve *the current permittee notice* of the determination according to the notice requirements set forth in Section 240.125. The current permittee shall have *30 days* from the receipt of notice *to request a hearing to rebut the presumption* that the prior oil and gas leases have terminated. (Section 6.2 of the Act)

g) Default for Failure to Request Hearing
Failure by the current permittee to request a hearing within 30 days after receipt of the notice of the Department's determination, as set forth in subsection (f), will result in default and issuance of a final order by the Department finding that the

prior oil and gas leases have terminated and that the new oil and gas leases are operative and effective as set forth in subsection (p).

h) Scheduling and Notice of Hearing
Following a timely request for hearing by the current permittee, the Department will schedule a hearing at which the current permittee can rebut the presumption that the prior oil and gas leases have terminated. Notice of the hearing shall be served on the current permittee and the proposed permittee by the Department according to Section 240.125 at least 14 days prior to the hearing.

i) Pre-Hearing Conferences
Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:

1) Simplify the factual and legal issues presented by the hearing request;

2) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

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

4) Discuss and resolve other matters that may tend to expedite the disposition of the hearing request and to assure a just conclusion.

j) Hearing

1) Conduct of Hearing
Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the power to:

A) Administer oaths and affirmations;

B) Receive relevant evidence;

C) Regulate the course of the hearing and the conduct of the parties and their counsel;

D) Consider and rule upon procedural requests;

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

F) Require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) Hearing Location
All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.

3) Appearances
Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person will be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in Circuit Court.

4) Right to Counsel

A) All participants in the hearing shall have the right to be represented by counsel.

B) An attorney appearing in a representative capacity in any proceeding under this Subpart shall file a written notice of appearance identifying his or her name, address and telephone number and identifying the party represented.

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

6) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question

parties or otherwise elicit information necessary to reach a decision on the petition.

7) When applicable, the following shall be addressed prior to receiving evidence:

A) The proposed permittee may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the case.

B) Ruling may be made on any pending motions.

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

k) Evidence

1) Admissibility
A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when it would have been precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

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

3) Order of Proof
The proposed permittee shall open the proof. Other parties of record shall be heard immediately following the proposed permittee. The Hearing Officer or Department representatives may examine any witnesses. In all

cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs
The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine is consistent with the Department's responsibility for an expeditious decision.

l) Testimony
Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

m) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing.

n) Default After Hearing Requested
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may proceed to make its decision in the absence of that party. If the failure to appear at the pre-hearing conference or hearing is due to an emergency situation beyond the party's control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (m). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the party's control.

o) Hearing Officer Recommended Findings
After the conclusion of the hearing, the Hearing Officer shall render recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case. If the Hearing Officer finds that the affidavits and other evidence provided at the hearing or available to the Department reasonably indicate that there has been no development or production of oil and gas on the lands described in the prior oil and gas leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the prior oil and gas leases, the

Hearing Officer shall recommend whether the rebuttable presumption was not overcome and that the prior oil and gas leases have terminated and are of no further force and effect or that the new oil and gas leases are operative and effective.

p) Order – Final Administrative Decision

1) The Director shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case.

2) If, after this review, the Director finds that the rebuttable presumption was overcome by the current permittee, the Department shall enter a Final Administrative Order that the prior oil and gas leases are still in force and effect and the new oil and gas leases are not operative and effective.

3) If, after this review, the Director finds that the rebuttable presumption was not overcome by the current permittee, the Department shall enter a Final Administrative Order that the prior oil and gas leases have terminated and are of no further force and effect and that the new oil and gas leases are operative and effective. The Final Administrative Order shall:

A) State that the prior oil and gas leases have terminated and are of no further force and effect and that the new oil and gas leases are operative and effective.

B) Order the *current permittee to properly plug all nonplugged and nontransferred wells within the lease boundaries of the prior leases.* (Section 6.2 of the Act)

C) Order that *if the current permittee fails to properly plug all nonplugged and nontransferred wells within 30 days* after *the issuance of the* Order, *the* remaining nonplugged and nontransferred *wells shall be deemed abandoned and included in the Department's Oil and Gas Well Site Plugging and Restoration Program* (see Subpart K). (Section 6.2 of the Act)

D) The proposed permittee shall have no obligation to acquire the permits of the current permittee as to the lands that are the subject of the petition.

4) In no case shall the Department issue the Order later than *90 days after receipt of a valid* petition. (Section 6.2 of the Act)

5) The Director's Order is a final administrative decision of the Department and is subject to judicial review under the Administrative Review Law [735 ILCS 5/Art. III].

6) *Department determinations under this Section shall not have res judicata or collateral estoppel effect in any judicial proceedings.* (Section 6.2 of the Act)

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016; expedited correction at 40 Ill. Reg. 11042, effective April 22, 2016)

Section 240.135 Falsification or Misstatement of Information

No person shall falsify or make a material misrepresentation *on or relative to any application, permit, required record, or other document required to be submitted to the Department* by the Act or this Part. (Section 8d of the Act)

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.140 Notice of Noncompliance

a) When an inspector or other authorized employee or agent of the Department determines that any permittee has not fully complied with any requirement of the Act or this Part or any permit condition, and the inspector or other authorized employee or agent also finds that the noncompliance was not caused by the permittee's deliberate action; that any action necessary to return the permittee to compliance is able to be completed within a specified date certain, as established by the Department representative, not to exceed 180 days from the date of the determination that the permittee is not in compliance; and that the noncompliance has not caused, and cannot reasonably be expected to cause, significant environmental harm or damage to property, the noncompliant conditions shall be documented by the Department on a notice of noncompliance without the need for the issuance of a notice of violation pursuant to Section 240.150. The notice of noncompliance shall indicate the nature and circumstances of the noncompliance, the amount of time granted to permittee, and the abatement activities required to return the permittee to compliance. A copy of the notice of noncompliance shall be delivered to the permittee or his or her representative at the time it is prepared, and the original shall be forwarded to the Director. If the permittee is unable to abate the noncompliance in the time indicated in the notice, permittee may

provide a written request for an extension to the District Office that issued the notice. If the District Office denies the request, the permittee may submit the request to the Director. All extension requests must be received by the District Office or Director prior to the expiration of the initial deadline or any extensions. Upon reasonable cause, the time to abate may be extended by the Department but shall not exceed 180 days from the date the noncompliance was determined.

b) If the abatement activities required under subsection (a) are not completed as specified in the notice of noncompliance, the inspector or other authorized employee or agent of the Department shall issue a notice of violation in accordance with Section 240.150 and/or a cessation order in accordance with Section 240.185.

c) The provisions of this Section shall not apply to the following instances of noncompliance:

1) Drilling or operating, without a permit or completed permit transfer from the Department, a well required to be permitted under the Act;

2) Operating an annular or casing injection/disposal well or a well with pressure on the annulus;

3) Failure to maintain required performance bond or pay annual well fees for wells under permit;

4) Failure to renew Temporary Abandonment status on a well or secure approved Temporary Abandonment status following a denial of Temporary Abandonment status on a well;

5) Failure to establish mechanical integrity on a Class II well or repair a Class II well following failure of mechanical integrity;

6) Operating a well that has been placed in the Plugging and Restoration Program;

7) Failure to provide emergency response for a crude oil or saltwater spill;

8) Improper discharge or disposal of produced fluids;

9) Operating a well in violation of spacing requirements or permit conditions; and

10) Failure to restore a well site after plugging.

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.150 Notice of Violation

a) *When an inspector or other authorized employee or agent of the Department determines that any permittee, or any person engaged in conduct or activities required to be permitted under the Act is in violation of any requirement of the Act or* this Part *or any permit condition, or has falsified or otherwise misstated any information on or relative to the permit application, a notice of violation shall be completed and delivered to the Director* (Section 8 of the Act). If the inspector or other authorized employee or agent of the Department observes conditions that require immediate attention, the inspector shall comply with the requirements of Section 240.185.

b) The notice of violation shall contain:

1) A statement regarding the nature of the violation, including a citation to the specific Section of the Department's rules or Section of the Act alleged to have been violated;

2) *The action needed to abate the violation, including any appropriate remedial measures to prevent future violations, such as replacement, repair, testing, and reworking a well and any appurtenances and equipment;*

3) *The time within which the violation is to be abated*; and

4) *Any factors known to the person completing the notice of violation in aggravation or mitigation of the violation and the existence of any factors indicating that the permit should be conditioned or modified.* (Section 8 of the Act).

c) Aggravating factors may include, but are not limited to, documented evidence that:

1) violation resulted from permittee's or person's deliberate conduct;

2) permittee or person failed to make reasonable efforts to maintain equipment;

3) violation resulted in threatened or actual damage to soil and/or the land surface, vegetation or crops, surface water, groundwater, livestock or wildlife;

4) violation created a hazard to the safety of any person;

5) permittee or person failed to comply with notice of noncompliance related to violation;

6) permittee or person received warning of potential adverse conditions, resulting in violation, prior to violation occurring;

7) permittee or person failed to provide reasonable response to condition creating the violations.

d) Mitigating factors may include, but are not limited to, documented evidence that:

1) person or permittee provided proactive response to conditions creating the violation;

2) violation did not result in threatened or actual damage to soil and/or the land surface, vegetation or crops, surface water, groundwater, livestock or wildlife;

3) violation was caused by circumstances outside of the control of the person or permittee;

4) person or permittee voluntarily reported the violation to the Department.

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.155 Civil Complaint

a) The Department may elect to file an action with the Attorney General with or without issuing a notice of violation pursuant to Section 240.150.

b) In accordance with Section 11 of the Act, the Department through the Attorney General shall *bring an action in the name of the People of the State of Illinois against such person in the circuit court of the county wherein any part of the land or any activity which is the subject matter of such action is located, or a final administrative order was entered, to restrain such person from continuing such violation or from carrying out the threat of violation. In such action the*

Department, in the name of the People of the State of Illinois, may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, or other enforcement orders as the facts may warrant, including but not limited to:

1) *an assessment of civil penalties not to exceed $1,000 per day for each and every act of violation* documented in the previous 2 years; and/or

2) submission of a bond in accordance with Subpart O; and/or

3) denial of new drilling and/or operating permits.

c) The provisions of this Section apply to the following:

1) violations of any requirement of the Act that the Department determines creates a substantial and imminent danger to the health or safety of the public; or

2) violations of the Act that pose an imminent danger of substantial environmental harm or cause environmental damage to property or contamination of surface or ground waters of the State as a result of improper disposal, release, or discharge of produced fluid; or

3) the permittee has shown a pattern of documented events involving improper disposal, release, or discharge of produced fluids within the previous 2 years from the date of the most recent event.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.160 Director's Decision

a) Upon receipt of a notice of violation, the Director shall conduct an investigation and may affirm, vacate or modify the notice of violation. In determining whether to take action in addition to remedial action necessary to abate a violation, the Director shall consider:

1) *the person's or permittee's history of previous violations, including violations at other locations and under other permits.*

A) A violation for which no penalty has been assessed shall not be counted if the Director's Decision associated with the violation is the subject of pending administrative review by the Department

under Section 240.180 or if the time to request a review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative order or a final judicial decision affirming the Department's order, if administrative review of the Department's final administrative order is sought.

B) A violation for which a penalty has been assessed shall not be counted if the Director's Decision associated with the violation is the subject of pending administrative review by the Department under Section 240.180 or if the time to request a review has not expired, and thereafter it shall be counted for only three years after the date of the Department's final administrative order or a final judicial decision affirming the Department's order, if administrative review of the Department's final administrative order is sought.

C) No violation for which the notice of violation has been vacated shall be counted;

2) *the seriousness of the violation, including any irreparable harm to the environment or damage to property*;

3) *the degree of culpability of the person or permittee*; *and*

4) *the existence of any additional conditions or factors in aggravation or mitigation* of the violation, *including information provided by the person or permittee.* (Section 8a of the Act).

b) *Modification of the notice of violation may include:*

1) *any different or additional remedial actions required to abate the violation*, not listed in the original notice of violation, *and the time within which the violation must be abated;*

2) *the assessment of civil penalties not to exceed $5,000 for each and every falsification or material misrepresentation and $1,000 a day,* from the date the permittee knew or should have known of the existence of facts or conditions that resulted in the violations and for as long as the violation continues, *for each and every act of violation* not subject to the separate $5,000 penalty for falsification and material misrepresentation*;*

3) *probationary or permanent modification or conditions on the permit, which may include special monitoring or reporting requirements; and*

4) *revocation of the permit.* (Section 8a of the Act)

c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a). Except for violations listed in subsection (d), the Director may not assess a civil penalty if the violation is abated within the time frame originally set by the Department or any extensions granted by the Department. If a violation is not abated within that timeframe, or if the violation is listed in subsection (d) and the Department assesses a penalty, the penalty shall not exceed *$5,000 for each and every falsification or material misrepresentation and* $1,000 per day, from the date the permittee knew or should have known of the existence of facts or conditions that resulted in the violations and for as long as the violation continues, for each and every act of violation not subject to the $5,000 penalty for falsification and material misrepresentation (Section 8a of the Act).

d) The Department shall have the discretion to assess a civil penalty for the following violations, even if the violation is abated within the timeframe granted by the Department:

1) drilling, deepening, converting or operating, without a permit or completed permit transfer from the Department, a well required to be permitted under the Act;

2) failure to prohibit waste as defined in the Act;

3) operating an annular or casing injection/disposal well or a well with pressure on the annulus;

4) failure to maintain the required performance bond for wells under permit or operating wells without paying annual well fees;

5) failure to repay all expended funds from the Plugging and Restoration Fund prior to operating any other existing wells under permit;

6) failure to secure approved Temporary Abandonment status or plug a well following a denial of Temporary Abandonment status;

7) failure to establish mechanical integrity on a Class II UIC well or to plug or repair a Class II UIC well following failure of mechanical integrity;

8) failure to shut in a Class II UIC well that fails an internal mechanical integrity test or on which an internal mechanical integrity test has not been performed;

9) operating a Class II injection or disposal well in excess of the permitted maximum injection pressure or rate;

10) failure to confine injection fluid to the permitted formation;

11) failure to abate a notice of noncompliance, issued under Section 240.140 within the time granted by the Department;

12) operating a well that has been placed in the Plugging and Restoration Program;

13) failure to notify the Department of a reportable crude oil or produced water spill;

14) failure to notify the Department of a natural gas release or natural gas incident at an underground natural gas storage field;

15) failure to provide emergency response for a crude oil or produced water spill;

16) failure to provide emergency response for a natural gas release or natural gas incident at an underground natural gas storage field;

17) failure to provide notice of a natural gas incident as required by Section 7.5 of the Act;

18) failure to remediate a crude oil or saltwater spill;

19) improper discharge or disposal of produced fluids or liquid oilfield wastes;

20) operating a liquid oilfield waste transportation system or vehicle without a permit;

21) knowingly using the services of an unpermitted liquid oilfield waste transporter;

22) failure to contain gas to a permitted storage formation;

23) operating a well in violation of spacing requirements or permit conditions;

24) failure to plug an uncased well;

25) failure to restore a well site after plugging;

26) failure to maintain a well, flowline or other equipment in a leak-free condition;

27) falsification or material misrepresentation in violation of Section 240.135; and

28) any willful or knowing violation.

e) *Any person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section.* (Section 8a of the Act)

f) The Director shall serve the person or permittee with his or her decision at the conclusion of the investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. The Director's decision affirming, vacating or modifying the notice of violation shall be *considered served when mailed by first class mail to the person or permittee at his or her last known address.* (Section 8a of the Act)

g) A Director's decision not appealed in accordance with Section 240.180 within 30 days after service shall serve as the Department's final administrative order, pursuant to Section 8a and become a final administrative decision of the Department, pursuant to Section 10 of the Act. *The filing of a request for hearing* under Section 240.180 *shall not operate as a stay of the Director's decision.* (Section 8a of the Act)

h) The permittee or person subject to the Director's decision may, within 30 days from the date of service of the Director's decision, submit to the Department, in writing, any mitigating factors that permittee believes to be relevant to the violation cited in the Director's decision. Within 30 days from the date of service of the Director's decision, the permittee or person subject to the Director's decision may also request to enter into a settlement agreement with the Department.

i) Upon further investigation, or after receiving additional information from the permittee or person as allowed for under subjection (h), the Director may enter into a settlement agreement, issue an amended Director's decision, or issue a replacement Director's decision.

1) The Department may enter into a settlement agreement with the permittee or person subject to the Director's decision in order to:

A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the Director's decision; or

B) reduce the civil penalty assessed in the Director's decision;

C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement; or

D) modify any probationary or permanent modifications or conditions on the permit ordered in the Director's decision.

2) An amended Director's decision shall be issued to:

A) modify the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's decision; or

B) modify the civil penalty assessed in the Director's decision.

3) A replacement Director's decision shall be issued to correct an administrative error contained in the Director's decision.

4) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's decision unless the period to appeal the original Director's decision has not expired or the amended or replacement Director's decision alleges new facts, violations, or additional or modified civil penalties, not contained in the original Director's decision.

j) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the

Director's decision.

k) *All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund.* (Section 8a of the Act)

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.180 Enforcement Hearings

a) *A person or permittee shall have 30 days from the date of service of the Director's decision to request a hearing.* (Section 8a of the Act) A person or permittee seeking to contest any Director's decision in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashier's check or money order, together with a timely request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount shall be refunded to the person or permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Department's office located in Springfield, Illinois.

b) *Upon receipt of a request* for hearing submitted in accordance with subsection (a), *the Department shall provide an opportunity for a formal hearing upon not less than 5 days* written notice mailed to the permittee or person submitting the hearing request. (Section 8a of the Act) The hearing shall be conducted by a Hearing Officer designated by the Director and shall be conducted in accordance with the following procedures:

1) Pre-Hearing Conference

A) A pre-hearing conference shall be scheduled within 30 days after the request for hearing:

i) to define the factual and legal issues to be litigated at the administrative hearing;

ii) to determine the timing and scope of discovery available to the parties;

iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each witness;

iv) to schedule a date for the administrative hearing; and

v) to arrive at an equitable settlement of the hearing request, if possible.

B) Pre-hearing conferences under this Section may be conducted via telephone conference if that procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at the place designated by the Hearing Officer.

C) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Department's Hearing Officer shall render an order granting or denying motions filed within 15 days after service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the matter being contested.

2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the Hearing Officer and shall constitute the Department's final administrative decision as to matter being contested.

3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].

4) All hearings conducted pursuant to this Section are open to the public and are held in compliance with the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.). The hearings will be held at locations ordered by the Hearing Officer. The Hearing Officer will select hearing locations that comply with any geographic requirements imposed by applicable law and, to the extent feasible, promote the convenience of the parties and the conservation of the Department's resources. All hearings are subject to cancellation without notice. Interested persons may contact the Department or the Hearing Officer for information about the hearing.

Parties, participants and members of the public must conduct themselves with decorum at the hearing.

5) Upon the motion of any party, the Hearing Officer may order that a hearing be held by telephone conference, video conference or other electronic means. In deciding whether a hearing should be held by telephone conference, video conference or other electronic means, factors that the Hearing Officer shall consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness.

6) At the hearing the Department shall have the burden of proving the facts of the violation alleged in the notice of violation at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or permittee shall have the right to challenge the Hearing Officer if the person or permittee believes the Hearing Officer is prejudiced against him or her or has a conflict of interest. If the Hearing Officer disqualifies himself or herself, the Director shall designate a new Hearing Officer. The Hearing Officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.

7) The Director shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. *Within 30 days* after *the close of the hearing record or expiration* after *the time to request a hearing, the Department shall issue a final administrative order.* (section 8a of the Act)

c) *Failure of the person or permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty, shall constitute a waiver of all legal rights to contest the Director's decision, including the amount of any civil penalty.* (Section 8a of the Act)

d) *If, at the expiration of the period of time originally fixed in the Director's decision or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violations* pursuant to 62 Ill. Adm. Code 240.185. (Section 8(a) of the Act)

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.185 Cessation of Operations Orders

a) *If, at the expiration of the period of time originally fixed in a Director's decision* issued pursuant to Section 240.180 *or in any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions thereof relevant to the violation.* (Section 8a of the Act)

b) *If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or* this Part *or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of operations.* (Section 19.1 of the Act)

c) Upon observation of any conditions listed in subsection (b), and prior to issuing a cessation of operations order, the authorized employee or agent of the Department shall make reasonable efforts to locate the responsible party, notify that party of the conditions, and allow them an opportunity to immediately abate the conditions. Reasonable efforts include contacting a permittee at the address required to be submitted in compliance with Section 240.1710. *If a responsible party cannot be readily located in the judgment of the employee or agent issuing the order, the employee or agent may take any action he or she deems necessary to cause a cessation of operations and abatement of any condition.* (Section 19.1 of the Act). If the responsible party is located and does not take immediate action to abate the conditions, the employee or agent may take any action he or she deems necessary to cause a cessation of operations and abatement of any condition.

d) The Department may issue orders requiring the cessation of operations, with or without issuing a notice of violation in accordance with Section 240.150.

e) If a responsible party cannot be located, or if the responsible party is located and does not take immediate action to abate the conditions, a *cessation order shall be served by personal delivery to the person or permittee named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or permittee as soon as is practicably possible but in no event later than 5 days after its issuance.* (Section 19.1 of the Act)

f) The cessation order shall contain a date for a hearing that shall be held within 30 days after the issuance of the cessation order. The hearing shall be conducted in accordance with the requirements of Section 240.180(b).

g) The cessation order shall also provide that the person or permittee named in the order has the right to request a temporary relief hearing, within 14 days from the date of issuance of the cessation order, in accordance with Section 240.190. The cessation order shall be considered served when personally delivered to the person or permittee named in the order or when the cessation order is mailed by certified mail, return receipt requested, to the person or permittee at his or her last known address.

h) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. The filing of a request for temporary relief under Section 240.190 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 240.190.

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.186 Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment (Repealed)

(Source: Repealed at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.190 Temporary Relief Hearings

a) Pending the holding of a hearing in accordance with Sections 240.185 and 240.180 relating to a cessation order issued under Section 240.185, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief. The person or permittee shall serve the request for temporary relief within 14 days after service of the cessation order.

b) The Department shall commence a hearing within 5 working days after receipt of a timely request for temporary relief and may grant that relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him or her and the relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.

c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100]. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield to the production and/or injection/disposal well identified in the Director's decision being contested if facilities are available and convenient, as determined by the Department.

d) All hearings conducted under this Section are open to the public and are held in compliance with the Americans With Disabilities Act of 1990. The hearings will be held at locations ordered by the Hearing Officer. The Hearing Officer will select hearing locations that comply with any geographic requirements imposed by applicable law and, to the extent feasible, promote the convenience of the parties and the conservation of the Department's resources. All hearings are subject to cancellation without notice. Any rescheduled hearing shall comply with this Subpart A. Interested persons may contact the Department or the Hearing Officer for information about the hearing. Parties, participants and members of the public must conduct themselves with decorum at the hearing.

e) Upon the motion of any party, the Hearing Officer may order that a hearing be held by telephone conference, video conference or other electronic means. In deciding whether a hearing should be held by telephone conference, video conference or other electronic means, factors that the Hearing Officer shall consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness.

f) At the hearing, the permittee shall have the burden of proving that temporary relief from the cessation order will not adversely affect the health or safety of the public or cause environmental harm or significant damage to property. The Hearing Officer shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render findings of fact, conclusions of law and the disposition of the case.

g) The Hearing Officer shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after the close of the administrative record, pursuant to Section 10 of the Act. Temporary relief shall not extend for more than 90 days, after which the cessation order shall be reinstated pending the outcome of the cessation order and pending a resolution of the violations of the Act specified in the cessation order.

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.195 Subpoenas

a) Any party to proceedings brought under Sections 240.130, 240.131, 240.132, 240.133, 240.180 and 240.190 of this Part may apply for subpoenas to compel the attendance of witnesses and the production of relevant documents.

b) The applicant shall submit the subpoena request to the Department's hearing officer. The subpoena request shall specifically identify the witness or relevant documents sought to be produced.

c) The hearing officer shall issue subpoenas within 7 calendar days from receipts of a request made in accordance with subsection (b) above and deliver the subpoena to the Petitioner who shall serve all subpoenas issued by certified mail, return receipt requested, at least 7 days before the date set for the hearing. Any witness shall respond to any lawful subpoena of which he has actual knowledge, if a voucher for payment of the witness fee and mileage applicable in the State circuit courts has been tendered. Service of a subpoena may be proved prima facie by a return receipt signed by the witness or his authorized agent and an affidavit showing that the mailing was prepaid and was addressed to the witness, restricted delivery, with a State voucher for the fee and mileage enclosed.

d) Any person served with a subpoena under this Section may file with the hearing officer, and serve on all parties, a motion for an order quashing the subpoena, in whole or in part. All motions to quash filed under this subsection shall set forth a factual and/or legal basis for granting such relief.

e) The hearing officer shall issue, and serve on all parties, a decision granting or denying the motion to quash within 7 calendar days from the receipt of the motion.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section 240.200 Applicability

The provisions of this Subpart apply to production wells. As used in this Subpart "production well" means a well drilled for the production of oil or gas, or a well drilled for a water supply for use in connection with an enhanced oil recovery project.

(Source: Added at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.210 Application for Permit to Drill, Deepen or Convert to a Production Well

a) No person shall drill, deepen or convert any well to a production well without a permit from the Department.

b) Application for a permit to drill, deepen or convert to a production well shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable fee of $400 and the required bond under Subpart O.

c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

d) *Any well for which a permit is required under* the *Act, other than a plugged well, which was drilled prior to the effective date of* the *Act and for which no permit has previously been issued, is required to be permitted.* Application for a permit shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the required bond under Subpart O and existing well construction information reported on Department forms. If application is made on or before August 14, 1991, no permit fee is required. An application made after that date shall be accompanied by the non-refundable fee of $400. *Spacing requirements and provisions of the Act and these rules pertaining to well construction shall not apply. After* August 14, 1991*, any unpermitted well to which this* Subpart *applies will be deemed to be operating without a permit and subject to the penalties set forth in* the *Act.* (Section 12 of the Act)

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.220 Contents of Application

The application for a permit to drill, deepen or convert to a production well shall include:

a) The name of the well.

b) The well location surveyed by an Illinois licensed land surveyor or Illinois

registered professional engineer, the GPS (Global Positioning System) latitude and longitude location, and ground elevation of the well. A survey or GPS location is not required for a converted or deepened well, for a drilled out plugged hole if the original well location was surveyed, or for a well permitted under Section 240.210(d). The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.

c) A map showing:

1) the boundaries of the leasehold or enhanced oil recovery unit;

2) the exact location of the well proposed to be drilled, deepened or converted, and an outline of the proposed drilling unit;

3) the location of all producing wells previously drilled on the drilling unit; and

4) the location of all offset wells on adjacent drilling units.

d) Certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record, and/or any statute or regulation, to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D.

e) A statement as to whether the proposed well location is within the limits of any incorporated city, town, or village. If the consent of municipal authorities for the drilling of a well is required, a certified copy of the official consent must be submitted.

f) The name and address of the drilling contractor and the type of drilling tools or equipment to be used.

g) If the well is located over an active mine, over a temporarily abandoned mine or within the undeveloped limits of a mine, or if the coal rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1305.

h) If the application is for a newly drilled well located over an underground gas storage field as defined in Section 240.1805(c) or the gas storage rights are owned

by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1820.

i) The proposed depth of the well and the name of the lowest geologic formation to be tested.

j) A statement whether the applicant has ever had a well bond forfeited by the Department, and if so when and for what well.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.230 Authority of Person Signing Application

a) The application for a permit to drill, deepen, or convert to a production well shall identify whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.

b) If the owner is an individual, the application shall be signed by the individual. If the owner is a partnership, the application shall be signed by a general partner. If the owner is a corporation, the application shall be signed by an officer of the corporation.

c) In lieu of the signature of the owner or such authorized person, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the application.

d) The entity or person to whom the permit is issued shall be called the Permittee and shall be responsible for all regulatory requirements relative to the well.

e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.

f) If the applicant is an individual, partnership, or other unincorporated entity that is not a resident of Illinois, provide an irrevocable consent to be sued in Illinois.

g) If the applicant has been issued a FEIN, that number must be reported on the application.

(Source: Amended at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.240 Additional Requirements for Directional Drilling

a) If the applicant intends to deviate from the vertical in accordance with Section 240.450, the application shall include a map showing the proposed direction of deviation and proposed horizontal distance between the end of the well bore and the surface location of the well.

b) Within sixty (60) days after the completion of drilling, a certified directional survey of the well must be filed with the Department showing the surface location of the well, the location of the top and bottom of the producing interval and the location of the end of the well bore.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.245 Additional Requirements for Horizontal Drilling

a) If the applicant intends to drill one or more horizontal drainholes using a short radius, from a vertical wellbore, the wellbore shall be spaced in accordance with Section 240.455.

b) The wellbore shall require only one permit.

c) The application for horizontal drilling shall include:

1) The legal location of the vertical wellbore and the proposed legal location of the bottomhole termination of each horizontal drainhole.

2) A plat map showing the surface location of the vertical wellbore and the location and length of each proposed horizontal drainhole. The applicant shall mark each horizontal drainhole on the application with a separate identifier.

3) A copy of the directional drilling survey for each horizontal drainhole shall be submitted to the Department within sixty (60) days after the completion of drilling of the horizontal drainhole.

4) A Well Completion Report shall be submitted for the vertical wellbore, if the vertical wellbore is newly drilled, and for each horizontal drainhole in accordance with Section 240.640 (a).

5) A Well Drilling Report shall be submitted for the vertical wellbore, if the vertical wellbore is newly drilled, and for each horizontal drainhole in accordance with Section 240.640 (b).

(Source: Added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.250 Issuance of Permit to Drill or Operate

a) If the applicant satisfies requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant if:

1) *the applicant has falsified or otherwise misstated any information on or relative to the permit application;*

2) *the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;*

3) *an officer, director,* agent, power of attorney or *partner* in the applicant*, or* a *person with an interest in the applicant exceeding 5%* was or is an officer, director, partner, agent, power of attorney or person with an interest exceeding 5% in another entity that *failed to abate a violation of the Act specified in a final administrative decision of the Department;*

4) *the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department* (Section 8a of the Act);

5) funds have been expended and remain outstanding from the PRF to plug wells, under Subpart P, for which the applicant was a previous permittee; or the applicant was or is an officer, director, agent, power of attorney partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or *an officer, director,* agent, power of attorney or *partner* in the applicant, *or* a *person with an interest in the applicant exceeding 5%,* was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

6) the applicant is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer, director, agent, power of attorney, partner,

or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees; or *an officer, director,* agent, power of attorney or *partner* in the applicant, *or person with an interest in the applicant exceeding 5%,* was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.

c) Permits shall expire one year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed 2 years from date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set or conversion operations completed.

d) Permits are not transferable prior to the drilling of the well.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.251 Revocation of Permit to Drill

a) The Department may revoke a permit if:

1) The permittee fails to meet permit conditions; or

2) The permit was issued in error; or

3) The permittee is not in compliance with Section 240.250(b).

b) The Department shall notify the permittee of the Department's intent to revoke a permit effective 30 days from the date of notice unless a hearing is requested in accordance with subsection (c).

c) If a written objection to the permit revocation is filed within 30 days after the date of the notice:

1) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.

A) A pre-hearing conference shall be scheduled in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

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

iv) Set a hearing date; and

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

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

2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

d) At the hearing, the Department shall present evidence in support of its determination under subsection (a). The permittee may present evidence contesting the Department's determination under subsection (a). The Hearing Officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

e) Within 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a final administrative decision.

f) The permittee's failure to request a hearing in accordance with subsection (c) to reinstate the permit or require the well to be plugged shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.255 Conversion of a Production Well to a Water Well

Production wells may not be converted to a livestock or domestic use water well that is required to have a permit from the Illinois Department of Public Health. Production wells converted to livestock or domestic use water wells prior to January 1, 1989 may remain in use provided the portion of the well extending below the base of the fresh water was plugged prior to January 1, 1989.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.260 Change of Well Location

No well may be drilled at a location other than that specified on the permit except as provided in Subpart D.

(Source: Section repealed, new Section adopted at 15 Ill. Reg. 15493, effective October 10, 1991)

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section 240.300 Applicability

The provisions of this Subpart apply to Injection, Disposal and Commercial Disposal Class II UIC wells.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.310 Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well

a) No person shall drill, deepen or convert any well for use as a Class II UIC well without a permit from the Department.

b) No person shall inject into a freshwater aquifer or be issued a permit to inject into a freshwater aquifer unless:

1) the freshwater aquifer into which injection is proposed has been excepted as specified in Section 240.312; or

2) a completed application requesting an aquifer exemption was submitted to the Department prior to February 1, 1998 and USEPA Region V has completed a technical review, determined that the application meets the relevant criteria, and intends to put the application forward for final approval by the USEPA under 40 CFR 146.4; or

3) a request for an aquifer exemption is submitted to the Department in accordance with Section 240.311 and approved by the USEPA under 40 CFR 146.4.

c) Application for a permit to drill, deepen or convert to a Class II UIC well or amend existing Class II UIC well permit in accordance with Section 240.390(a) shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury and accompanied by the non-refundable fee of $400 and the required bond under Subpart L.

d) At the time of application, the applicant must specify the type of Class II well being permitted as an injection, disposal or commercial disposal well.

e) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

f) *Any well for which a permit is required under* the *Act, other than a plugged well, which was drilled prior to the effective date of* the *Act and for which no permit has previously been issued, is required to be permitted.* Application for a permit shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury and accompanied by the required bond under Subpart O. If application is made on or before August 14, 1991, no permit fee is required, but all other requirements of this Subpart shall apply. An application made after that date shall be accompanied by the non-refundable fee of $400. *After* August 14, 1991, *any unpermitted well to which this* Subpart *applies will be deemed to be operating without a permit and subject to the penalties set forth in* the *Act.* (Section 12 of the Act)

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.311 Application for Freshwater Aquifer Exemption

a) If it is determined by the Department a freshwater aquifer exemption is required in order to permit and/or operate a Class II well, the applicant shall submit to the Department a written request to exempt the freshwater aquifer along with evidence showing the freshwater aquifer satisfies the criteria for an exemption.

b) A freshwater aquifer or a portion thereof, may be determined under the 40 CFR 146.4 to be exempted if evidence is submitted showing the following criteria are met:

1) The aquifer does not currently serve as a source of drinking water; and

2) Either:

A) The aquifer cannot now and will not in the future serve as a source of drinking water because:

i) the aquifer is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible; or

ii) the aquifer is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical; or

iii) the aquifer is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or

iv) the aquifer is located over a Class III well mining area subject to subsidence or catastrophic collapse, or

B) The total dissolved solids content of the ground water is more than 3,000 and less than 10,000 mg/1 and it is not reasonably expected to supply a public water system.

c) After review and approval of the submitted evidence, the Department will forward the information, along with a recommendation, to the U.S. Environmental Protection Agency Region V Office for approval.

(Source: Added at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.312 Freshwater Aquifer Exemptions

a) The following aquifer exemptions have been approved by the U.S. Environmental Protection Agency.

b) Siloam pool located in Township 2 South, Range 4 West in Brown County consisting of:

1) SE/4 SE/4 of Section 7; and

2) S/2 NE/4 and S/2 of Section 8; and

3) SW/4 SE/4 and SW/4 of Section 9; and

4) W/2 NE/4 and NW/4 of Section 15; and

5) NE/4 SE/4 and N/2 NE/4 and NE/4 of Section 16; and

6) N/2 NE/4 and N/2 NW/4 and SE/4 NW/4 of Section 17; and

7) NE/4 NE/4 of Section 18.

c) Buckhorn pool located in Brown County consisting of:

1) Township 1 South, Range 4 West

A) S/2 SW/4 and S/2 SE/4 of Section 24; and

B) all Section 25 except W/2 NW/4; and

C) S/2 SE/4 and S/2 SW/4 of Section 26; and

D) S/2 NE/4 and SE/4 SW/4 and SE/4 of Section 33; and

E) all of Section 34 except NW/4 NW/4; and

F) all of Section 35; and

G) all of Section 36.

2) Township 1 South, Range 3 West

A) W/2 NW/4 and W/2 SW/4 and SE/4 SW/4 and S/2 SE/4 of Section 30; and

B) S/2 SW/4 and S/2 SE/4 of Section 29; and

C) all of Section 31; and

D) all of Section 32; and

E) W/2 NW/4 and W/2 SW/4 of Section 33.

3) Township 2 South, Range 4 West

A) N/2 NE/4 and N/2 NW/4 of Section 1; and

B) all of Section 2 except S/2 SE/4 and NE/4 SE/4; and

C) all of Section 3 except SE/4; and

D) NE/4 and N/2 NW/4 of Section 4; and

E) NE/4 and E/2 SE/4 of Section 10; and

F) NW/4 and W/2 SW/4 of Section 11.

4) Township 2 South, Range 3 West

A) all of Section 5 except SE/4 NE/4 and NE/4 SE/4; and

B) all of Section 6 except SW/4 NW/4 and W/2 SW/4; and

C) N/2 NW/4 and NE/4 of Section 8.

d) Siggins pool in Clark and Cumberland Counties

1) Township 11 North, Range 10 East

A) S/2 NW/4 and SW/4 and SE/4 of Section 35; and

B) SW/4 SW/4 of Section 36.

2) Township 11 North, Range 11 East, SW/4 SE/4 and E/2 SE/4 of fractional Section 31.

3) Township 11 North, Range 14 West

A) all of Section 31 except N/2 NW/4 and SW/4 NW/4; and

B) all of Section 32.

4) Township 10 North, Range 10 East

A) all of Section 1 except N/2 NE/4; and

B) all of Section 2 except SW/4 NW/4 and W/2 SW/4; and

C) all of Section 11 except NW/4 NW/4; and

D) all of Section 12; and

E) all of Section 13; and

F) E/2 of Section 14; and

G) NE/4 and NE/4 SE/4 of Section 23; and

H) all of Section 24.

5) Township 11 North, Range 11 East

A) all of fractional Section 6; and

B) all of fractional Section 7; and

C) all of fractional Section 18; and

D) all of fractional Section 19 except E/2 NE/4 and NE/4 SE/4.

6) Township 10 North, Range 14 West

A) NW/4 and E/2 SW and SW/4 NE/4 and N/2 NE/4 of Section 5; and

B) all of Section 6; and

C) all of Section 7; and

D) W/2 NW/4 of Section 8; and

E) NW/4 and N/2 SW/4 and W/2 NE/4 of Section 18.

e) The following aquifers are the subject of completed applications and meet the criteria of Section 240.310(b)(2).

1) The Herscher system located in portions of Kankakee, Ford and Iroquois Counties consisting of:

A) Township 30 North, Range 9 East, Sections 12, 13, 23, 24, 25, 26, 35 and 36;

B) Township 30 North, Range 10 East, Sections 7, 8, 14-23 and 26-35;

C) Township 29 North, Range 9 East, Sections 1, 2 and 12; and

D) Township 29 North, Range 10 East, Sections 2-11 and 15-18.

2) Colmar-Plymouth pool located in McDonough and Hancock Counties and consisting of:

A) Township 4 North, Range 4 West, McDonough County:

i) S/2 S/2 NE/4 and SE/4 SE/4 NW/4 and E/2 SW/4 and SE/4 of Section 9; and

ii) S/2 S/2 NW/4 and SE/4 and SW/4 of Section 10; and

iii) NW/4 SE/4 and N/2 SW/4 and S/2 NW/4 of Section 14; and

iv) N/2 SE/4 and NE/4 and NW/4 of Section 15; and

v) all of Section 16; and

vi) S/2 and S/2 N/2 of Section 17; and

vii) S/2 and NE/4 and S/2 NW/4 of Section 18; and

viii) all of Section 19; and

ix) N/2 and N/2 SE/4 and N/2 SW/4 and SW/4 SW/4 of Section 20; and

x) N/2 and N/2 S/2 of Section 21; and

xi) N/2 N/2 and SW/4 NE/4 and SE/4 NW/4 of Section 30.

B) Township 4 North, Range 5 West, Hancock County:

i) SW/4 and S/2 NE/4 and E/2 SW/4 of Section 23; and

ii) S/2 NW/4 and S/2 NE/4 and NE/4 NE/4 and SE/4 and SW/4 of Section 24; and

iii) NW/4 and N/2 NE/4 and SW/4 NE/4 of Section 26.

(Source: Added at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.320 Contents of Application

The application for a permit to drill, deepen or convert shall include:

a) The name of the well.

b) The well location surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer, the GPS (Global Positioning System) latitude and longitude location and ground elevation of the well. A survey or GPS location is not required for a converted or deepened well, for a drilled out plugged hole if the original well location was surveyed, or for a well permitted under Section 240.310(f). The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.

c) A map showing:

1) the boundaries of the leasehold or enhanced oil recovery unit, if applicable;

2) the names of all permittees of producing leaseholds within ¼ mile of the

proposed Class II UIC Well;

3) the location of the well proposed to be drilled, deepened or converted;

4) the location of all wells penetrating the proposed injection interval within the ¼ mile area of review as defined in Section 240.360.

d) If the well is not located within the boundaries of a leasehold or enhanced oil recovery unit, the applicant shall certify under penalty of perjury that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record, and/or any statute or regulation, to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D.

e) A statement as to whether the proposed well location is within the limits of any incorporated city, town, or village. If the consent of municipal authorities for the drilling of a well is required, a certified copy of the official consent must be submitted.

f) The name and address of the drilling contractor and the type of drilling tools or equipment to be used.

g) If the well is located over an active mine, over a temporarily abandoned mine or within the undeveloped limits of a mine, or if the coal rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1305.

h) If the application is for a newly drilled well located over an underground gas storage field as defined in Section 240.1805(c) or the gas storage rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1820.

i) The proposed well construction and operating parameters in accordance with Section 240.340.

j) Evidence of notification required under Section 240.370.

k) Information regarding groundwater and potable water supplies in accordance with Section 240.350.

l) Cementing, casing and plugging records for all wells penetrating the injection interval within the ¼ mile area of review in accordance with Section 240.360.

m) A statement whether the applicant has ever had a well bond forfeited to the Department and, if so, when and for what well.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.330 Authority of Person Signing Application

a) All applications for permits to drill, deepen, or convert to a Class II UIC well shall identify whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.

b) If the owner is an individual, the application shall be signed by the individual. If the owner is a partnership, the application shall be signed by a general partner. If the owner is a corporation, the application shall be signed by an officer of the corporation.

c) In lieu of the signature of the owner or such authorized person, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the application.

d) The entity or person to whom the permit is issued shall be called the Permittee and shall be responsible for all regulatory requirements relative to the well.

e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.

f) If the applicant has been issued a FEIN, that number must be reported on the application.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.340 Proposed Well Construction and Operating Parameters

a) Well Construction Records for Conversion Wells
If the application is for the conversion of a previously drilled well, the applicant shall:

1) submit a complete copy of all available geophysical logs run on the well;

2) submit a copy of the initial Completion Report or casing and cementing records of the well; and

3) establish external mechanical integrity in accordance with Section 240.770(c).

b) Schematic Diagram
The applicant shall submit a schematic diagram of the proposed injection well showing:

1) the total depth and plugged back depth of the well;

2) the sizes and depths of the holes drilled for the surface casing, mine or intermediate casing, and production casing;

3) the sizes and depths of all casing in the well and any additional casing to be used in the well;

4) the amount of cement used for each string of casing in the well and any additional cement to be used in the well;

5) the size of the tubing and setting depth of the packer;

6) the top and bottom depths of all perforated intervals in the casing; and

7) the geologic name and the depth of the top and bottom of the proposed injection interval.

c) Proposed Injection Rate
The applicant shall submit the proposed injection rate expressed in average barrels per day.

d) Injection Fluid
The applicant shall submit the depth and geologic name of the formations from which the injection fluid is to be obtained, a standard laboratory analysis of a representative sample of the fluid to be injected and the date the sample was obtained. The sample shall be analyzed for at least the following parameters: pH, Chloride, Total Dissolved Solids, and Specific Gravity. The sample shall be obtained and analyzed no earlier than one year prior to the date of filing of the application. If the injection fluid is other than water, the sample shall be analyzed for the chemical components and Specific Gravity of the fluid.

e) Proposed Maximum Injection Pressure

1) The applicant shall submit the proposed maximum injection pressure in accordance with the following formula:

$$MIP = (.80 - (.433 \times SG)) \times D - 14.7$$

Where:

MIP	=	maximum allowable injection pressure (PSI)
SG	=	specific gravity of the injection fluid
D	=	depth of the top of the uppermost injection interval (ft.)

2) If the proposed maximum injection pressure exceeds the amount calculated in accordance with subsection (e)(1), the applicant shall submit the most recent information showing that the proposed maximum injection pressure will not initiate or propagate fractures in the injection interval or overlying strata that could enable the injection fluid or the fluid in the injection interval to leave the permitted injection intervals. The types of information that will be considered acceptable by the Department include, but are not limited to:

A) A copy of the ticket (record of each injection pressure and corresponding time) and pressure chart (injection pressure vs. time) from a "frac" or "acid" treatment in the injection interval in the proposed well, or from the same interval or a stratigraphically higher interval in a well within 1 mile of the proposed well, that shows the Instantaneous Shut-In Pressure (ISIP). The shut-down pressure, ISIP, and 5-minute shut down pressure must be obtained, read and recorded. The maximum allowable injection pressure shall be 10% less than the ISIP measured at the surface unless the specific gravity of the treatment fluid is less than the specific gravity of the proposed injection fluid, in that case the ISIP shall be measured at the injection interval.

B) The results of a step rate test, both ticket (record of each injection rate and the corresponding pressure and time) and chart (injection rate and resulting pressure vs. time), from the injection interval in the proposed well, or from the same interval or a stratigraphically

higher interval in a well within 1 mile of the proposed well. The maximum allowable injection pressure shall be 10% less than the ISIP, measured at the surface, if the formation fracture pressure was exceeded during the test or an existing fracture was opened. In the event the formation fracture pressure was not exceeded and an existing fracture was not opened, the maximum allowable injection pressure shall be the highest step pressure recorded during the step rate test. A step rate test shall, at a minimum, include the following:

i) A statement specifying the length of the shut-in period. Prior to testing, shut in the well long enough that the bottom-hole pressure approximates shut-in formation pressure.

ii) Unless further stipulated in this subsection (e)(2)(B), measurement of at least 6 rate steps recording the injection rate, pressure and elapsed time of each.

iii) An initial zero injection rate (pressure stabilizing) step.

iv) Each rate step after the zero injection rate step shall be at least 120 percent of the preceding rate.

v) Each rate step shall be of equal length and of at least 4 minutes in duration.

vi) At least 3 rate steps below the formation fracture pressure are required; if the formation fracture pressure was not exceeded and an existing fracture was not opened, at least 5 rate steps are required.

vii) If the formation fracture pressure was exceeded, at least 2 rate steps above the formation fracture pressure are required.

viii) If an existing fracture is opened during the test, no further rate steps are required.

ix) If the formation fracture pressure was exceeded or an existing fracture was opened, the shut-down pressure, ISIP

and 5-minutes shut-down pressure must be obtained, read and recorded.

x) If the Department has reason to believe induced fractures have occurred as a result of long term injection above the fracture pressure, the Department shall determine if the results of a step rate test are acceptable to permit the proposed maximum injection pressure.

C) In the event the Department determines the information submitted under this subsection (e)(2) is not acceptable, the Department will issue a deficiency letter. If a timely response is not received or the response is determined inadequate, the MIP will be calculated using the formula in subsection (e)(1).

(Source: Amended at 41 Ill. Reg. 2957, effective February 21, 2017)

Section 240.350 Groundwater and Potable Water Supply Information

a) The applicant shall submit a statement certifying there are no potable water wells located within 200 feet of the proposed Class II UIC well, and there are no municipal water supply wells located within 2500 feet of the proposed Class II UIC well.

b) Freshwater Analyses

1) The applicant shall submit a standard laboratory analysis of fresh water from 2 or more freshwater wells located within ¼ mile of the proposed injection well and showing the location and depth of the well and the dates the samples were obtained. The samples shall be analyzed for at least the following parameters: using the applicable American Society for Testing and Materials (ASTM) standards, i.e., pH, using Standard D1293-99 (Standard Test Methods for pH of Water (2005)); Chloride, using Standard D4458-09 (Standard Test Method for Chloride in Brackish Water, Seawater and Brines (2009)); Total Dissolved Solids, using Standard D5907-10 (Standard Test Methods for Filterable Matter (Total Dissolved Solids) and Nonfilterable Matter (Total Suspended Solids) in Water (2010)); and Specific Gravity, using Standard D1429-08 (Standard Test Methods for Specific Gravity of Water and Brine (2008)) from ASTM International, P.O. Box C700, West Conshohocken PA 19428-2959 (all incorporations by reference contain no later amendments or additions). The samples shall be obtained and analyzed no earlier than 1

year prior to the date of filing of the application. The locations of the well from which the freshwater samples were obtained shall also be shown on the map required in Section 240.320.

2) If, due to circumstances beyond his or her control, the applicant cannot obtain the analysis required under subsection (b)(1), the applicant shall submit in lieu of that analysis a statement explaining why the analysis could not be obtained.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.360 Area of Review

a) The area of review shall include all wells located within 1/4 mile of the proposed Class II UIC well, including directionally and horizontally drilled wells, which penetrate the injection interval within 1/4 mile of the proposed Class II UIC well.

b) The applicant shall submit evidence that all wells which penetrate the injection formation within the area of review contain an adequate amount of cement and are constructed or plugged in a manner which will prevent the injection fluid and the fluid in the injection formation from entering the freshwater zone. The types of evidence that will be considered acceptable by the Department include, but are not limited to: well completion reports, cementing records, well construction records, cement bond logs, tracer surveys, oxygen activation logs, plugging records and expert opinions as to geological and engineering conditions.

c) The applicant shall submit evidence for all wells which penetrate the injection formation within the area of review and which are determined by the Department to contain an inadequate amount of cement or are inadequately constructed or plugged, that injection into the proposed well and formation will not cause contamination of the freshwater zone. If well fluid level measurements are required as part of the submitted evidence, the fluid level measurements shall be witnessed by a Department Well Inspector. The Department shall have the authority to determine if the submitted information is acceptable as showing that the freshwater zone will not be contaminated through said well(s).

(Source: Amended at 45 Ill. Reg. _____, effective October 25, 2021)

Section 240.370 Public Notice

a) Contents of Notice and Publication
Public notice shall be given no earlier than 30 days prior to the filing of the

application. A notice that an application for a permit to drill, deepen or convert to a Class II UIC well has been or will be filed with the Department shall be published by the applicant in a newspaper of general circulation and published in the county in which the proposed injection well is to be located. The applicant shall submit a copy of, or the original of, the Certificate of Publication to the Department prior to approval of the application.

1) The notice shall include:

A) the name and address of the applicant;

B) the date on or before which the application will be filed;

C) the legal description of the location of the proposed injection well, including both the United States Public Land Survey and GPS coordinates if required under Section 240.320(b);

D) the geologic name and depth of the injection intervals;

E) the proposed maximum injection pressure and maximum injection rate;

F) the address and telephone number for the Office; and

G) a statement that the public has 15 days to comment on the application and that comments must be made in writing to the Office. The deadline for filing comments shall appear in the notice. The comment period shall be either:

i) 15 days from the date the application is filed with the Department, when the application is filed after notice has been published; or

ii) 15 days from the date of publication of the notice, when the notice is published after the application is filed.

2) If the notice does not contain all of the information listed in subsection (a)(1) or, if the application is not received on or before the date designated in subsection (a)(1)(B) or the date the notice is published, whichever is later, the applicant shall be required to republish the notice.

b) Notice Within the Area of Review

A copy of the published notice, or a letter containing the same information as in the notice, shall be mailed by certified mail, return receipt requested to the owner of the surface of the land on which the proposed injection well is to be located, and to each permittee of a producing leasehold, and the owner or manager of all mines, including the mined-out area and undeveloped limits of all mines, located within ¼ mile of the proposed Class II UIC well. Evidence of mailing shall be submitted to the Department prior to approval of the application. The returned certified mail receipt card, or a copy of the card, shall serve as evidence of mailing.

c) Objections

If a written objection to the application is filed within 15 days after the filing of the application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a factual or legal question regarding the sufficiency of the application in meeting the requirements for a permit, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

d) Public Hearing

1) Any public hearing held pursuant to subsection (c) shall be an informal hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.

2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the notice by United States mail, postage prepaid, addressed to their last known home addresses.

3) A certified court reporter shall record the hearing at the Department's expense.

4) A Hearing Officer designated by the Director shall conduct the hearing. The Hearing Officer shall allow all parties to the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determines the evidence is irrelevant, immaterial, unduly repetitious, or of such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.

5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or

receive further relevant evidence.

6) Within 10 days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.380 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b).

c) Permits shall expire 1 year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed 2 years from the date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set or conversion operations completed.

d) Permits are not transferable prior to the drilling of the well.

e) If during drilling the well is lost (collapsed casing or hole, etc.), the permittee is required to submit a new application and receive a new permit prior to drilling an offset well.

f) The Department may revoke a permit in accordance with Section 240.251(a).

g) The Department shall notify the permittee of its intent to revoke a permit effective 30 days from the date of notice unless a hearing is requested in accordance with subsection (h).

h) If a written objection to the revocation is filed within 30 days after the date of the notice:

1) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.

A) A pre-hearing conference shall be scheduled in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

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

iv) Set a hearing date; and

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

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

2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

i) At the hearing, the Department shall present evidence in support of its determination under subsection (f). The permittee may present evidence contesting the Department's determination under subsection (f). The Hearing Officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

j) Within 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.

k) The permittee's failure to request a hearing in accordance with subsection (h) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.385 Conversion of a Class II Well to a Water Well

Class II wells may not be converted to a livestock or domestic use water well that is required to have a permit from the Illinois Department of Public Health. Class II wells converted to livestock or domestic use water wells prior to January 1, 1989 may remain in use provided the portion of the well extending below the base of the fresh water was plugged prior to January 1, 1989.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.390 Permit Amendments

a) Change of Injection Interval

1) The permittee shall not change to an unpermitted injection interval without obtaining a permit amendment from the Department.

2) The permittee shall make application for amendment on a form provided by the Department.

3) The application for amendment shall include all the information or data required under, and be in accordance with, Sections 240.320 and 240.330, except that a survey under Section 240.320(b) is not required.

b) Change in Injection Pressure or Rate

1) The permittee shall not inject at a pressure or rate greater than the maximum permitted pressure or rate without obtaining a permit amendment from the Department.

2) The permittee shall make application for amendment on a form prescribed by the Department.

3) The application for amendment shall include all of the information or data required under, and be in accordance with, Sections 240.330 and 240.340(c) and (e).

c) Change in Injection Fluid

1) The permittee shall not change the injection fluid without obtaining a permit amendment from the Department.

2) The permittee shall make application for an amendment on a form prescribed by the Department. The application shall include a statement identifying the proposed injection fluid along with the depth and name of the geologic formation from which the injection fluid is to be obtained.

A) If the proposed fluid is water, the application shall include an analysis of the water with the date of sample collection (must be no older than 1 year) and must include the following parameters: Chlorides, Total Dissolved Solids, pH, and Specific Gravity using ASTM standards listed in Section 240.350(b)(1).

B) If the proposed fluid is other than water, the application shall include a chemical analysis identifying the components and the Specific Gravity of the proposed injection fluid using the applicable ASTM standards listed in Section 240.350(b)(1).

d) Change in Well Location
No well may be drilled at a location other than that specified on the permit, except as provided in Subpart D.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.395 Update of Class II UIC Well Permits Issued Prior to July 1, 1987

a) All Class II UIC wells permitted as injection or disposal wells prior to July 1, 1987 that have not previously been reviewed in conjunction with the Department's Class II UIC Program shall be reviewed by the Department to establish:

1) current injection intervals;

2) maximum injection pressures and rates in accordance with Section 240.340(c) and (e); and

3) compliance with well construction requirements for existing Class II UIC wells in accordance with Sections 240.730, 240.740 and 240.770 of this Part.

b) Within thirty (30) days of receiving written notice of a well review under this Section, the permittee shall submit all requested information and records necessary to enable the Department to complete its review and update of the permit.

c) Based upon the review, the Department shall either:

1) update the Class II UIC well permit for specified injection intervals with maximum injection rate and pressure; or

2) notify the permittee of any remedial work that must be completed to bring the well into compliance.

d) If the Department notifies the permittee that remedial work is necessary, the permittee shall shut in the well until such work is completed.

(Source: Added at 15 Ill. Reg. 15493, effective October 10, 1991)

SUBPART D: SPACING OF WELLS

Section 240.400 Definitions

For the purposes of this Subpart:

"Gas" means a mixture of hydrocarbons and varying quantities of non-hydrocarbons in a gaseous state which may or may not be associated with oil, including those liquids resultant from condensation, but not including casing head gas.

"Gas Well" means a well with a gas to oil production ratio equal to or greater than 10,000 cubic feet of gas to 1 barrel of oil.

"Pooled Unit" means a spacing unit created by:

combining separate mineral interests under the pooling clause of a lease or agreement;

a pooling declaration; or

an Integration Order issued by the Department.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.410 Drilling Units

a) Oil Wells

1) The Department shall not issue a permit for the drilling or deepening of a well for the production of oil within the State of Illinois unless the proposed well location and spacing are within

10 acres of surface area lying within the quarter-quarter-quarter section of land (as established by the official United States Public Land Survey). The location of the well shall not be less than 330 feet from the nearest lease boundary line except any lease boundary line located within a pooled unit. The location shall be no less than 330 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir. The location shall be no less than 10 feet from the nearest drilling unit boundary line; or

2) A permittee shall not be obligated to drill any further wells pursuant to provisions in a lease existing prior to April 22, 2016. Any obligation shall be determined, to the extent relevant and applicable, by regulations in effect as of the date of the lease.

b) Gas Wells

The Department shall not issue a permit for the drilling or deepening of a well for the production of gas within the State of Illinois unless the proposed well location and spacing conform to the following drilling units:

1) 10 acres of surface area lying within the quarter-quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a reservoir other than limestone/dolomite, the top of which lies less than 2,000 feet beneath the surface. The location of the well shall not be less than 330 feet from the nearest lease external boundary line except any lease boundary line located within a pooled unit. The location shall be no less than 330 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir. The location shall be no less than 10 feet from the nearest drilling unit boundary line; or

2) 20 acres of surface area lying within the east-west or north-south one-half of a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a limestone/dolomite reservoir, the top of which lies less than 2,000 feet beneath the surface. The location of the well shall

not be less than 330 feet from the nearest lease boundary line except any lease boundary line located within a pooled unit. The location shall be no less than 330 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir. The location shall be no less than 10 feet from the nearest drilling unit boundary line; or

3) 40 acres of surface area lying within a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a reservoir, the top of which lies between 2,000 feet below the surface and 5,000 feet or the top of the Galena Group, whichever depth is greater. The location of the well shall not be less than 330 feet from the nearest lease boundary line except any lease boundary line located within a pooled unit. The location shall be no less than 330 feet from the nearest location of a producing well or well being drilled or for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir. The location shall be no less than 10 feet from the nearest drilling unit boundary line.

4) Establishment of Drilling Units for Deep Gas

A) In the case of wells drilled or deepened for the production of gas from a reservoir lying below 5,000 feet or the top of the Galena Group formation, whichever depth is greater, no permit shall be issued for an exploratory well unless the proposed spacing and well location provide for a minimum of 160 acres of surface area lying within a quarter section of land (as established by the official United States Public Land Survey). The well location shall not be less than 660 feet from the nearest lease boundary line except any lease boundary line located within a pooled unit. The location shall be no less than 10 feet from the nearest drilling unit boundary line.

B) After completion of the exploratory well or wells, but prior to commencement of production activities, application shall be made to the Department for the adoption of rules establishing spacing and well location requirements for the reservoir or reservoirs completed. The application shall identify the lands underlying the reservoir or reservoirs for which spacing and well location rules are requested, and shall include any geological, engineering or economic data, studies or reports upon which the requested spacing and well location rules are based.

C) Within 20 days after receipt of the application, the Department shall submit proposed spacing and well location rules for the reservoir or reservoirs in accordance with Section 5-40 of the Illinois Administrative Procedure Act, which shall include notice of a public hearing to be commenced no later than 20 days after publication of the notice of proposed rulemaking in the Illinois Register. In addition to the notice requirements of the Illinois Administrative Procedure Act, the applicant shall give notice of public hearing, at least 10 days prior to the date of the hearing, to all permittees of record and leaseholders whose wells or leases are within ¼ mile of the area described in the proposed rules by first class mail, postage pre-paid, and by publication in a newspaper of general circulation in each county in which any portion of the area described in proposed rules is located.

D) The public hearing shall be conducted in accordance with the provisions of Section 240.370(d)(4) and (d)(5). The Department shall fully consider the record from the public hearing and any other public comment received during the first notice period and, prior to commencement of the second notice period, shall make such changes to the proposed rules as may be necessary to prevent waste, protect correlative rights and prevent the unnecessary drilling of wells.

c) Coalbed Gas Wells

The Department shall not issue a permit for the drilling or deepening of a well for the production of coalbed gas from unmined seams of coal unless the proposed well location and spacing conform to drilling unit requirements of 10 acres of surface area lying within a quarter-quarter-quarter section of land (as established by the official United States Public Land Survey). The location of the well shall be not less than 330 feet from the nearest lease boundary line except any lease boundary line located within a pooled unit. The location shall be no less than 330 feet from the nearest location of a producing well or well being drilled or for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir. The location shall be no less than 10 feet from the nearest drilling unit boundary line.

d) Coal Mine Gas Wells

A well drilled into a mine void or a pillar within the mined out area for the production of gas from an abandoned coal mine is exempt from the spacing requirements of this Subpart.

e) Other Wells
Class II UIC wells, coal, mineral and structure test holes, observation wells, water supply wells used in relation to oil or gas production, and gas storage wells are exempt from the requirements of this Section.

f) All new well locations shall not be less than 200 feet from the nearest occupied dwelling existing at the time the permit application is filed with the Department, unless the permittee obtains a written agreement with the surface owner upon which the dwelling is located specifically allowing for a closer well location.

(Source: Amended at 45 Ill. Reg. _____, effective October 25, 2021)

Section 240.420 Well Location Exceptions within Drilling Unit

a) Whenever the conditions of a drilling unit render it impractical to drill an oil or gas well at a location conforming to the requirements of Section 240.410, an oil or gas well may be drilled at a nonconforming location as follows:

1) If the proposed location is less than 330 feet (or other applicable setback) from the nearest lease boundary line, the application shall be accompanied by a written agreement or agreements between the applicant and any leaseholders or mineral rights owners (if no leaseholder exist) whose leases or mineral rights are adjacent to and less than 330 feet (or other applicable setback) from the proposed location. In lieu of the submission of a written agreement or agreements, the applicant shall give notice by certified mail, return receipt requested, to any leaseholders or mineral rights owners (if no leaseholders exist) whose leases or mineral rights are adjacent to and less than 330 feet (or other applicable setback) from the proposed location. The notice shall include the proposed location of the well and the reason the location is requested, and shall inform the leaseholders or mineral rights owners that they may file written objections with the Department within 15 days after service of the notice. If a written objection is received, the matter shall be set for hearing, which shall be conducted in accordance with the provisions of Section 240.370(d) of this Part.

2) In determining whether to approve a proposed nonconforming location, the Department will consider the feasibility and expense of drilling on location, any hazard or damage to persons or property or to the environment, and whether the proposed location would adversely affect the correlative rights of any of the owners of the reservoir or result in

waste or the drilling of unnecessary wells.

b) If at the time of application, a lease immediately adjacent to a proposed drilling unit has producing wells located less than 330 feet from the common boundary line, then a well on the proposed drilling unit may be located at a distance closer than 330 feet but no closer than the distance to the common boundary line of the immediately offsetting well.

c) If a drilling unit is located over an active mine, the mined-out or inaccessible portion of an active mine, an abandoned mine, or the undeveloped limits of a mine, the proposed well can be located so that it will be drilled into an existing or proposed mine pillar subject to the conditions and limitations set forth in subsections (a) and (b) above.

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.425 Change of a Permitted Drilling Location

a) If, after a permit is issued but prior to the commencement of drilling, the permittee determines that the permitted location is impractical to drill:

1) The permittee is allowed, without prior approval from the Department, to move the location a maximum of 60 feet from the permitted location, provided the amended location meets the requirements of Section 240.410 or the location exceptions in Section 240.420. A surveyed, amended application, showing the amended location and the reason the location was moved, shall be submitted to the Department within 10 days after moving the location.

2) If the proposed well location is more than 60 feet from the permitted location, provided the amended location meets the requirements of Section 240.410 or the location exceptions in Section 240.410, a surveyed, amended application must be submitted showing the proposed location and the reason the location is requested. Approval for the location must be received from the Department prior to the commencement of drilling.

b) If, during drilling, the well is lost (collapsed casing or hole, etc.), the permittee may terminate drilling and move the rig up to 30 feet from the permitted location and commence drilling operations, provided that:

1) the permittee notifies the District Office prior to the move and receives approval;

2) a new application and fee is submitted within 10 days in accordance with Section 240.220; and

3) the new location is in compliance with all other requirements of this Part.

(Source: Added at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.430 Drilling Unit Exceptions

a) In the case of irregular sections containing more or less than 640 acres, in those areas where the United States Government has not made an official survey, in areas covered by the old French Surveys and Grants, in meandered lands, in government lots, and in subdivisions thereof where the acreage in quarter-quarter-quarter sections and quarter-quarter sections do not conform to the requirements of Section 240.410, the Department shall establish drilling units for wells such that drilling units will not cause a greater well density than would be encountered in regular official surveys relative to the distance between wells and the external drilling unit boundary lines specified in Section 240.410.

b) If the proposed oil wells will be part of an enhanced oil recovery project, spacing requirements for oil or gas production wells are as follows:

1) Except as provided in subsection (b)(2), the drilling unit and well location requirements of Section 240.410 do not apply to an oil well that is part of an enhanced oil recovery project. For purposes of this Subpart, an enhanced oil recovery project is a lease, or a unit composed of a group of leases operating under an agreement that provides for the sharing of production by all of the owners within the unit, which has one or more enhanced oil recovery injection wells permitted and in operation at the time an application for a permit to drill and operate an oil well is filed. The enhanced oil recovery injection wells in operation must be injecting into the reservoir that will be produced in order for the project to be classified as an enhanced oil recovery project.

2) Oil wells permitted and drilled in accordance with this Section must be located no less than 330 feet from the nearest lease boundary line or unit boundary, except that, if, at the time of application, a lease immediately adjacent to the proposed well has producing wells located less than 330 feet from the common boundary line, then the proposed well may be located at a distance closer than 330 feet, but no closer than the distance to the common boundary line of the immediately offsetting well.

c) If the proposed well is to be a post-primary recovery well:

1) The spacing requirements shall comply with Section 240.410; or

2) A new drilling unit may be designated consisting of two or more drilling units of the same size, shape and location as that required in Section 240.410 and located in the same reservoir. At least one-half of the drilling units used to make up the new drilling unit are required to contain at least one plugged or non-producing well. The new drilling unit shall not contain any drilling unit of a well actively producing from the same individual reservoir. The new drilling unit may cross section lines. In a reservoir in which the top lies less than 4,000 feet beneath the surface, the well shall be no less than 330 feet from the nearest external boundary lines of the new drilling unit nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir. In a reservoir in which the top lies at or below 4,000 feet beneath the surface, the well shall be no less than 330 feet from the nearest external boundary lines of the new drilling unit nor less than 900 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.440 More Than One Well on a Drilling Unit

More than one well may be drilled on a drilling unit to different reservoirs, allocating the acreage in the drilling unit for each producing reservoir as specified in Section 240.410.

(Source: Added at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.450 Directional Drilling

a) A directional drilled well is a wellbore which is purposely deviated from the vertical and intersects the planned zone of production at a projected surface location other than the surface location of the well specified on the permit.

b) For a directionally drilled well, the drilling unit shall be established and the well permitted with reference to the location of the well where it is proposed to be

completed. All portions of the reservoir exposed in the wellbore shall meet the well location and spacing requirements specified in Section 240.410 or Section 240.460 for modified units.

c) If a directionally drilled well is drilled with more than one (1) directional hole from a single vertical wellbore, each directional hole shall be considered a separate well and permitted in accordance with Subpart B.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.455 Horizontal Drilling

a) For purposes of this Subpart, a horizontal well is a wellbore that has an overall length within the reservoir of twice the thickness of the reservoir.

b) An oil or gas production well may be developed with one or more horizontal drainholes drilled from a single vertical wellbore and may be considered a single well and permitted in accordance with the provisions of Subpart B.

c) If the proposed horizontal well will be part of an enhanced oil recovery project, the spacing requirements for all portions of the horizontal drainholes shall comply with Section 240.430(b).

d) For a horizontal well:

1) the spacing requirements shall comply with Section 240.410; or

2) a horizontal drilling unit may be designated consisting of two or more drilling units of the same size, shape and location as that required for a well of the same depth in accordance with Section 240.410. The horizontal drilling unit may cross section lines.

e) For the horizontal wells described in subsection (d), all portions of the horizontal drainhole:

1) may travel in any direction or directions necessary for efficient production within the drilling unit;

2) shall be no less than 330 feet from the nearest lease boundary line except any boundary line located within a pooled unit; and

3) shall be no less than 330 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued (but under which the well has not yet been drilled) using the same individual reservoir.

f) If a horizontal drilling unit configuration other than that allowed in subsection (d) is necessary because of geology or reservoir conditions, a modified or special drilling unit is required in compliance with Section 240.460 and/or Section 240.465.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.460 Modified Drilling Unit

a) The Department shall schedule a hearing to consider a petition for modification of the location of the standard drilling unit described in Section 240.410, based on geologic or engineering characteristics of the reservoir, relative to the land survey system specified in Section 240.410 and well density specified in Section 240.465.

b) Upon petition of any person having an interest in oil or gas in a lease or drilling unit, when the proposed unit does not fit within divisions created by the official United States Public Land Survey described in Section 240.410, the Department shall initiate a review of the petition to determine whether the petition will be accepted. If the permit is accepted, a public hearing will be scheduled pursuant to subsection (e).

c) Contents of petition shall include:

1) the name and address of the petitioner;

2) a legal land description of the drilling unit sought to be established;

3) a description of the petitioner's interest in oil or gas in the drilling unit at issue; and

4) the petitioner's geologic or engineering reason for requesting a modified drilling unit.

d) Execution and Filing

1) The petition to modify a drilling unit in accordance with this Section or

establish a special drilling unit in accordance with Section 240.465 shall be sent to the Department offices located in Springfield, Illinois.

2) Every petition shall be signed by the petitioner or his or her representative and the petitioner's address shall be stated on the petition. The signature of the petitioner or his or her representative constitutes a certificate by him or her that he or she has read the petition and that to the best of his or her knowledge, information and belief there is good ground to support the petition. The *petition shall be accompanied by a non-refundable application fee in the amount of $1,500.* [225 ILCS 725/21.1(b-2)]

3) A petition shall not be accepted if:

A) the petitioner *has falsified or otherwise misstated any information on or relative to* the petition*;*

B) *the* petitioner *has failed to abate a violation of the Act specified in a final administrative decision of the Department;*

C) *an officer, director*, agency, power of attorney or *partner* in the petitioner, *or* a *person with an interest in* the petitioner *exceeding 5%* was or *is an officer, director, partner,* agent, power of attorney *or person with an interest exceeding 5% in another entity that failed to abate a violation of the Act specified in a final administrative decision of the Department;*

D) *the* petitioner was or *is an officer, director,* agent, power of attorney, *partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department* [225 ILCS 725/8(a)];

E) funds have been expended and remain outstanding from the PRF to plug wells, under Subpart P, for which the petitioner:

i) was a previous permittee;

ii) was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

iii) an officer, director, agent, power of attorney or partner in

the petitioner, or a person with an interest in the petitioner exceeding 5% was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

F) the petitioner is delinquent in the payment of Annual Well Fees; or the petitioner was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney or partner in the petitioner, or person with an interest in the applicant exceeding 5%, in a permittee who is delinquent in payment of Annual Well Fees.

4) If the Department finds the petition deficient relative to the requirements of subsection (c)(2) or (3), the petition shall not be accepted and the Department shall issue a written deficiency notice to the petitioner within 10 business days after its receipt. If the petitioner does not respond to the deficiencies within 60 days, the petition will be deemed denied.

5) If the Department finds the petition deficient relative to the requirements of subsections (a) or (b), the Department shall issue a written deficiency notice to the petitioner within 10 business days after the receipt date. If the petitioner does not respond to the deficiencies within 60 days, the petition will be deemed denied. Within 60 days after receipt of any deficiency notice under this subsection (d)(5), the petitioner may request, in writing, that the petition be accepted and a public hearing be held, in lieu of responding to the deficiency.

6) *If the Department does not timely respond to any petition or the submission of additional information or documentation after initial submission* within 10 business days after receipt, *then the petition shall be deemed to be in sufficient form for acceptance and filing and the Department shall proceed with the scheduling of a public hearing*. [225 ILCS 725/21.1(f)]

e) *A public hearing on the petition shall be scheduled not less than 30 days, but not more than 60 days, after the acceptance* of the petition *by the Department.* [225 ILCS 725/21.1(f)] Notice of hearing shall be given by the petitioner to all mineral owners within the boundaries set forth in the petition, and to all permittees whose wells or leases are within ¼ mile of the boundaries of the lease or drilling unit, by U.S. Postal Service certified mail, return receipt requested, and by publication in a

newspaper of general circulation in each county in which any portion of the proposed lease or drilling unit or units is located, at least 10 days prior to the hearing. The notice shall include:

1) the name and address of the petitioner;

2) the date of the hearing;

3) the legal land description of the drilling unit sought to be established;

4) the geologic name and depth of the proposed production formations;

5) the address and telephone number for the Office of Oil and Gas Resource Management of the Department

6) As to the notice to be mailed, a statement that the recipient has 14 days from the date of mailing the notice, as stated in the notice, to comment on the petition and that comments must be made in writing to the Office; and

7) As to the newspaper publication notice, a statement that the public has 10 days from the date of the publication of the notice, as stated in the public notice, to comment on the petition and that comments must be made in writing to the Office.

f) Pre-Hearing Conferences

1) Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:

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

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

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

D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just.

2) Pre-hearing conferences may be held by telephone conference, video conference or other electronic means if that procedure is acceptable to all parties.

g) Hearing

1) Hearing Officer: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

A) To administer oaths and affirmations;

B) To receive relevant evidence;

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

D) To consider and rule upon procedural requests;

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

F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) All hearings are open to the public and are held in compliance with the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.). The hearings will be held at locations ordered by the Hearing Officer. The Hearing Officer will select hearing locations that comply with any geographic requirements imposed by applicable law and, to the extent feasible, promote the convenience of the parties and the conservation of the Department's resources. All hearings are subject to cancellation without notice. Interested persons may contact the Department or the Hearing Officer for information about the hearing. Parties, participants and members of the public must conduct themselves with decorum at the hearing.

3) Upon the motion of any party, the Hearing Officer may order that a hearing be held by telephone conference, video conference or other electronic means. In deciding whether a hearing should be held by telephone conference, video conference or other electronic means, factors that the Hearing Officer shall consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness.

4) Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person shall be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in Circuit Court.

5) All participants in the hearing shall have the right to be represented by counsel.

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

7) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.

8) When applicable, the following shall be addressed prior to receiving evidence:

A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

B) Ruling may be made on any pending motions.

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

h) Evidence

1) Admissibility: A party shall be entitled to present his or her case by oral

or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

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

3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

i) Record of Proceedings; Testimony
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

j) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an

emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing.

k) Default
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of that party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.460(i). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

l) *The Department, after public hearing, shall either grant or deny the petition within 20 working days after the conclusion of the hearing.* [225 ILCS 725/21.1(f)]

m) If the Department finds, based on the reservoir's geological and engineering characteristics, that a modified drilling unit or units are necessary to prevent waste, to protect correlative rights, and to prevent the unnecessary drilling of wells, the Department shall enter an order establishing the modified drilling unit or units. Each order shall:

1) specify the location of each drilling unit relative to the land survey system; and

2) specify the set back from the drilling unit boundaries for the location of the oil or gas well on each drilling unit; and

3) terminate 1 year from the effective date of the order unless a well has been drilled on the drilling unit within that time. If a well has been drilled within that time, the order shall terminate when the well is plugged.

n) Order − Final Administrative Decision
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.465 Special Drilling Unit

a) The Department shall consider a petition to establish a special drilling unit based on whether:

1) the well density specified in Section 240.430(a) is maintained; and

2) a standard drilling unit cannot be formed utilizing the integration provisions of Section 240.132.

b) Upon petition of any person having an interest in oil and gas in a lease or drilling unit, when the proposed drilling unit size and shape is other than that specified in Section 240.410, the Department shall initiate a review of the petition to determine whether the petition will be accepted. If the permit is accepted, a public hearing will be scheduled pursuant to Section 240.460(e).

c) Contents of the petition shall include:

1) the name and address of the petitioner;

2) a legal land description of the drilling unit sought to be established;

3) a description of the petitioner's interest in oil or gas in the drilling unit at issue; and

4) the petitioner's reason for requesting a special drilling unit, including the submission of supporting geologic and engineering data.

d) Applications to establish a special drilling unit shall be processed in accordance with the petition filing, execution, public notice and hearing provisions specified under Section 240.460(d) through (n).

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.470 Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

a) Upon application of any person having an interest in oil or gas in all or a portion of a reservoir, the Department shall consider the establishment of pool-wide drilling units other than specified in Section 240.410 of this Part for all or a portion of a reservoir for the production of oil or gas.

b) Applications to establish pool-wide drilling units based upon reservoir characteristics shall be processed in accordance with Section 240.133 of this Part.

c) The following pool-wide oil well spacing is established by the Department.

1) Ten acre spacing is established for the Devonian and Silurian Limestone in Sections 16, 17, 20, 21 and 29 of Township 3 North, Range 3 West, Schuyler County, Illinois, known as the Brooklyn Pool.

2) Ten acre spacing is established for the Devonian and Silurian Limestone in Sections 29, 30, 31 and 32 of Township 1 South, Range 3 West, Sections 24, 25, 26, 33, 34, 35 and 36 of Township 1 South, Range 4 West, Sections 5, 6 and 8 of Township 2 South, Range 3 West and Sections 1, 2, 3 and 4 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Buckhorn Consolidated Pool.

3) Ten acre spacing is established for the Devonian and Silurian Limestone in Sections 8, 9, 15, 16 and 17 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Siloam Pool.

4) Ten acre spacing is established for the Devonian and Silurian Limestone in Sections 6 and 7 of Township 1 North, 1 West, Sections 1, 2 and 12, of Township 1 North, Range 2 West and Sections 35 and 36 of Township 2 North, 2 West, Schuyler County, Illinois, known as the Rushville Central Pool.

5) Ten acre spacing is established for the Devonian and Silurian Limestone in Sections 25 and 36 of Township 1 South, 5 West, Sections 1, 2, 10, 11 and 12 of Township 2 South, Range 5 West, Adams County, Illinois and in Section 7 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Kellerville Pool.

6) Ten acre spacing is established for the St. Louis Limestone (Mississippian) in Sections 6, 7, 18 and 19 of Township 11 North, Range 11 East and Sections 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 28, 29 and 30 of Township 11 North, Range 14 West, Clark County, Illinois, known as the Westfield Pool.

7) Ten acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 31, 32, 33 and 34 of Township 12 North, Range 14 West, Clark County, Illinois, known as the Westfield Pool.

8) Ten acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 2, 3, 10, 11, 12 and 13 of Township 9 North, Range 14 West and in Sections 14, 15, 22, 23, 24, 25, 26, 35 and 36 of Township 10 North, Range 14 West, Clark County, Illinois, known as the Martinsville Pool.

9) Ten acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 22, 23, 26, 27, 34 and 35 of Township 9 North, Range 14 West, Clark County, Illinois, known as the Johnson South Pool.

10) Ten acre spacing is established for the Trenton Limestone in Sections 34 and 35 of Township 1 South, Range 10 West and in Sections 2, 3, 11 and 24, of Township 2 South, Range 10 West, Monroe County, Illinois, known as the Waterloo Pool.

11) Ten acre spacing is established for the Trenton Limestone in Sections 27, 33 and 34, Township 1 North, Range 10 West, St. Clair County, Illinois, known as the Dupo Pool.

12) Ten acre spacing is established for the Silurian (reef section) in the S1/2 SE1/4 and south 12 acres of fractional SW1/4 of Section 18; S1/2 SW1/4 of Section 17; NW1/4 and N1/2 SW1/4 and SW1/4 SW1/4 of Section 20; all of Section 19 except the W1/2 S1/2 of fractional SW1/4, all located in Township 2 South, Range 3 West, Washington County, known as the Nashville Pool.

d) The following pool-wide natural gas spacing is established by the Department.

One hundred sixty acre spacing is established for the New Albany Shale Gas in the West half of Section 5, and all of Sections 6, 7, 8, 17, 18, 19 and 20 of Township 4 North, Range 10 West and in Sections 1, 2, 11, 12, 13 and 14 and the East half of Section 24, of Township 4 North, Range 11 West, Lawrence County, Illinois.

(Source: Amended at 21 Ill. Reg. 7164, effective June 3, 1997)

SUBPART E: WELL DRILLING, COMPLETION AND WORKOVER REQUIREMENTS

Section 240.500 Definitions

For the purpose of this Subpart the term:

"Completion Fluids" means liquids that are used to complete or workover a well including saltwater, crude oil, frac fluids, acids and other treatment chemicals.

"Completion Fluid Waste" means completion fluids that are generated from the well during completion or workover activities.

"Drilling Fluid" means any freshwater based drilling muds, air or air foam mixtures used in the drilling of a well.

"Drilling Fluid Waste" means drilling fluids, muds and cuttings that are generated from the well during drilling activities.

"Oil Drilling Fluid" means any refined oil based drilling mud or drilling mud containing greater than 5% by volume crude oil.

"Saltwater Drilling Fluid" means any saltwater based drilling mud in excess of 10,000 ppm chlorides.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.510 Department Permit Posted

During well drilling, deepening or conversion operations a copy of the permit shall be kept at the well site.

(Source: Section repealed at 15 Ill. Reg. 15493, effective October 10, 1991, new Section added at 16 Ill. Reg. 15513, effective September 29, 1992)

Section 240.520 Drilling Fluid Handling and Storage

a) Cable Tool or Air Rotary Drilling

When drilling with cable tools or air rotary equipment the permittee shall provide at least one (1) sediment pit or above ground container into which drill cuttings and drilling fluids shall be deposited.

b) Rotary Drilling with Mud

When drilling with rotary drilling equipment using drilling fluids, the permittee shall provide at least one (1) sediment pit or above ground, portable container into which drill cuttings shall be deposited, and one (1) drilling fluid circulation pit or

leak free, above ground container. Other pits, such as reserve pit used for storage of drilling fluid waste, may be constructed as needed by the permittee.

c) Drilling Pits

1) Pits used for drill cuttings (sediment pits) and drilling fluids (circulation pits) or drilling fluid wastes (reserve pits) shall be constructed with sufficient capacity to contain all drilling fluids within the pits, and maintained in a manner that reasonably prevents against overflow during drilling operations and prior to commencing pit restoration in accordance with Section 240.540 of this Part. Discharge of drilling fluids from the pits into any surface water or water drainage way is prohibited.

2) Sediment pits and drilling fluid circulation pits and reserve pits shall be used only for the temporary storage of drill cuttings and drilling fluids, and shall not be used for the disposal of general oilfield wastes.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.525 Saltwater or Oil Based Drilling Fluid Handling and Storage

a) When initiating drilling operations using saltwater or oil drilling fluids, the permittee shall provide at least one (1) lined sediment pit or above ground, portable container into which drill cuttings shall be deposited, and one (1) lined drilling fluid circulation pit or leak free, above ground container.

b) Pits used for drill cuttings (sediment pits) and drilling fluids (circulation pits) or reserve pits (drilling fluid waste storage) shall be lined with at least a 20 mil thickness liner. If drilling operations begin with fresh water based mud and a mud cake is established in the drilling and circulation pits prior to the use of saltwater or oil based mud, liners are not required unless those pits will be used for drilling fluid waste disposal. Reserve pits into which saltwater or oil based drilling fluid wastes are deposited or disposed shall be lined. Pits shall be constructed with sufficient capacity to contain all drilling fluids within the pits, and maintained in a manner that reasonably prevents against overflow during drilling operations and prior to commencing pit restoration in accordance with Section 240.540 of this Part. Discharge of drilling fluids from the pits into any surface water or water drainage way is prohibited.

c) Sediment pits, drilling fluid circulation pits and reserve pits shall be used only for the temporary storage and disposal of drill cuttings and drilling fluids, and shall not be used for the disposal of general oilfield wastes.

(Source: Added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.530 Completion Fluid and Completion Fluid Waste Handling and Storage

a) Completion Fluid Handling and Storage Prior to Use

If completion fluids are temporarily stored at the well site prior to use in completion activities, the fluids shall be stored in a lined completion pit or leak free, above ground container.

b) Completion Fluid Waste Handling and Storage

Completion fluid wastes generated from the well during completion activities shall be collected at the well site in a completion pit, or leak free, above ground container. A pit used for this purpose need not be lined.

c) Completion and Workover Pits

1) Pits used for completion fluids and completion fluid wastes shall be constructed with sufficient capacity to contain the fluids within the pits, and maintained in a manner that reasonably prevents against overflow during completion or workover activities and prior to commencing pit restoration in accordance with Section 240.540 of this Part. Discharge of completion fluids and completion fluid wastes from the pits into any surface water or water drainage way is prohibited.

2) The sediment pit or the drilling fluid circulation pit used during drilling operations may be used for the collection of completion fluid wastes during completion activities. If either pit is used as a completion pit, drill cuttings and drilling fluids shall first be removed and a dike constructed to prevent completion fluid wastes from entering the other pit.

3) Completion or workover pits used to store completion fluids prior to use in the well shall be lined with a liner at least 20 mils in thickness.

4) Completion or workover pits shall be used only for the temporary storage of completion fluids and completion fluid wastes in accordance with the requirements of this subsection, and shall not be used for the disposal of general oilfield wastes.

(Source: Amended at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.540 Drilling and Completion Pit Restoration

a) Sediment, drilling fluid circulation and reserve pits, except sediment pits used as completion pits, shall be filled and leveled within 6 months after drilling ceases. Drilling fluid wastes may be disposed of by on-site burial or surface application in accordance with subsection (b) of this Section at the site of drilling. Saltwater or Oil Drilling Fluid wastes shall be removed from the site and disposed of in an Illinois Environmental Protection Agency permitted special waste landfill, injected in a Class II well, disposed of in a well during the plugging process or buried in one of the lined pits and the liner folded over and additional liner material added to completely cover the drilling waste buried at least 5 feet below the ground surface.

b) If surface application is used for disposal of drilling fluid wastes (prohibited for Saltwater or Oil Based Drilling Fluids), the wastes shall be landspread, incorporated and stabilized to limit run off of storm water containing drilling fluid waste. Discharge of drilling fluid waste into surface waters or water drainage ways is prohibited.

c) Drilling pits used as completion pits in accordance with Section 240.530(c)(2) of this Subpart shall be filled and leveled within 6 months after completion activities cease. Newly constructed completion or workover pits shall be filled and leveled within 90 days after completion or workover activities cease. All completion or workover fluid wastes shall be removed from the pit and disposed of in a Class II Injection well (or in above ground tanks or containers pending disposal) prior to restoration. Any remaining residue not removed can be disposed of through on-site burial. Only residue from that particular well on which completion or workover activities were performed can be disposed of by on-site burial.

d) All drilling, completion and workover pits shall be filled and leveled in a manner that allows the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.550 Disposal of General Oilfield Wastes and Other Wastes

All general oilfield wastes generated during drilling, completion and workover activities shall be temporarily stored in on-site containers, and shall be removed from the site prior to or at the

conclusion of the given activity and disposed of in accordance with the federal Resource Conservation and Recovery Act of 1976.

(Source: Amended at 21 Ill. Reg. 7164, effective June 3, 1997)

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR PRODUCTION WELLS

Section 240.600 Applicability

The provisions of this Subpart apply to wells drilled for the production of oil or gas, or wells drilled for water supply in connection with an enhanced oil recovery project.

(Source: Added at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.605 Drilled Out Plugged Hole (DOPH) Notification

The permittee shall notify the District Office for the county in which the well is located 24 hours prior to commencing drilling of a drilled out plugged hole (DOPH).

(Source: Added at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.610 Construction Requirements for Production Wells

a) Surface Casing Requirements for Wells Drilled After May 13, 1994

1) Steel surface casing or fiberglass casing meeting API standards (Fiberglass Casing and Tubing; 15AR, May 1987, published by the American Petroleum Institute, 1220 L Street NW, Washington DC 20005-4070; no later editions or amendments included) shall be set to a depth of at least 100 feet, or 50 feet below the base of the fresh water, whichever is deeper, unless an alternative surface casing procedure is used as outlined in subsection (b).

2) Surface casing or alternative surface casing shall be set in the presence of a representative of the Department and the permittee shall give at least 24 hours notice to the appropriate District Office prior to setting the surface casing. The District Office may approve the setting of surface casing without a Department representative being present. If the District Office approves the setting of surface casing without a Department representative being present, the permittee is required to submit cement and casing records verifying the setting of surface casing. If cement and casing

records are required, the permittee shall provide the records to the District Office within 24 hours after completion of the work.

3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.

4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than 4 hours.

b) Alternative Surface Casing Procedures

1) Prior to the commencement of drilling, the permittee shall notify the District Office for the county where the well will be located of the permittee's intent to use an alternative surface casing procedure.

2) Notice shall be given on a form prescribed by the Department and received in the District Office at least 24 hours prior to the commencement of drilling.

3) The following alternative surface casing procedures may be used unless the well is located over a coal mined out area or a gas storage field:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be either cemented to surface from total depth or cemented from the cement basket to surface.

B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set and cemented, in accordance with subsection (a), to the top of the bedrock, and the production casing shall be either cemented to surface from total depth or cemented from the cement basket (placed 50 feet below the base of the fresh water) to surface.

C) For wells in which the total depth is less than 500 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

4) For wells located over a coal mined out area:

A) surface casing and cement shall be set to a minimum of 40 feet or to the top of the bedrock, whichever is deeper, before drilling to the depth of the mined out area or into the mined out area; and

B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).

5) For wells located over a gas storage field:

A) at least 100 feet of surface casing and cement shall be set before drilling to the depth of gas storage zone; and

B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).

c) Production Casing Requirements for Wells Drilled After May 13, 1994
Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of 250 feet above the shallowest producing interval. The casing shall be set no higher than 50 feet above the top of the uppermost producing interval in an open hole completion.

d) Production Casing Requirements for Wells Drilled Prior to May 13, 1994

1) For all existing wells without production casing:

A) If surface casing was previously set, production casing shall be set and cemented a minimum of 250 feet in accordance with subsection (c).

B) If surface casing was not previously set, production casing shall be set and cemented to surface.

2) Wells drilled prior to May 13, 1994 that contain drive pipe without cement behind the drive pipe will require no further cementing work.

e) Tubing and Packer in Flowing Wells
All wells flowing as a result of an enhanced oil recovery project shall be produced

through tubing and packer. The packer shall be set within 200 feet of the top of the producing interval and within the cemented portion of the production casing. The permittee shall contact the District Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer to enable an inspector to be present when the packer is set.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.620 Remedial Cementing of Leaking Wells

If the Department determines through field observation that any well is leaking well bore fluid into the freshwater zone or onto the surface, remedial cementing shall be required. The remedial cementing shall be accomplished by:

a) perforating and squeezing cement from fifty (50) feet below the base of the fresh water to the surface, or

b) by extending small diameter tubing behind the production casing to a depth of at least fifty (50) feet below the base of the fresh water and circulating cement to the surface.

(Source: Section repealed, new Section adopted at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.630 Operating Requirements

a) The well shall be maintained and operated in accordance with all permit conditions or be subject to permit revocation in accordance with Section 240.251.

b) The well and wellhead shall be maintained in a leak-free condition.

c) All spills of produced water or oil occurring at the well site due to a leaking wellhead shall be cleaned up in accordance with Subpart I.

d) Wells that have not had commercial production within the last 2 years shall be temporarily abandoned or plugged in accordance with Subpart K.

e) Casinghead gas, produced in conjunction with oil production, that is not collected for use or sale, shall be flared unless the Department approves an exemption from this requirement. In determining whether to approve an exemption, the Department shall consider the quantity of casinghead gas produced, the topographical and climatological features at the well site, and the proximity of

agricultural structures and crops, inhabited structures, public buildings, and public roads and railways.

f) If hydrogen sulfide gas (H_2S) is present in excess of 20 ppm within 5 feet in any direction from the wellhead or the end of the flare line, the Department shall specify measures to be taken by the permittee to protect against waste and injury to the public health and safety, which may include the erection of flare lines, the posting of warning signs, and the erection of fencing. The Department may also require the setting of a temporary mechanical or cement plug during any period of time in which the well is not producing or during any period of time necessary to effectuate safety measures. In specifying the measures to be taken by the permittee, the Department shall consider the quantities of H_2S being emitted, the topographical and climatological features at the well site and the proximity of inhabited structures, public buildings, and public roads and railways.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.640 Reporting Requirements

a) Well Completion Reports

1) Contents

The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:

A) the name and location of the well;

B) information on the construction of the well;

C) information on the producing zones and the type of completion treatment performed on each zone; and

D) initial production rates.

2) Newly drilled wells

A Well Completion Report shall be submitted to the Department within 30 days after the conclusion of initial completion activities (i.e., production testing or date of first production) or within 30 days after the expiration of the permit if the well was not drilled.

3) Existing wells

A Well Completion Report shall be completed and submitted to the Department for each workover or recompletion of any existing production well or conversion to a production well which results in a change of the original well construction or zone of production. The Well Completion Report shall be submitted within 30 days after the completion of any such workover, recompletion or conversion activity. A Well Completion Report is required within 30 days after the expiration of a conversion permit if the well was not converted.

4) Non-productive Wells (Dry Holes)

A Well Completion Report shall be completed and submitted to the Department for each non-productive well or "dry hole". The Well Completion Report shall be submitted within 30 days after attempted completion of the non-productive well.

b) Well Drilling Report

1) For all wells drilled or deepened after the effective date of this Section, a Well Drilling Report shall be completed by the permittee on a form prescribed by the Department.

2) The Well Drilling Report shall be submitted to the State Geological Survey in Champaign, Illinois within 90 days after drilling ceases and shall contain:

A) the name and location of the well;

B) drilling information;

C) the geologic names and depths of the formations encountered in drilling the well;

D) the results of all drill stem tests; and

E) a copy of the drilling time or geolograph record if a geophysical log was not run unless the well was drilled with air rotary tools.

3) A Well Drilling Report is not required for well conversion not entailing deepening of the well.

c) Geophysical Logs

A copy of all open hole wire line or geophysical logs run on a well shall be submitted to the State Geological Survey within 90 days after drilling ceases.

d) Drill Cuttings

1) Notification and Collection of Drill Cuttings

The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each ten feet of distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.

2) When Drill Cuttings Required

The Department will require drill cuttings for a newly permitted well when drill cuttings have not previously been submitted for any well within ½ mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within ½ mile for which drill cuttings were submitted, drill cuttings will be required only from the lowest depth previously submitted to the total depth of the newly permitted well.

(Source: Amended at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.650 Confidentiality of Well Data

When requested in writing by the permittee, the Well Completion Report, Well Drilling Report, geophysical logs, and drill cuttings shall be kept confidential for two (2) years from the date of issuance of the permit for the particular well in accordance with the provisions of Section 3 of "The Well Abandonment Act" (Ill. Rev. Stat. 1989, ch. 96 ½, par. 5203, as amended by P.A. 87-744, effective September 26, 1991) (225 ILCS 730/3)

(Source: Section repealed, new Section adopted at 15 Ill. Reg. 15493, effective October 10, 1991)

SUBPART G: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section 240.700 Applicability and Definitions

The provisions of this Subpart apply to all Class II UIC wells - including commercial saltwater disposal wells.

"Commercial Saltwater Disposal Well Facility" means a commercial saltwater disposal well and all associated Class II storage tanks, concrete storage structures, piping and valves.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells

a) Surface Casing

1) Steel surface casing shall be set to a depth of at least 100 feet, or 50 feet below the base of the freshwater zone, whichever is deeper, unless an alternative surface casing procedure is used as outlined in subsection (b).

2) Surface casing shall be set in the presence of a representative of the Department and the permittee shall give at least 24 hours notice to the District Office prior to setting the surface casing. The District Office may approve the setting of surface casing without a Department representative being present. If the District Office approves the setting of surface casing without a Department representative being present, the permittee is required to submit cement and casing records verifying the setting of surface casing. If cement and casing records are required, the permittee shall provide the records to the District Office within 24 hours after completion of the work.

3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.

4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than 4 hours.

b) Alternative Surface Casing Procedures

1) Prior to the commencement of drilling, the permittee shall notify the District Office for the county where the well will be located of the

permittee's intent to use an alternative surface casing procedure.

2) Notice shall be given on a form prescribed by the Department and received in the District Office at least 24 hours prior to the commencement of drilling.

3) The following alternative surface casing procedure may be used unless the well is located over a coal mined out area or a gas storage field:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing either cemented to surface from total depth, or cemented from the cement basket to surface.

B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set, and cemented in accordance with subsection (a), to the top of the bedrock, and the production casing shall be either cemented to surface from total depth or cemented from the cement basket (placed 50 feet below the base of the fresh water) to surface.

C) For wells in which the total depth is less than 500 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

4) For wells located over a coal mined out area or a gas storage field:

A) at least 100 feet of surface casing and cement shall be set before drilling to the depth of the mined out area, into the mined out area or to the depth of the gas storage zone; and

B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).

c) Production Casing

Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of 250 feet above the shallowest permitted injection interval. The casing shall be set no

higher than 50 feet above the top of the uppermost permitted injection interval in an open hole completion.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.720 Surface and Production Casing Requirements for Conversion to Class II UIC Wells

a) Surface Casing

For conversions of existing production wells which do not have surface casing completely covering the fresh water zone, further cementing is not required unless it is necessary to establish external mechanical integrity in accordance with Section 240.770.

b) Production Casing

For all conversions of existing production wells, cement shall extend to at least one hundred (100) feet above the injection interval or the bottom of the casing in an open hole completion.

(Source: Former Section recodified to Section 240.680; new Section adopted at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.730 Surface and Production Casing Requirements for Existing Class II UIC Wells

a) Surface Casing

For existing Class II UIC wells which do not have surface casing completely covering the fresh water zone, further cementing is not required unless it is necessary to establish external mechanical integrity in accordance with Section 240.770.

b) Production Casing

The top of the cement behind the production casing shall be a sufficient distance above the top of the uppermost permitted interval of injection to prevent upward migration of injected fluid. In determining the sufficiency of cement, the Department shall consider the amount of existing cement, the location of the packer and the injection pressure.

(Source: Added at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.740 Other Construction Requirements for Class II UIC Wells

a) The wellhead shall be configured to include a one quarter inch female fitting, with shut-off valve, to allow monitoring of the annulus between the production casing and the injection tubing.

b) A one quarter inch female fitting, with shut-off valve, shall be installed on the tubing to measure the injection pressure.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.750 Operating Requirements for Class II UIC Wells

a) The wellhead shall be maintained in a leak-free condition.

b) Spills of injected fluids occurring at the well site due to a leaking wellhead shall be cleaned up in accordance with Subpart I.

c) Wells that are not equipped with tubing and packer shall be temporarily abandoned or plugged in accordance with Subpart K.

d) The injection pressure shall not exceed the maximum injection pressure established in accordance with Section 240.340(e), unless amended in accordance with Section 240.390(b).

e) No change shall be made in the permitted injection zones except in accordance with Section 240.390(a) or Section 240.395.

f) No change shall be made in the permitted injection fluid except in accordance with Section 240.390(c).

g) Within the Area of Review as defined in 62 Ill. Adm. Code 240.360, injection fluids shall be confined to the permitted injection zones. If the injection fluids are migrating into unpermitted zones, or into the freshwater zone or to the surface from the well in question or from other wells within the Area of Review, the permittee shall notify the Department and shut in the well until remedial action that prevents the fluid migration is completed.

h) Mechanical integrity must be established in accordance with Sections 240.760 and 240.770.

i) Only Class II fluids can be injected into a Class II well.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells

a) For purposes of this Section, establishment of internal mechanical integrity includes proper placement of the packer in accordance with subsection (b) and successful completion of a pressure test in accordance with subsection (g). If the Department determines that the packer is not set in accordance with subsection (b) or (c), the permittee shall be required to remove the tubing and packer from the well and reset it in the presence of a Department representative in accordance with this Section.

b) Injection shall be through tubing and packer unless alternative construction methods are approved by the U.S. Environmental Protection Agency. The packer shall be placed no higher than 200 feet above the uppermost permitted perforations or the casing seat in an open hole completion, provided the packer is within the cemented portion of the production casing such that there is at least 50 feet of cement above the packer, and further provided the packer is no less than 100 feet below the base of the fresh water. No perforations shall be left open above the packer unless they are isolated by a dual packer or concentric packer system. If a dual packer is used, the uppermost packer must satisfy the placement requirements of this subsection.

c) If the packer cannot be set in accordance with subsection (b) due to existing well construction, casing leaks within the cemented portion of the production casing, or an obstruction in the well, the permittee may request and the Department may specify an alternative packer setting depth provided the packer remains within the cemented portion of the production casing. In determining an alternative packer setting depth the Department shall take into consideration the current construction of the well, the depth of the fresh water and the nature of the obstruction.

d) The permittee shall contact the District Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer in a Class II UIC well to enable an inspector to be present when the packer is set. Setting of the packer must be reported on a form prescribed by the Department.

e) An internal mechanical integrity test shall be performed:

1) prior to initial injection into a newly permitted Class II UIC well;

2) prior to initial injection into a Class II UIC well after a change to a new, permitted injection zone;

3) prior to resuming injection into any Class II UIC well after any workover of the well involving the resetting or movement of a packer;

4) prior to initial injection into a Class II UIC well after the well has been reactivated from temporary abandonment status;

5) whenever the Department has reason to believe, based upon well records or field observation, and subject to the provisions of Sections 240.140, 240.150 and 240.180, that the Class II UIC well may be leaking or improperly constructed; and

6) at least once every 5 years measured from the date of the last successful test unless a temporary abandonment is approved in accordance with Section 240.1132.

f) All Class II UIC wells not subjected to an internal mechanical integrity pressure test as of September 1, 1990 were required to be tested by September 1, 1995, unless Temporary Abandonment status was approved prior to July 14, 2000. During the first 4 years, each permittee shall conduct an internal mechanical integrity test each year commencing September 1 on at least 20% of the permittee's total Class II UIC wells of record as of September 1 as reported to each permittee by the Department. During the fifth year each permittee shall conduct an internal mechanical integrity test on all remaining untested Class II UIC wells that were of record September 1, 1994 or were acquired during the year ending September 1, 1995. Class II UIC wells sold or acquired during the first 4 years shall not affect the total number of wells from which the 20% testing requirement is derived for that year. Wells tested during the year in which they are transferred shall count toward the 20% testing requirement of the permittee who conducted the test. Class II UIC wells temporarily abandoned, converted to production wells or plugged in accordance with the provisions of Subpart K during any year shall count toward the 20% testing requirement.

g) Pressure Test
The following pressure test shall be performed on Class II UIC wells to establish the internal mechanical integrity of the tubing, casing and packer of the well. The permittee shall contact the District Office in which the well is located at least 24 hours prior to conducting a pressure test to enable an inspector to be present when

the test is done. The permittee shall report the test results on a form prescribed by the Department.

1) Pressure Test
The casing-tubing annulus above the packer shall be tested in the presence of a Department representative at a minimum pressure differential between the tubing and the annulus of 50 PSIG for a period of 30 minutes. In addition, the casing-tubing annulus starting test pressure shall not be less than 300 PSIG and may vary no more than 5 percent of the starting test pressure during the test. The well may be operating or shut in during the test.

2) Monitoring Test
For those wells that are structurally unable to withstand the pressure test specified in subsection (g)(1) because the packer would unseat, but not because the well is improperly constructed, the permittee may make application to perform a monitoring test in lieu of the pressure test on forms prescribed by the Department. An approved monitoring test will consist of pressuring the annulus to a specified pressure no less than 50 PSIG and monitoring the positive annular pressure over a specified period of time. In determining whether to approve a monitoring test, and in establishing the test parameters (i.e., positive annulus pressure, tubing injection pressure, injection rate, monitoring method and length and frequency of monitoring), the Department shall consider well construction including:

A) the volume of the casing-tubing annulus;

B) depth of packer;

C) pressure below the packer; and

D) type of tubing and packer.

h) Any Class II UIC well that fails an internal mechanical integrity test, or on which an internal mechanical integrity test has not been performed when required by subsections (e) and (f), shall be shut in until the well is plugged or until remedial work is commenced and completed and an internal mechanical integrity test is successfully completed. The necessary work shall be completed and an internal mechanical integrity test successfully completed within 90 days, or within any greater length of time established by the Department due to weather conditions.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.770 Establishment of External Mechanical Integrity for Class II UIC Wells

a) In conjunction with the establishment of internal mechanical integrity for Class II UIC wells, the external mechanical integrity shall be evaluated by the Department to establish that the fresh water is protected from upward migration of injection fluids.

b) To establish external mechanical integrity, all Class II UIC wells shall be constructed in accordance with Sections 240.710(b), 240.720(b), or 240.730(b), whichever is applicable.

c) If external mechanical integrity under Sections 240.710(b) or 240.720(b) cannot be demonstrated by cement records or Illinois State Geological Survey records, the permittee may utilize one or more of the following methods to demonstrate external mechanical integrity:

1) Temperature log indicating top of cement;

2) Cement bond log showing gamma ray, transit time, collar locator and VDL (Variable Density Log);

3) Advanced cement evaluation logs;

4) Radioactive tracer survey indicating lack of fluid migration behind the casing;

5) Oxygen-activation log indicating lack of fluid migration behind the casing.

d) If the Department has reason to believe, based upon well records or field observation, that any Class II UIC well is causing fluid migration into the fresh water zone resulting from a failure of external mechanical integrity, the permittee shall shut in the well until any necessary corrective work is commenced and completed and external mechanical integrity is established in accordance with subsection (c) above, or until the well is plugged.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.780 Reporting Requirements for Class II UIC Wells

a) Well Completion Reports

1) Contents
The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:

A) the name and location of the well;

B) information on the construction of the well;

C) information on the injection zones and the type of completion treatment performed on each zone; and

D) injection rates, injection pressures and type of injection fluid.

2) Newly drilled or converted wells
A Well Completion Report shall be submitted to the Department within 30 days after the conclusion of initial completion activities (i.e., setting of tubing and packer) or within 30 days after the expiration of the permit if the well was not drilled or converted.

3) Existing wells
A Well Completion Report shall be completed and submitted to the Department for each recompletion of any existing injection well. Recompletion includes injection into a zone not previously used for injection in the well. The Well Completion Report shall be submitted within 30 days after the completion of any such workover or recompletion activity.

b) Well Drilling Report

1) For all wells drilled or deepened, a Well Drilling Report shall be completed by the permittee on a form prescribed by the Department.

2) The Well Drilling Report shall be submitted to the State Geological Survey within 90 days after drilling ceases and shall contain:

A) the name and location of the well;

B) drilling information;

C) the geologic names and depths of the formations encountered in drilling the well;

D) the results of all drill stem tests; and

E) a copy of the drilling time or geolograph record if a geophysical log was not run, unless the well is drilled with air rotary tools.

3) Well Drilling Reports are not required for well conversions not entailing a deepening of the well.

c) Geophysical Logs
A copy of all open hole wire line or geophysical logs run on the well shall be submitted to the State Geological Survey within 90 days after drilling ceases but, in the case of a conversion of an existing well, only if the well is deepened.

d) Drill Cuttings

1) Notification and Collection of Drill Cuttings
The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each 10 feet of distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.

2) When Drill Cuttings Required
Drill cuttings shall be submitted for each well when drill cuttings have not previously been submitted from any well within ½ mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within ½ mile, drill cuttings shall be requested from the approximate previously submitted depth to the total depth in the newly permitted well.

e) Annual Well Status Report
The permittee of each Class II UIC well shall file an Annual Well Status Report on forms prescribed by the Department. The report shall be filed by May 1 of each year for the preceding calendar year for all wells which have not received Department approval for temporary abandonment or been plugged by the end of the reporting year, and shall include:

1) the name and location of the well;

2) the names of all injection intervals;

3) the setting depth of the packer; and

4) the average and maximum monthly injection rates and pressures.

f) Annual Enhanced Oil Recovery Project Report
The operator of an enhanced oil recovery project shall complete an annual project report on forms prescribed by the Department and submit the report to the State Geological Survey by May 1 of each year.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.790 Confidentiality of Well Data

When requested in writing by the permittee, the Well Completion Report, Well Drilling Report, geophysical logs, and drill cuttings shall be kept confidential for two (2) years from the date of issuance of the permit for the particular well in accordance with the provisions of Section 3 of "The Well Abandonment Act" (Ill. Rev. Stat. 1989, ch. 96 ½, par. 5203, as amended by P.A. 87-744, effective September 26, 1991).

(Source: Added at 15 Ill. Reg. 15493, effective October 10, 1991)

Section 240.795 Commercial Saltwater Disposal Well

a) Only Class II fluids, as defined in Section 240.10, shall be disposed of into a commercial saltwater disposal well or stored at a commercial saltwater disposal facility.

b) All Class II fluids being stored at a commercial saltwater disposal well facilityshall be stored in either leak free steel or fiberglass tanks or concrete storage structures. All tanks and concrete storage structures shall be constructed and maintained in accordance with Sections 240.810 and 240.850.

c) The permittee of the commercial saltwater disposal well, or a permitted liquid oilfield waste transporter, shall be present when Class II fluids are being delivered to the facility.

d) All commercial saltwater disposal well Facilities shall be surrounded by a fence of at least 4 feet in height above ground level and a gate with a lock to restrict access to the facility. The facility must be kept locked from 11:00 p.m. to 5:00 a.m.

e) Records

1) Accurate records shall be maintained by the permittee of the commercial saltwater disposal well, or his or her authorized representative, of all Class II fluids delivered to the facility. These records shall include all of the following:

A) the name of the permittee from which the fluid is delivered;

B) the date of delivery;

C) the number of barrels of fluid delivered;

D) the name and location of the lease from which the fluids were produced; and

E) the name and vehicle permit number of the liquid oilfield waste hauler delivering the fluid.

2) These records shall be maintained at the facility or principal place of business for a minimum of 3 years and shall be made available for inspection by a Department representative upon request.

f) Upon request by a representative of the Department, a sample of Class II fluid from the facility shall be analyzed by the permittee to determine fluid quality. The samples shall be analyzed for at least the following parameters: pH, Total Dissolved Solids, Chloride, and Specific Gravity using the applicable ASTM standards listed in Section 240.350(b)(1). If deemed necessary for the protection of the environment, the Department may request the samples be analyzed for additional constituents.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity

a) Applicability
This Section applies to all Class II UIC disposal wells that inject any Class II fluids or hydraulic fracturing flowback from a high volume horizontal hydraulic fracturing operation permitted by the Department under the Hydraulic Fracturing Regulatory Act [225 ILCS 732]. This Section does not apply to Class II UIC wells used for enhanced oil recovery operations.

b) Definitions

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

"Green Light Alert" means the Department received notice from either USGS or ISGS that there was an earthquake in Illinois with a magnitude less than 2.0.

"Induced Seismicity" means an earthquake event that is felt, recorded by the national seismic network, and attributable to a Class II UIC well used for disposal of flowback and produced fluid from high volume horizontal hydraulic fracturing operations. (Section 1-96(a) of the Hydraulic Fracturing Regulatory Act)

"ISGS" means Illinois State Geological Survey.

"Red Light Alert" means the Department received notice from either USGS or ISGS that there was an earthquake in Illinois or a bordering county of an adjacent state with a magnitude of 4.0 or greater.

"USGS" means United States Geological Survey.

"Yellow Light Alert" means the Department received notice from either USGS or ISGS that there was an earthquake in Illinois or a bordering county of an adjacent state with a magnitude of at least 2.0, but less than 4.0.

c) Class II UIC Well Operations

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

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

3) When an identified well is suspected of triggering induced seismic activity, the permittee shall consult with the Department and ISGS to develop a plan for seismic monitoring, including the possibility of installing monitoring stations in the vicinity of the well and reduction in rate or pressures of fluid injected.

d) Induced Seismicity Reporting

1) The Department will report any Yellow Light Alert to all Class II UIC well permittees with wells located within a 6 mile radius of the earthquake event's epicenter measured from the surface above the hypocenter.

2) After receiving a Yellow Light Alert, an identified Class II UIC well permittee has the discretion to operate the permitted well according to the terms of the permit, adjust the operation of the permitted well by reducing the volume of fluids injected into the well, and consult with the Department and ISGS about the implications of the Yellow Light Alert as it relates to the operation of the well.

3) After receiving a third Yellow Light Alert within one year, an identified Class II UIC well permittee must immediately reduce injection volume and consult with the Department and ISGS.

4) The Department will report any Red Light Alert to all Class II UIC well permittees with wells located within a 10 mile radius of the earthquake event's epicenter measured from the surface above the hypocenter.

e) Induced Seismicity Cessation Orders

The Department shall issue an order to a permittee of a Class II UIC well for the immediate cessation of operations due to conditions that create imminent danger to the health and safety of the public, or significant damage to property, pursuant to Section 19.1 of the Oil and Gas Act and 62 Ill. Adm. Code 246.186, under any of the following conditions:

1) If an identified well regulated by this Section receives a third Yellow Light Alert and within the last year the same permittee received a Notice of Violation for the same well related to flow, pressure or mechanical integrity;

2) If an identified well regulated by this Section receives any number of Yellow Light Alerts and there is confirmed property damage to a building

or structure as a result of the earthquake event with a magnitude greater than 4.5. The confirmation can be performed by personnel from the Department or personnel from any local, State or federal agency;

3) If an identified well regulated by this Section receives a fifth Yellow Light Alert; or

4) If an identified well regulated by this Section receives a Red Light Alert and is within 6 miles of the epicenter of the earthquake event measured from the surface above the hypocenter.

f) The Department has discretion to issue cessation orders to permittees with wells regulated by this Section within 10 miles of any earthquake epicenter, when necessary, if, after consultation with ISGS, induced seismicity conditions warrant cessation.

g) Induced Seismicity Mitigation Requirements

1) After receiving a cessation order, in addition to the requirements of the order, the permittee shall schedule a meeting with the Department and representatives of ISGS at the Department's Headquarters, One Natural Resources Way, Springfield, Illinois, to be held within 30 calendar days after issuance of the order and before the cessation order hearing. Once scheduled, the permittee shall confirm the meeting in writing to both the Department and ISGS and provide the last 6 months of well data required in subsection (c)(2) to help facilitate the meeting. The purpose of the meeting will be to determine possible ways to mitigate induced seismicity events near the permitted well.

2) If the permittee and Department, in consultation with ISGS, reach agreement on how to test induced seismicity mitigation, the Department shall present the agreement as a settlement before the Hearing Officer for the cessation order hearing (see Section 240.186(d)).

h) Enforcement
Penalties for administrative and operating violations are specified in Section 240.160(c). Violations under this Section are classified as administrative or operating, as follows:

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

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

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

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

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

(Source: Added at 38 Ill. Reg. 22052, effective November 14, 2014)

SUBPART H: LEASE OPERATING REQUIREMENTS

Section 240.800 Definitions

For the purpose of this Subpart the term:

"Crude Oil Bottom Sediments" means the heavy crude oil fraction contained in concrete storage structures, pits or tanks, in a liquid or semi-liquid state, generated from the collection and storage of crude oil.

"Equipment Debris" means any production related equipment such as tanks, treaters, tubulars, injection pumps, pump jacks and any other general equipment or machinery used in connection with oil production which is no longer in repairable condition.

"Pit Residue" means bottom sediments contained in pits, concrete storage structures or tanks in a solid or semi-solid state which are precipitated from produced water storage.

(Source: Added at 17 Ill. Reg. 19923, effective November 8, 1993)

Section 240.805 Lease and Well Identification

a) Each lease shall have a legible sign in a conspicuous place on or near the lease entrance or on the storage tank(s). The sign shall show the permittee, the lease name, the Section, Township and Range, and a telephone number at which the permittee or his authorized agent can be reached.

b) Each well shall be marked or have a legible sign containing the well name and number as shown on the permit.

c) Any change in well or lease information required to be posted shall be made to the lease or well signs within sixty (60) days after the change occurs, or in the case of a transfer of ownership, within sixty (60) days after the effective date of the transfer in the Department records.

d) Lease signs are not required for gas storage fields. However, each gas storage well shall be marked with the well name and Department's permit number or the Department's reference number.

(Source: Section repealed, new Section added at 17 Ill. Reg. 19923, effective November 8, 1993)

Section 240.810 Tanks, Tank Batteries and Containment Dikes

a) Tank Battery Registration

1) All new tank batteries constructed after July 1, 2001 shall be registered with the Department, when the tank battery is constructed, by the permittee of the wells on the lease where the tank battery is located. Registration shall be on a form prescribed by the Department.

2) All tank batteries existing on July 1, 2001 are required to be registered with the Department by the permittee of the wells on the lease where the tank battery is located.

3) All tank batteries shall be transferred, at the time of associated well transfers, on forms prescribed by the Department.

4) No fee will be charged for tank registration and tank battery transfer.

5) The tank battery registration number shall be displayed on the tank battery.

b) Tank and Tank Battery Requirements

1) All tanks and tank batteries containing produced fluids or equipped to receive produced fluids shall be surrounded by containment dikes.

2) Tanks shall not be buried.

3) All tanks shall be maintained in a leak-free condition.

4) All open top tanks shall be covered with bird netting or other system designed to keep birds and flying mammals from landing in the tank.

5) New tank batteries constructed after July 1, 2001 shall not be located:

A) within 200 feet of an existing occupied dwelling, unless the current owner of the structure has provided a written waiver consenting to the construction closer than 200 feet, in which case the tank battery shall be completely fenced to prevent unauthorized access; or

B) within 200 feet of a stream, body of water, or marshy land, unless the permittee can demonstrate to the Department that construction standards or topography will prevent accidental discharge into these features.

c) Containment Dike Construction

1) A containment dike shall have a capacity of at least 1½ times the largest tank it contains and be bermed at least 18 inches above the highest ground surface surrounding the outside of the containment dike and at least 18 inches above the highest ground surface inside of the containment dike.

2) Containment dikes shall be constructed of native soil. In areas of sand, containment dikes shall be constructed of clay soil and the bottom of the dike area shall be lined with at least 6 inches of clay soil.

3) Alternative Construction of Containment Dikes
Containment dikes may be constructed of formed corrugated galvanized steel sheeting and a synthetic flexible liner at least 30 mils in thickness that is manufactured specifically for this purpose. The containment dike structure shall be constructed in accordance with the manufacturer's specifications and must meet the following requirements:

A) The bottom of the corrugated steel enclosure shall be set into the soil to a depth of at least 6 inches below the ground surface.

B) The corrugated steel enclosure shall be secured to galvanized steel braces placed around the outside perimeter at intervals that will prevent sagging or collapse of the structure.

C) Adjoining sections of the liner must be sealed together to prevent leaks.

D) The liner shall be secured to the top of the entire perimeter of the steel enclosure.

E) The containment dike structure shall be approved by a Department representative prior to being placed into service. If the construction is not approved by the Department, any deficiencies shall be remedied by the permittee and approved by the Department prior to the structure being placed into service.

F) The containment dike structure shall be maintained in a leak-free condition. If the Department has reason to believe the liner has a leak, the permittee shall immediately cease use of the enclosed tank battery until the liner has been repaired to a leak-free condition and has been inspected and approved for future use by the Department.

G) The containment dike structure shall meet all other requirements of subsections (c), (d) and (e).

4) The permittee may petition the Department to utilize an alternative construction method for containment dikes other than the one described in subsection (c)(3). The request must be made in writing and submitted to the Office's main Springfield location. Upon receipt of a written request for an alternative containment dike construction method, the Department shall review the request and shall respond to the permittee within 30 days. All final decisions on requests for alternative construction methods for containment dikes shall be considered final administrative decisions of the Department.

5) Containment dikes shall not have any breach or other uncontrolled conduit that penetrates the dike and allows the discharge of produced water, liquid oilfield wastes or stormwater.

6) Discharge of produced fluids, stormwater or other liquid oilfield wastes is prohibited, unless the permittee obtains an NPDES permit from the Illinois

Environmental Protection Agency (IEPA).

d) Containment Dike Maintenance

1) The area within the dike shall remain free of liquid oilfield waste, general oilfield waste, equipment debris, stormwater runoff and excessive vegetation.

2) Any spill or discharge of produced fluids or other liquid oilfield wastes occurring within a containment dike shall be remediated in place in accordance with Section 240.891(a).

3) Any spill escaping from a containment dike shall be cleaned up in accordance with Sections 240.890 and 240.895.

e) Tank and Containment Dike Restoration

1) Remove all tanks and aboveground piping and flowlines coming into tank battery.

2) Level and grade soil containment dikes.

3) Remove from site all non-soil constructed containment dikes.

4) Remediate all oil contaminated soil at tank site in accordance with Section 240.891(a).

(Source: Amended at 43 Ill. Reg. 10459, effective September 6, 2019)

Section 240.815 Permanent Well Site Equipment Setback

No permanent well site equipment installed on a new well permitted after July 1, 2016, including flares, shall be located less than 200 feet from the nearest occupied dwelling existing at the time the initial permit application for that well is filed with the Department, unless the permittee obtains a written agreement with the surface owner of the land upon which the dwelling is located, specifically allowing for a closer well site equipment location.

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.820 Flowlines

a) All flowlines used in the production of oil and/or natural gas, constructed after

November 8, 1993, shall be buried at least 36 inches below the ground surface. The flowline may be exempt from these burial requirements upon Department approval if:

1) the flowline is made of steel; and

2) Either:

A) the topographical features, land uses or ground conditions prevent the efficient burial of flowlines; or

B) the terms of the oil and gas lease prohibit the burial of flowlines.

b) All flowlines that cross and are not buried under natural drainage features such as creeks, streams, rivers or intermitted streams or ravines shall be constructed in such fashion as to bridge the drainage feature to protect the flowlines from damage due to lack of adequate support, resulting in potential discharge.

c) The Department shall have the authority to take enforcement action (pursuant to Sections 240.140 through 240.170 of this Part) to require active flowlines existing on the effective date of this rule to be replaced, buried or constructed in accordance with subsection (b) of this Section or to require visible inactive or abandoned flowlines to be removed and the open ends sealed if the Department finds, based on field observation, that the flowlines constitute a hazard to public safety or can reasonably be expected to cause damage to the environment through leaks and spills.

d) No flowline conveying produced water shall have an outlet valve for the discharge of produced water between the place or well of origin and the authorized storage or disposal point.

e) All flowlines shall be maintained in a leak-free condition.

f) Any spill from a flowline leak shall be cleaned up in accordance with Sections 240.890 and 240.895.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.830 Power Lines

a) All power lines installed after November 8, 1993 shall be buried at least thirty-six (36) inches below the ground surface or elevated on power poles at a height

sufficient for farm machinery to pass underneath not to exceed eighteen (18) feet above the ground surface. The permittee, however, may install power lines to a greater height than eighteen (18) feet above the ground surface.

b) The Department shall have the authority to take enforcement action (pursuant to Sections 240.140 through 240.170 of this Part) requiring powerlines existing on November 8, 1993 to be elevated to a minimum of fourteen (14) feet or buried in accordance with subsection (a) above, if the Department finds, based on field observation, that the powerlines constitute a hazard to public safety.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.840 Equipment Storage

a) Equipment debris shall not be stored on a lease or unit.

b) Other equipment not integrally related to production activities on a lease or unit shall not be stored on the lease except with the agreement of the current surface owner.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.850 Concrete Storage Structures

a) The requirements of this Section apply to:

1) All concrete storage structures existing on July 1, 1995 which will continue to be used.

2) Any new concrete storage structures constructed after May 13, 1994.

b) Definitions

"Concrete Storage Structure", as used in this Section, is a formed concrete impoundment, the base of which is at or below ground level, used for temporary storage of liquid oilfield waste or produced water prior to disposal.

"Existing Concrete Storage Structure" means a concrete storage structure constructed prior to May 13, 1994.

"New Concrete Storage Structure" means a concrete storage structure permitted and constructed after May 13, 1994.

c) Concrete Storage Structure Permitting Procedures

All new concrete storage structures constructed after May 13, 1994 are required to be permitted and may not be used until the permit is issued. All existing concrete storage structures constructed prior to May 13, 1994 must be permitted by July 1, 1995 or restored in accordance with subsection (e) below. The permittee shall apply for a permit on a form prescribed by the Department which shall include the following:

1) A map drawn to scale showing the location of the concrete storage structure relative to the lease boundaries potable water wells and local surface drainage located within 1/4 mile of the proposed structure.

2) Concrete storage structure dimensions.

3) Soil types in the area of concrete storage structure construction.

4) Chemical analysis of produced water to be temporarily stored in the concrete storage structure showing TDS and chlorides.

5) A description of the method for disposal of the produced water or liquid oilfield waste temporarily stored in the concrete storage structure.

d) General Location and Construction Requirements for New and Existing Concrete Storage Structures

1) New concrete storage structures shall not be located:

A) within 200 feet of an existing inhabited structure, unless the current owner of the structure has provided a written waiver consenting to the construction closer than 200 feet. Any concrete storage structure located closer than 200 feet shall be completely fenced to prevent unauthorized access;

B) within 200 feet of a domestic water supply well or 2,500 feet of a municipal water supply well;

C) within 200 feet of a stream, body of water, or marshy land, unless the permittee can demonstrate to the Department that construction standards or topography will prevent discharge from the concrete storage structure;

D) in an area which is subject to annual flooding by streams, rivers, lakes, or drainage ditches.

2) Existing concrete storage structures shall be completely fenced to prevent unauthorized access when located, at the time of permitting, within 200 feet of an existing inhabited structure.

3) Surface water drainage shall be diverted away from all concrete storage structures.

4) Contents from any concrete storage structure shall not be discharged onto the surrounding land surface or into a stream or other body of water unless a permit has been obtained from the Illinois Environmental Protection Agency ("IEPA").

5) The concrete storage structure permit number and the name of the permittee must be posted at all concrete storage structures in a legible and visible manner.

6) All concrete storage structures shall be covered with bird netting or other system designed to keep birds and flying mammals from landing in the concrete storage structure.

7) New concrete storage structures shall be constructed utilizing standard engineering practices using formed concrete bottom and sides and be underlain by a drainage system constructed to allow the monitoring and sampling of fluids present under the structure. After installation of the concrete liner and prior to concrete storage structure use, the structure shall be inspected by a Department Well Inspector. The permittee shall correct damages or imperfections before placing liquid oilfield waste or produced water in the concrete storage structure. The fluid drainage from beneath the pit shall be sampled quarterly. The sample shall be analyzed for chlorides by an "independent testing" facility. The results of the analysis shall be maintained at the facility offices for review upon request, by the Department. If the fluid analysis indicates a leak is present, the Department shall be notified within five (5) days and the pit shall be drained and repaired.

8) Existing concrete storage structures shall have been constructed utilizing standard engineering practices using formed concrete bottoms and sides. Existing concrete structures shall be exempt from the under structure

drainage provision specified in subsection (d)(7) above for new structures. However, existing structures shall be subject to inspection and repair in accordance with subsection (f) of this Section.

9) Puncturing or perforating the concrete liner or installing any type of drainage system which penetrates the sides or bottom of any structure is prohibited.

e) Concrete Storage Structure Abandonment and Restoration

1) Prior to removal and or burial of the concrete storage structure:

A) All of the liquid oilfield waste shall be removed and disposed of in a Class II UIC well.

B) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940 (a) and (b) or with Department approval, disposed of in a production well equipped with tubing and packer set in accordance with Section 240.760(b) under observation by an inspector from the District Office in which the well is located. If the Department determines through field observations that the disposal activities are endangering the freshwater, the disposal activities shall cease until the condition is corrected. Disposal activities shall not exceed 45 days, after which time the well must be plugged.

C) For new and existing concrete storage structures permitted in accordance with this Subpart and restored after July 1, 1995 the pit residue, not disposed in accordance with subsection (e)(1)(A) or (B) above, shall be removed from the storage structure and disposed at an Illinois Environmental Protection Agency permitted non-hazardous special waste landfill provided that concrete storage structures residue containing NORM may be required to be disposed of at a waste facility permitted by the Illinois Department of Nuclear Safety.

D) For existing concrete storage structures not permitted for continued use in accordance with this Subpart by July 1, 1995, and required to be restored, or permitted existing pits restored by July 1, 1995, the pit residue can be buried on site within the concrete structure.

2) If the base of the structure is less than three feet below the ground surface, the structure must be completely dismantled and removed from the site. The surface area shall be leveled and restored in such a manner as to prevent the ponding of water and erosion.

3) If any portion of the structure is below the ground surface, the portion of the structure within three feet of the surrounding surface shall be removed. Any remaining structure must be configured to prevent the accumulation of water within the remaining structure and backfilled to prevent surface ponding and subsidence.

f) Inspection of Concrete Storage Structure

All new and existing concrete storage structures shall be subject to inspection by a Department Well Inspector. If requested at time of the inspection, the concrete storage structure shall be emptied in order to examine the integrity The Department may order any remedial work it deems necessary to ensure compliance with Department regulations.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.860 Pits

a) "Pit", as used in this Section, is a synthetic lined or unlined earthen surface impoundment, whether a man-made excavation or a diked area which was or currently is, used for temporary storage of liquid oil field waste or produced water prior to disposal.

b) Construction of pits other than those specified in Subparts E and K of this Part is prohibited.

c) All pits in existence on May 13, 1994 shall be closed, in accordance with subsection (e) below, by July 1, 1995 as follows, unless covered by subsection (d) below, or exempted for continued use in accordance with Section 240.861 or for an alternative use in accordance with Section 240.862.

d) Synthetic lined pits, permitted after May 12, 1989 and before May 13, 1994, shall be restored in accordance with subsection (e) 5 years after the permit was issued.

e) Pits shall be restored as follows:

1) All oilfield brine and produced waters shall be removed and disposed of in a Class II UIC well.

2) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940 (a) and (b) or with Department approval, disposed in a production well equipped with tubing and packer set in accordance with Section 240.760(b) under observation by an inspector from the District Office in which the well is located. If the Department determines through field observations that the disposal activities are endangering the freshwater, the disposal activities shall cease until the condition is corrected. Disposal activities shall not exceed 45 days, after which time the well must be plugged.

3) For pits required to be closed by July 1, 1995 and not exempted in accordance with Section 240.861 the pit residue, not disposed in accordance with subsection (e)(1) or (e)(2), and the pit liner, if any, shall either be:

A) removed from the site and disposed of at an Illinois Environmental Protection Agency permitted non-hazardous special waste landfill, provided that pit residue or liner containing NORM with radioactivity levels exceeding background may be required to be disposed of at a waste facility permitted by the Illinois Department of Nuclear Safety; or

B) consolidated from the sides to the bottom of the pit and covered in place with a clay or synthetic liner sufficient to impede the infiltration of surface water and placed at least 5 feet below the ground surface. The pit shall be backfilled and the pit residue covered with 5' of soil having a radioactivity level at or below background level with the upper most 18" consisting of clean soil not contaminated by oilfield brine or crude oil. The backfilled area shall be graded to promote runoff with no depressions that would accumulate or pond water on the surface. The stability of the backfilled pit shall be compatible with the adjacent land use. The surface area over the backfilled pit area shall be stabilized to prevent erosion.

4) The Department shall prepare an inventory identifying, by county, all closed and unclosed liquid oilfield waste or produced water storage pits. The Department shall file such notice in the county clerk's office in the county in which such pits are located. The notice shall specify the

location of the pit, generally identify the nature of the materials buried and, if known, specify the radioactivity level of the material buried. If the radioactivity is not known, the notice shall specify that the buried oil and gas waste may contain Naturally Occurring Radioactive Material (NORM).

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.861 Existing Pit Exemption For Continued Production Use

a) Any pit in existence on May 13, 1994, does not have to be closed in accordance with Section 240.860(c) of this Part if presently constructed or an application to reconstruct was received by July 1, 1995.

b) Pits not approved for reconstruction shall be restored within 6 months.

c) Pits exempted under this Part shall be presently constructed or reconstructed as follows:

1) The pit must be lined with a synthetic flexible liner that is compatible with the produced fluid and has a coefficient of permeability of no greater than 1 x 10-7 cm/sec and shall be at least 30 mils in thickness. Adjoining sections of liners must be sealed together in accordance with the manufacturer's specifications; and

2) The pit must be underlined by a gravel sub-base, at least 4" in thickness, in which slotted or perforated PVC pipe has been placed in order to provide for under pit drainage. This drainage system must be constructed to allow monitoring and sampling of fluid drainage from underneath the pit.

d) Applications for reconstruction shall be approved by the Department prior to reconstruction of the pit. Applications shall be on a form prescribed by the Department and shall include the following:

1) A map drawn to scale showing the location of the pit relative to the lease boundaries, potable water wells and surface drainage located with 1/4 mile of the existing pit.

2) An engineering diagram of the construction specifications of the pit.

3) Soil types in the area of the pit.

4) Chemical analysis of produced water to be temporarily stored in the pit, showing TDS and chlorides.

5) A description of the method for disposal of the produced water or liquid oilfield waste temporarily stored in the pit.

e) All reconstruction activities shall be under the supervision of a Department Well Inspector.

f) Following satisfactory completion of pit reconstruction activities, the Department shall issue a permit to operate.

g) All exempted pits shall be in compliance with the following:

1) Surface water drainage shall be diverted away from the pit.

2) Pit contents shall not be discharged onto the surrounding land surface or into a stream or other body of water unless a permit has been obtained from the Illinois Environmental Protection Agency (IEPA).

3) The pit permit number and the name of the permittee must be posted at the pit location in a legible and visible manner.

4) All pits shall be covered with bird netting or other systems designed to keep birds and flying mammals from landing in the pit.

h) All exempted pits covered by this Section shall sample, quarterly, the fluid drainage from beneath the pit. The sample shall be analyzed for chlorides by an "independent testing" facility. The results of the analysis shall be maintained at the facility offices, for review upon request, by the Department.

i) If the fluid analysis indicates a leak is present, the Department shall be notified within 5 days and the contents of the pit shall be emptied and properly disposed of and the pit liner repaired.

j) All exempted pits covered by this Section shall be subject to inspection by a Department well inspector. If requested at the time of the inspection, the pit shall be emptied in order to examine the integrity of the structure. The Department may order any remedial work it deems necessary to ensure compliance with Department regulations.

k) Abandonment and Restoration Requirements for Exempted Pits

1) Prior to liner removal and burial of the pit:

A) All oilfield brine and produced waters shall be removed and disposed of in a Class II UIC well.

B) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940(a) and (b) or with Department approval, disposed of in a production well equipped with tubing and packer set in accordance with Section 240.760(b) under observation by an inspector from the District Office in which the well is located. If the Department determines through field observations that the disposal activities are endangering the freshwater, the disposal activities shall cease until the condition is corrected. Disposal activities shall not exceed 45 days, after which time the well must be plugged.

C) Pit residue, not disposed of in accordance with (k)(1)(A) or(B) above, shall be removed from the site and disposed of at an IEPA permitted non-hazardous special waste landfill provided that pit residue containing NORM with radioactivity levels exceeding background may be required to be disposed of at a waste facility permitted by the Illinois Department of Nuclear Safety.

2) The liner must be completely removed from the site and disposed of at a nonhazardous special waste facility permitted by the IEPA. The surface area shall be leveled and pit filled in such manner as to prevent the ponding of water and erosion and allow the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.862 Existing Pit Exemption For Alternative Use

a) Any pit in existence on May 13, 1994 may not have to be closed in accordance with Section 240.860(c) of this Part if:

1) the pit is no longer used for temporary storage of produced water or other liquid oilfield waste;

2) the water quality in the pit is less than 5000 TDS with no visible sheen of oil; and

3) a written, notarized authorization from the current surface owner has been received by the Department requesting the pit not be closed and demonstrating an acceptable alternative use for the pit.

b) In determining not to require the pit be closed, the Department shall:

1) review the current location of the pit relative to any ongoing production operations in the area; and

2) review the proposed alternative use relative to public health and safety considerations and potential use for agricultural, recreational or wildlife habitat purposes.

c) If the Department determines, based on a review of the information submitted by the permittee and surface owner the pit is not exempted, the pit shall be closed, within 6 months, by the permittee, in accordance with Section 240.860(d).

(Source: Added at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.870 Leaking Unpermitted Drill Hole

a) When any fluids are potentially leaking into the fresh water as determined by geologic and field investigation or are leaking onto the surface, through an unpermitted drill hole, the unpermitted drill hole shall be plugged by the current permittee of the lease where the unpermitted drill hole is located. Pending plugging of the well, all injection wells within a ¼ mile radius of the leaking drill hole shall be shut in until the leaking drill hole is plugged. The leaking or previously leaking drill hole shall be plugged regardless of well status at the time of plugging.

b) Within 24 hours after notification by the Department of the leaking drill hole, the current permittee of the lease shall take all necessary actions required to contain the leaking drill hole fluids to prevent any further migration and environmental damage until the drill hole is properly plugged and restored. These actions may include, but are not limited to, the digging of containment pits and/or building containment dikes to collect and contain the leaking fluids, hauling and disposing of the collected fluids, and the use of absorbent materials to pick up leaking fluids. All collected and contained fluids shall be properly disposed of in a

permitted Class II injection well. All used absorbent materials shall be disposed of in accordance with Section 240.891(b).

c) If the current permittee does not take the required actions to contain the leaking fluids within 24 hours after notification by the Department, or within the time frame of any extensions granted by the Department because of extenuating circumstances such as weather conditions, the permittee shall not operate any wells on the lease where the leaking drill hole is located until all required actions have been taken and may be issued a Notice of Violation and assessed a civil penalty of up to $2,000 in accordance with Section 240.160(c)(3)(B) and (C).

d) Within 90 days after notification by the Department of the leaking drill hole, or within the time frame of any extensions granted by the Department because of extenuating circumstances, including but not limited to weather conditions, the non-availability of plugging equipment, or downhole construction or conditions, the current permittee of the lease shall properly plug and restore the leaking drill hole in the presence of a Department well inspector.

e) If the current permittee does not plug the leaking drill hole within 90 days after notification by the Department, or within the time frame of any extensions granted by the Department, the current permittee shall not operate any wells on the lease where the leaking drill hole is located until the leaking drill hole has been properly plugged in the presence of a Department well inspector.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.875 Leaking Previously Plugged Well

AGENCY NOTE: For purposes of subsections (b) and (d), "permittee" means the last permittee of record for the well when the well was last plugged if that permittee undertakes the actions required by this Section, or means the current permittee of the lease where the leaking well is located if the last permittee does not undertake the required actions.

a) When any fluids are potentially leaking into the freshwater zones or to the surface as determined by geologic and field investigation through a well plugged under the supervision of the Department, the Department shall notify the last permittee of record for the well when the well was last plugged. The last permittee shall then undertake the necessary actions to comply with the provisions of this Section. If the last permittee is no longer in existence, cannot be located, does not take the necessary actions, or does not diligently pursue the necessary actions, the current permittee of the lease where the well is located shall take the necessary actions. The current permittee, if required to undertake any containment or

plugging operations pursuant to this Section, shall have a right of action against the last permittee of record for the well when the well was last plugged for the reasonable cost and expense incurred in plugging, replugging, repairing or restoring the well, and shall have a lien enforceable upon the interest of the obligated persons in accordance with Section 19.5 of the Act. Pending plugging of the well, all injection wells within a ¼ mile radius of the leaking well shall be shut in until the leaking well is plugged. The leaking or previously leaking well shall be plugged regardless of well status at the time of plugging.

b) Within 24 hours after notification by the Department of the leaking well, the permittee shall take all necessary actions required to contain the leaking well fluids to prevent any further migration and environmental damage until the well is properly plugged and restored. These actions may include, but are not limited to, the digging of containment pits and/or building containment dikes to collect and contain the leaking fluids, hauling and disposing of the collected fluids, and use of absorbent materials to pick up leaking fluids. All collected and contained fluids shall be properly disposed of in a permitted Class II injection well. All used absorbent materials shall be disposed of in accordance with Section 240.891(b).

c) If the current permittee of the lease is required to undertake any containment actions and does not take the required actions to contain the leaking fluids within 24 hours after notification by the Department, or within the time frame of any extensions granted by the Department because of extenuating circumstances such as weather conditions, the current permittee shall not operate any wells on the lease where the leaking well is located until all required actions have been taken and may be issued a Notice of Violation and assessed a civil penalty in accordance with Section 240.160(c).

d) Within 90 days after notification by the Department of the leaking well, or within the time frame of any extensions granted by the Department because of extenuating circumstances, including but not limited to weather conditions or the non-availability of plugging equipment or downhole construction or conditions, the permittee shall properly plug and restore the leaking well in the presence of a Department well inspector.

e) If the current permittee is required to undertake any plugging operations and does not plug the leaking well within 90 days after notification by the Department, or within the time frame of any extensions granted by the Department, the current permittee shall not operate any wells on the lease where the leaking well is located until the leaking well has been properly plugged and restored in the presence of a Department well inspector.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.880 Initial Spill Notification

a) Applicability

This Section covers spills of crude oil and produced water from tanks, pits, concrete storage structures, containment dikes and flowlines located within the boundaries of an oil and gas lease, unit, or underground gas storage field. Spills from flowlines beyond the lease, unit, or gas storage field boundaries are included if part of a flowline gathering system transporting produced fluids to a central collection point prior to connection or transfer to a crude oil or gas purchase pipeline. Spills from interstate pipeline, or refined product pipeline are not included and are under the jurisdiction of the Illinois Environmental Protection Agency.

b) Spills of crude oil in excess of 1 barrel, or produced water in excess of 5 barrels, onto the surface of the land (if not contained by containment dikes around tanks) shall be reported immediately to the Department's District Office responsible for the county where the spill occurred. The initial report shall contain at a minimum:

1) the name of the permittee responsible for the spill;

2) the location of the spill;

3) the amount of crude oil and saltwater spilled;

4) the areal extent of the spill;

5) the cause of the spill;

6) proposed emergency remediation action.

c) All crude oil spills, regardless of amount, which enter streams, rivers, ponds, lakes, wetlands or other bodies of water, shall be reported immediately to the Illinois Emergency Management Agency (IEMA) and to the Department's District Office responsible for the county where the spill occurred.

d) All spills which are not required to be reported in accordance with subsection (a) or (b) above, are subject to remediation requirements of Section 240.891 and Section 240.895 of this Part.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.890 Crude Oil Spill Remediation Requirements

a) All crude oil spills that occur after November 8, 1993, regardless of amount, from wells, flowlines, tanks, concrete storage structures, pits or containment dikes are subject to this Section.

b) The permittee is required to initiate the following emergency response procedures for all crude oil spills as soon as practical after a spill has occurred:

1) Contain spilled crude oil using earthen dikes, booms and other containment measures to minimize the amount of area affected by the spill.

2) If a spill enters surface waters, the spill shall be contained with booms and/or underflow dams and removed as expeditiously as possible. If it is determined that burning the oil-affected area will prevent further contamination of the surface waters, an emergency burn may be conducted in accordance with Section 240.891(c) of this Part.

3) Cause of spill shall be repaired.

4) Impounded free oil shall be picked up and put in lease storage tanks or removed from the site.

c) Remaining oil on the land surface shall be removed using absorbent material. The absorbent material shall be disposed of in accordance with Section 240.891(b) of this Part.

d) Contaminated soil shall be remediated in accordance with Section 240.891(a)(1) through (4) or, if required to be removed from the site in accordance with subsection (f) of this Section, shall be disposed of in accordance with Section 240.891(a)(5).

e) If a spill enters a public road ditch, visible oil-contaminated soil shall be removed from the roadside ditch and:

1) Removed from the site in accordance with Section 240.891(a)(5); or

2) Remediated in accordance with Section 240.891(a)(1) through (4).

f) The Department may require additional remediation action to be taken by the permittee, which may include flushing of the area (e.g., stream banks, etc.) with freshwater, the addition of organic material (e.g., peat moss, straw), chemical treatment, additional disking of the soil or soil and absorbent material removal if the soil and/or absorbent material within the spill area cannot meet the TPH (total petroleum hydrocarbon) standard specified in Section 240.891(a)(1)(C).

g) The permittee shall be required to submit on request, or within 90 days after the spill occurred, on a form prescribed by the Department, the following information:

1) the areal extent of the spill;

2) the proximity of surface waters, freshwaters or surface drainage ways;

3) the type of soil and current land use;

4) the TPH content in the spill area;

5) explanation of spill cause; and

6) planned efforts to prevent and minimize the effects of future spills.

h) Additional reports are required each 90 days until the spill remediation is completed and approved by the Department.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.891 Crude Oil Spill Waste Disposal and Remediation

a) Contaminated Soil

1) The soil affected by a spill may be remediated in place and shall at a minimum be:

A) fertilized with 5 pounds of 12-12-12 fertilizer or an amount of other fertilizer sufficient to treat the soil with 0.25 lbs of nitrogen per 100 square feet of affected area;

B) limed with at least 50 lbs of agricultural grade lime per 100 square feet of affected area in order to maintain a pH of between 6-8; if

the pH of the soil/oil mixture is less than 6, additional lime shall be incorporated to increase pH above 6;

C) tilled to a depth of at least 4 inches but no greater than 12 inches to create a soil and crude oil mixture that contains less than 5% total petroleum hydrocarbon (TPH) following the completion of the initial tilling;

D) watered to maintain soil moisture sufficient to promote plant growth (if extremely dry soil conditions exist); and

E) stabilized to minimize erosion and run-off of stormwater.

2) Contaminated soils not remediated in place may, with approval from the Department and the landowner, be land spread and remediated in accordance with subsection (a)(1), on land unaffected by the spill, but located on the same lease where the spill occurred.

3) If the soil in the affected area is frozen or previously saturated due to rain or snow melt, prohibiting compliance with subsection (a)(1), the permittee shall stabilize the area to prevent any surface run-off from leaving the affected area until conditions permit compliance with subsection (a)(1).

4) The soil affected by the spill must contain less than 1% TPH within 12 months after the date of the spill.

5) Contaminated soils removed from the site for off-site disposal shall be disposed of at an Environmental Protection Agency permitted special waste landfill, waste treatment or disposal facility.

b) Contaminated Absorbent Materials

1) Off-site disposal

All non-organic/non-biodegradable absorbent materials and all organic/biodegradable materials in excess of 500 cubic feet shall be disposed of at an Environmental Protection Agency permitted non-hazardous special waste landfill, waste treatment or disposal facility. Organic/biodegradable materials amounting to less than 500 cubic feet may be disposed of at a permitted non-hazardous special waste landfill or disposed of in accordance with subsection (b)(2)(B).

2) On-site disposal

A) On-site disposal of non-organic/non-biodegradable absorbent materials is prohibited. These materials must be removed in accordance with subsection (a)(5).

B) On-site disposal of less than 500 cubic feet of organic/biodegradable absorbent materials through landspreading over the area affected by the spill is permitted if it involves only materials generated at the site and is remediated in accordance with subsections (a)(1) through (4).

C) Landspreading of absorbent materials is permitted subject to subsection (a)(2).

c) Emergency Burning

1) Open burning of spilled crude oil is permitted when imminent weather conditions threaten to further contaminate surface waters or immediate collection for disposal is impractical.

2) Burning shall only be permitted when conditions will not cause the burn to affect nearby residences or the visibility on nearby roads.

3) Notice must be given to the Illinois Environmental Protection Agency prior to the emergency burn, and appropriately designated Department personnel must be on the scene throughout the burn.

4) The local fire department or fire protection district shall be notified.

5) A report must be filed with the Department, on a form prescribed by the Department within 10 days after the burn, indicating:

A) the place and time of the burn;

B) the quantity burned;

C) meteorological conditions; and

D) the reason the emergency burn was necessary.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.895 Produced Water Spill Remediation Requirements

a) All spills of produced water that occur after November 8, 1993, from wells, flowlines, pits, concrete storage structures, tanks or containment dikes, shall as soon as practicable be contained using earthen dikes and other containment measures to minimize the amount of area affected by the spill.

b) All impounded produced water shall be picked up and removed from the site for disposal into a Class II UIC well.

c) The affected area shall be limed with at least 50 lbs. of agricultural grade lime per 100 square feet of affected area and tilled to a depth of at least 4 inches.

d) In determining whether the Department will require additional remediation action to be taken by the permittee, which may include flushing of the area with freshwater, the addition of organic material (e.g., peat moss, straw), additional chemical treatment, additional disking the soil, or soil removal, the permittee shall be required to submit within 90 days after the spill date, on a form prescribed by the Department, the following information:

1) the quantity and areal extent of the spill;

2) the nature of the soil;

3) the flow capacity of affected surface waters;

4) the public safety;

5) the proximity of freshwaters, surface waters and surface drainage features;

6) explanation of spill cause; and

7) planned efforts to prevent and minimize the effects of future spills.

e) Additional reports are required each 90 days until the spill remediation is completed and approved by the Department.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

SUBPART I: LIQUID OILFIELD WASTE
HANDLING AND DISPOSAL

Section 240.900 Definitions

For the purpose of this Subpart the term:

"Liquid OilField Waste Transportation System" means all trucks and other motor vehicles used to gather, handle or transport liquid oilfield waste from the point of any surface on-site collection to any subsequent off-site storage, utilization or disposal. (Section 8c of the Act).

"System Facility" means any location other than the point of surface on-site collection or off-site disposal of liquid oilfield waste, where liquid oilfield waste is temporarily handled or stored prior to disposal.

"Vehicle" means a tank used to transport or carry liquid oil field waste whether motorized or not motorized.

(Source: Added at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.905 Application for Permit to Operate a Liquid Oilfield Waste Transportation System

a) No person shall operate a liquid oilfield waste transportation system without a permit from the Department.

b) Application for a liquid oilfield waste transportation system permit under this Section shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable liquid oilfield waste transportation system permit fee of $100 and the required bond under Subpart O of this Part.

c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to process the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

d) The application shall include:

1) The name, address, and business and emergency telephone numbers of the proposed liquid oilfield waste hauler.

2) A brief description of the vehicles to be used in the system; specifying whether vehicles will be owned, leased or otherwise arranged for.

e) The application for a liquid oilfield waste transportation system permit shall be signed as follows:

1) If the system owner is an individual, the application shall be signed by the individual. If the system owner is a partnership, the application shall be signed by a general partner. If the system owner is a corporation, the application shall be signed by an officer of the corporation.

2) In lieu of the signature of the owner or such authorized person, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the application.

3) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.906 Application for a Liquid Oilfield Waste Transportation Vehicle Permit

a) Each liquid oilfield waste transportation vehicle (tank) requires a permit from the Department and shall not be operated until such permit is obtained.

b) Application for a vehicle permit under this Section shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable vehicle permit fee of $150 for each vehicle (tank).

c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to process the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

d) The application shall include:

1) The name and system permit number of the liquid oilfield waste transportation system under which this vehicle (tank) will be operated.

2) A description of the construction of the tank, valve, and associated piping (including materials each is made of), capacity of tank and manufacturers serial number or other vehicle (tank) identifying number.

e) The application for a vehicle (tank) permit shall be signed by the holder of the liquid oilfield waste transportation system permit under which the vehicle (tank) will operate.

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.910 Inspection of Vehicles (Tanks)

Upon receipt of an original or renewal application a Department Well Inspector will conduct a visual inspection of the liquid oil field waste hauling equipment including tanks and associated piping and valves to ensure that there is no leakage. All tanks must be full of fluid at the time of inspection. The Department Well Inspector shall certify the results of the inspection on the permit application.

(Source: Section repealed, New Section added at 17 Ill. Reg. 19923, effective November 8, 1993)

Section 240.920 Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits

a) If the applicant satisfies requirements of this Subpart, the Department shall issue a permit to operate a liquid oilfield waste transportation system that shall be kept in the office of the permittee.

b) If the applicant satisfies requirements of this Subpart, the Department shall issue a vehicle permit and permit sticker for each tank. The permit shall be kept in the business office of the liquid oilfield waste transportation system permittee. The sticker shall be affixed to the back of the tank and kept visible.

c) No permit under this Subpart shall be issued to an applicant not in compliance with Section 240.250(b).

d) Permits to operate a liquid oilfield waste transportation system shall be valid for as long as the permittee maintains the bond required under Subpart O and

otherwise complies with the provisions of this Subpart.

e) Vehicle (tank) permits shall be valid for 2 years from the date of issuance and shall be renewed by making application to the Department, accompanied by the required fee, at least 30 days prior to expiration of the vehicle permit.

f) Liquid oilfield waste transportation system and vehicle permits are not transferable.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.925 Liquid Oilfield Waste Recordkeeping Requirements

a) Each liquid oilfield waste system permittee shall maintain a record of liquid oilfield waste received and disposed of which shall include the lease or unit name, the date received, the amount per pick up, and the name and location of the Class II well or wells (if applicable), and the date when the waste is unloaded.

b) Records shall be maintained a minimum of three (3) years and shall be made available to the Department for inspection during normal business hours.

(Source: Added at 17 Ill. Reg. 19923, effective November 8, 1993)

Section 240.926 Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements

a) All liquid oilfield waste hauling vehicles (tanks) and associated piping and valves must be kept in leak free condition. *Any person who gathers, handles, transports, or disposes of liquid oilfield waste without a liquid oilfield waste transportation permit or utilizes the services of an unpermitted person shall upon conviction thereof by a court of competent jurisdiction be fined not less than $2,000 for a violation and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days. When the violation is of a continuing nature, each day upon which a violation occurs is a separate offense.* (Section 8c of the Act)

b) Liquid oilfield waste haulers shall only dispose of Liquid Oilfield Waste in accordance with Subparts E and I. Liquid Oilfield Waste shall not be released on the ground surface or into any fresh water or water drainage-way.

c) All liquid oilfield waste temporarily stored at a system facility shall be contained in tanks in accordance with Section 240.810 of this Part or concrete storage structures in accordance with Section 240.850 of this Part.

d) Liquid oilfield waste shall not be commingled or blended with non-exempt waste under Subtitle C of the federal Resource Conservation and Recovery Act of 1976.

e) No person shall engage, employ or contract with any other person except a Liquid Oilfield Waste Hauler to transport liquid oilfield waste.

f) The Department may not issue a Liquid Oilfield Waste Transportation or Vehicle Permit or may revoke a Liquid Oilfield Waste Transportation or Vehicle Permit if:

1) The permittee fails to meet permit conditions; or

2) The applicant or permittee is not in compliance with Section 240.250(b) of this Part.

g) The Department may revoke a Liquid Oilfield Waste Transportation or Vehicle Permit in accordance with Section 240.251 of this Part.

h) Failure to comply with provisions of the Act may result in forfeiture of the Liquid Oilfield Waste Transportation bond in accordance with Section 240.1530(b) through (g) of this Part and *may be fined not less than $2,000 for a violation and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days*. (Section 8c of the Act)

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.930 Produced Water

a) All produced water collected for temporary storage shall be placed in tanks or permitted concrete storage structures in accordance with Subpart H of this Part. Containment dikes around tanks shall not be used for storage of produced water.

b) Except as provided in subsection (c) below, all produced water shall be transported by flowlines or a licensed liquid oilfield waste hauler to a permitted Class II UIC well for disposal.

c) Produced water shall not be disposed of into any surface water or water drainage way or onto the land surface unless an NPDES or surface discharge application

permit has been obtained from the Illinois Environmental Protection Agency ("IEPA").

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.940 Crude Oil Bottom Sediments

Crude oil bottom sediments removed from tanks, concrete storage structures and pits on a lease or unit may be:

a) transported by a permitted liquid oilfield waste hauler to a Illinois Environmental Protection Agency (IEPA) licensed special waste landfill, to an IEPA licensed off-site treatment facility, to a Class II injection well for disposal or a crude oil bottom sediment recycling facility;

b) injected in a well in accordance with Section 240.850(e)(1)(B);

c) bioremediated on-site through land spreading in accordance with Section 240.891(a)(2); or

d) used for road oiling on the lease or unit where the sediments were generated in accordance with Section 240.945.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.945 Lease Road Oiling

a) Lease road oiling shall not be allowed without receiving a permit from the Department.

b) The permittee shall apply for and receive a lease road oiling permit for each lease or unit from the Department on a form prescribed by the Department prior to oiling any lease road.

c) Application for a lease road oiling permit shall include:

1) the location of the lease or unit;

2) the permittee's name and address;

3) the method to be used for application of the bottom sediments;

4) a map showing the lease roads to be oiled and the location of any surface drainage features on or immediately adjacent to the lease or unit;

5) written consent from the current surface owner or owners allowing the crude oil bottom sediment application; and

6) a non-refundable fee of $150.

d) Upon approval, crude oil bottom sediment shall be applied to lease roads in such a fashion as to avoid run-off during application onto immediately adjacent land areas. Immediately following completion of the application, all liquids shall be incorporated or otherwise absorbed into the soil with no visible freestanding oil.

e) No lease road shall be oiled more than twice yearly.

f) Lease road oiling shall not be conducted when the ground is frozen or during precipitation events and is prohibited in areas subject to frequent flooding.

g) Crude oil bottom sediments used for lease road oiling shall not have a produced water content of greater than 10% free water by volume.

h) Lease road oiling permits are not transferable and are required for each lease or unit. The permit shall be valid for as long as the lease or unit is actively operating under the current permittee. The permit shall become invalid upon a change of the surface owner or if the surface owner withdraws consent to apply crude oil bottom sediment. A withdrawal of consent shall be made in writing to the Department.

i) Lease road oiling material applied without a permit shall be removed from the road and properly disposed of.

j) Lease road oiling permits are subject to revocation in accordance with Section 240.251.

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

SUBPART J: VACUUM

Section 240.1000 Definitions

Vacuum--means pressure which is reduced below the pressure of the atmosphere.

(Source: Added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.1005 Applicability

The provisions of this Subpart apply to vacuum pumps or other devices used on oil and gas production wells for creating a vacuum in any oil or gas well. Any well with a vacuum pump existing at the time of the adoption of these rules shall apply for a permit within six (6) months after adoption of the rules.

(Source: Section repealed; new Section added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.1010 Application for Vacuum Permit

a) No person shall use a vacuum device on any oil and/or gas production well without a permit from the Department.

b) Application for a permit to use a vacuum device shall be made on forms prescribed by the Department and executed under penalties of perjury.

c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the deficiency of the application, and shall advise the applicant that the application will be deemed denied unless the required information or documents are submitted within sixty (60) days following the date of notification.

(Source: Section repealed, new Section added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.1020 Contents of Application

The application for a permit to use a vacuum device on a production well shall include:

a) the name and address of the Permittee;

b) the name of the well;

c) the legal location of the well;

d) the names and depths of the formations subject to a vacuum;

e) a map showing:

1) the boundaries of the leasehold or enhanced oil recovery unit in which the vacuum device will be located;

2) the exact location of the well on which the vacuum device will be installed;

3) the location of all unplugged production wells on the lease or unit;

4) the names of all permittees of producing lease holds within 1/4 mile of the well on which the vacuum device will be located; and

5) the location of all offset production wells located within 1/4 mile of the well on which the vacuum device will be located;

f) Submit evidence of Notice required under Section 240.1040.

(Source: Section repealed, new Section added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.1030 Authority of Person Signing Application

a) The application for a vacuum permit shall identify whether the applicant is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.

b) If the owner is an individual, the application shall be signed by the individual. If the owner is a partnership, the application shall be signed by a general partner. If the owner is a corporation, the application shall be signed by an officer of the corporation.

c) In lieu of the signature of the owner or such authorized person, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the application.

d) The entity or person to whom the permit is issued shall be called the Permittee and shall be responsible for all regulatory requirements.

e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.

(Source: Section repealed, new Section added at 19 Ill. Reg. 10981, effective July 14, 1995)

Section 240.1040 Notice and Hearing

a) On or before the date of filing a Vacuum Permit application with the Department, the applicant shall notify, by certified mail, return receipt requested, all permittees whose wells or leases are within a ¼ mile radius of the well. The applicant shall post a general notice, by publication in a newspaper of general circulation in the county where the well is located.

b) The notice shall contain:

1) name and depths of the formations on which vacuum will be applied;

2) the exact location of the well or wells to be affected by the use of the vacuum;

3) the address and telephone number of the Office of Oil and Gas Resource Management of the Department; and

4) a statement that the public has 15 days, from the date postmarked on the notice, to comment on the application and that comments must be made in writing to the Department.

c) Objections
If a written objection to the application is filed within 15 days after the date postmarked on the notice, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a factual or legal question regarding the sufficiency of the application in meeting the requirements for a permit or presents data indicating correlative rights may not be protected, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

d) Public Hearing

1) Any public hearing held pursuant to subsection (c) shall be conducted by the Department solely for the purpose of resolving the factual, legal or correlative rights questions raised by the objection;

2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the notice by United States mail, postage prepaid, addressed to their last known home address;

3) A certified court reporter shall record the hearing at the Department's expense;

4) A Hearing Officer designated by the Director shall conduct the hearing. The Hearing Officer shall allow all parties to the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determined the evidence is irrelevant, immaterial, unduly repetitious, or of such nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs;

5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence;

6) After receipt of the transcript of the hearing, the Department shall render a decision on the objection.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1050 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit 15 days after the postmark date on the notice sent to adjacent permittees in accordance with Section 240.1040(a).

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b).

c) Permits are valid for the life of the well and are automatically transferred when the well is transferred in accordance with Subpart N.

d) A permit shall not be issued if, after notice and hearing, the Department determines the issuing of a vacuum permit will not protect the correlative rights of adjacent permittees.

e) If through field investigation by the Department, or upon written request by a permittee within ¼ mile of an existing well with a vacuum permit, the Department

determines correlative rights of adjacent permittee are not protected, the existing permit may be revoked after hearing and notice in accordance with Section 240.1030(d).

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1060 Permit Amendments

a) The Permittee shall not expose an unpermitted reservoir to vacuum without obtaining a permit amendment from the Department.

b) The Permittee shall make application for an amendment on a form prescribed by the Department.

c) The Permittee shall be in compliance with Section 240.1040 of this Subpart prior to issuance of the permit amendments.

(Source: Added at 19 Ill. Reg. 10981, effective July 14, 1995)

SUBPART K: PLUGGING OF WELLS

Section 240.1110 Definitions

For the purpose of this Subpart, the term:

"Cased Well" means a well in which production casing has been set.

"Cement" means class A neat cement with a minimum weight of 14.5 pounds per gallon, unless the cement contains additives that improve the ability of the cement to provide necessary protection and that maintains a minimum compressive strength of 500 PSI after 72 hours. If fly ash is used as an additive, the maximum amount of fly ash allowable is 35% by weight of the total cement mixture. Only Class C and Class F fly ash, as defined in ASTM standard C618 (Specification for Coal Fly Ash and Raw or Calcined Natural Possolan for Use in Concrete (2008)) (no later amendments or additions included), is allowable. The generator of the fly ash must certify in writing to the cement blending company that the fly ash meets those specifications. A copy of that certification is required to be provided to the Department upon request. Also, 5% to 6% by weight of cement grade bentonite gel is required to be used in the cement and fly ash mixture. The gel is required to be cement grade and may be either wet or dry blended with the cement and fly ash mixture. The cement and fly ash dry mixture is required to be thoroughly and uniformly blended with either a mechanical or pneumatic cement

blender prior to the addition of any water. An authorized representative of the cement blending company is required to certify in writing that the dry mixture contains a maximum of 35% fly ash and has been properly blended. The well cement contractor is required to provide the certification to the Department's representative prior to use of the mixture unless otherwise directed by the Department. If the Department determines or has reason to believe, by testing or visual inspection, that the mixture has not been properly blended, the mixture shall not be used until properly blended and has been approved for use by a Department representative.

"Circulation Method" means placement of cement used in plugging a well by circulating cement through a pipe set at a specified depth in the well.

"Dump Bailer Method" means placement of cement used in plugging a well by using a dump bailer on a wire line.

"Inactive Well" means a well that has ceased operation for a period of up to 24 consecutive months.

"Mud" means a drilling mud with a minimum Marsh funnel viscosity of 45 seconds. Mud may contain water (fresh or brine), bentonite, attapulgite or other additives if they do not reduce the viscosity below 45 seconds.

"Plugging Fluid Waste" means plugging fluids, including cement, that are generated from the well during plugging activities.

"Producing Lease" or "Producing Unit" means a lease or waterflood/enhanced oil recovery unit that has produced and sold oil within the preceding 12 month period.

"Uncased Well" means a well in which production casing has not been set.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1115 Plugging Responsibility

The current permittee or person required to be the permittee is responsible for plugging wells as defined in Sections 240.200, 240.300, 240.1800 and 240.1900 of this Part. In the case of leaking wells, plugging responsibility is in accordance with Sections 240.870 and 240.875 of this Part.

(Source: Added at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.1120 Plugging of Uncased Wells

a) Any well in which production casing is not set and cemented shall be plugged in accordance with Section 240.1140 of this Part within 30 days after drilling has ceased, unless an extension of time has been granted by the Department. In determining whether to grant an extension and in determining the length of an extension, the Department will consider:

1) the permittee's specific plans for further wellbore evaluation or utilization,

2) the total depth of the well,

3) the depth of surface casing,

4) a description of the current condition of the hole including a description of the drilling fluids currently in the well.

b) If the Department determines, based upon field observation, that the uncased well presents a risk of contamination to the environment, or a risk of fire or public safety hazard due to the leaking of well bore fluids or the escape of flammable or toxic gases, the permittee shall commence plugging the well within twenty four (24) hours after notification by the Department.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1130 Plugging and Temporary Abandonment of Inactive Production Wells

a) Any idle production well on an active lease or unit that has not had commercial production during the last 24 consecutive months shall be deemed abandoned, in accordance with Section 240.1600, and plugged in accordance with Section 240.1140 unless the well has been approved for Temporary Abandonment status in accordance with subsection (c).

b) Any idle production well on an inactive lease or unit, if the lease or unit has not had commercial production during the last 24 consecutive months, shall be deemed abandoned and not eligible for Temporary Abandonment status, pending a hearing held in accordance with Section 240.1610.

c) The permittee shall apply for Temporary Abandonment status by making written application on forms provided by the Department. The Department shall place the well on Temporary Abandonment status, if the following conditions (which shall be continuing requirements) are met:

1) The well:

A) shall have proper bond in effect in accordance with the Act, if applicable; and

B) is not in the Plugging and Restoration Fund.

2) The well shall have an intact leak free wellhead, or be capped with a valve, and configured to monitor casing or annular pressure. The well shall be configured to include a one quarter inch female fitting, with shut-off valve, to allow monitoring of the annulus.

3) If the well is a permitted gas well and the well has a sustained gas pressure at the surface, the requirements of subsection (e) do not apply.

4) The wellhead shall be above ground level.

5) The permittee complies with the requirements of subsection (d).

d) Prior to the Department placing the well on Temporary Abandonment status, the permittee shall conduct a fluid level test upon the fluid in the well bore, after notice to and under the supervision of a Department representative, using acoustical, wire line or string line measuring methods. If the Department authorizes the permittee to conduct a fluid level test without the presence of a Department representative, the permittee shall report the fluid level test on a form prescribed by the Department.

1) If the fluid level in the wellbore is no higher than 100 feet below the base of the fresh water, the Department may grant Temporary Abandonment status if the conditions in subsections (c)(1) through (4) are met. Unless the permittee elects to satisfy the conditions of subsections (d)(3)(A) or (B), the permittee shall perform additional fluid level tests, as prescribed in subsection (d), every 5 years or until the well is removed from Temporary Abandoned status.

2) If the fluid level, as tested, is higher than 100 feet below the base of the fresh water and, at the time of the Temporary Abandonment request, the well is listed in Active status in the Department's records, the permittee may:

A) After notice to and under the supervision of a Department representative, remove any fluid to a level 100 feet below the base of the fresh water. At least 48 hours, but not more than 96 hours after the fluid has been removed, the permittee shall measure the fluid level as prescribed in subsection (d).

i) If the fluid level is higher than 100 feet below the base of fresh water, the permittee shall follow the requirements in subsection (d)(3)(A) or (B); or

ii) If the fluid level remains more than 100 feet below the base of fresh water, at least 9, but no longer than 12 months from the date that fluid was removed from the well bore, the permittee shall measure the fluid level in accordance with subsection (d). If, after the subsequent fluid level test, the fluid level within the wellbore has remained at least 100 feet below the base of fresh water, and the conditions in subsections (c)(1) through (4) continue to be met, the Department shall grant Temporary Abandonment status for 5 years from the date of the subsequent fluid level test. Thereafter, the permittee shall perform additional fluid level tests, as prescribed in subsection (d), every 5 years or until the well is removed from Temporary Abandonment status.

B) Elect to follow the requirements of subsections (d)(3)(A) or (B).

3) If the fluid level, as tested, is higher than 100 feet below the base of fresh water and, at the time of the Temporary Abandonment request, the well is listed in Temporary Abandonment status in the Department's records, the permittee may, after notice to, and under the supervision of, a Department representative:

A) set a cast iron plug within 200 feet above the uppermost perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, remove any fluid to a level at least 100 feet below the base of the freshwater zone, and monitor the fluid level every 5 years in accordance with subsection (d); or

B) set a cast iron plug within 200 feet above the uppermost perforated or open hole interval in the cemented portion of the production

casing, but no less than 100 feet below the base of the fresh water, and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes. Subsequent pressure tests shall be conducted every 5 years or until the well is removed from Temporary Abandonment status.

e) If the Department finds that a well that is in Temporary Abandonment status is in violation of the operational requirements set forth in subsection (c) or (d), the Department shall issue a Director's Decision requiring that the well be properly plugged, re-plugged or repaired. If the permittee has not complied with a Director's Decision issued by the Department pursuant to this subsection (e) and after a final administrative decision is issued, the well is found to be in violation of subsection (c) or (d), the Temporary Abandonment status for the well shall be revoked until the violation has been remediated and the well is in compliance with this Section.

f) The permittee shall monitor the well and certify annually, on a form provided by the Department, that there is no pressure on the casing or any annuls of a well that has been granted Temporary Abandonment status.

g) If a Temporary Abandonment request is denied, the permittee shall, within 90 days, plug the well or correct the deficiency that caused the denial and secure an approved Temporary Abandonment permit.

h) Beginning January 1, 2023, Temporary Abandonment status shall terminate 5 years from the date that Temporary Abandonment status was granted unless the permittee complies with the requirements of subsection (d) for each 5-year period that a well is in Temporary Abandonment status. Temporary Abandonment status may be terminated upon application for termination of Temporary Abandonment status by the permittee and a Temporary Abandonment request being approved by the Department following a well inspection by a Department well inspector. Temporary Abandonment termination requests shall be on a form prescribed by the Department.

i) Wells On Temporary Abandonment Status On January 1, 2023

1) Beginning January 1, 2023, wells on Temporary Abandonment status on January 1, 2023, shall be granted an additional Temporary Abandonment status of 5 years upon the expiration of the original Temporary Abandonment designation, provided:

A) the well remains in compliance with subsections (c) and (d);

B) the lease or unit which the wells are located remains active; and

C) the permittee submits an application pursuant to subsection (c) and that application is approved by the Department.

2) Temporary Abandonment status may be renewed for successive 5-year periods if the well remains in compliance with this Section.

j) The Department shall assess and collect annual fees of $100 per well for each well that is in Temporary Abandonment status.

k) The Department shall grant Temporary Abandonment status for successive 5 year periods if a well remains in compliance with this Section and upon the permittee's submission of detailed geological, engineering, or economical evidence that, based on industry standards, the well remains viable for future oil and gas development purposes.

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.1132 Plugging and Temporary Abandonment of Inactive Class II UIC Wells

a) Any Class II UIC well located on an active lease, equipped with tubing and packer and that has previously established mechanical integrity in accordance with Section 240.760 shall maintain mechanical integrity in accordance with Section 240.760 or shall be plugged in accordance with Section 240.1140 unless the well has been approved for Temporary Abandonment status in accordance with subsection (e).

b) Any inactive Class II UIC well located on an inactive lease, when the lease has not been in operation for 24 consecutive months, shall be deemed abandoned and not eligible for Temporary Abandonment status pending a hearing held in accordance with Section 240.1610.

c) Any inactive Class II UIC well located on an active lease, without tubing and packer, and that has previously established mechanical integrity in accordance with Section 240.760 shall be plugged in accordance with Section 240.1140 unless the well is approved for Temporary Abandonment status in accordance with subsection (e).

d) Any inactive Class II UIC well located on an active lease, equipped with tubing and packer or without tubing and packer, and that has not previously established

mechanical integrity in accordance with Section 240.760 shall be plugged in accordance with Section 240.1140 unless the well is approved for Temporary Abandonment status in accordance with subsections (e)(1), (2) and (3) and establishes mechanical integrity as follows:

1) a cast iron plug shall be set within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, and the casing shall be pressure tested by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes; or

2) install tubing and a packer and conduct a passing internal mechanical integrity test in accordance with Section 240.760.

e) The permittee shall apply for Temporary Abandonment status by making written application on forms provided by the Department. The Department may place the well on Temporary Abandonment status if the following conditions (which shall be continuing requirements) are met:

1) The well shall:

A) have proper bond in effect in accordance with the Act if applicable; and

B) not be the subject of any final administrative decision for abandonment.

2) The well shall have an intact, leak free wellhead, or be capped with a valve, be configured to monitor casing or annular pressure, and have injection lines disconnected.

3) The wellhead shall be above ground level.

4) The permittee complies with the requirements of subsection (f).

f) Prior to the Department placing the well on Temporary Abandonment status, the permittee shall conduct a fluid level test upon the fluid in the well bore, after notice to and under the supervision of a Department representative, using acoustical or wire line measuring methods. If the Department authorizes the permittee to conduct a fluid level test without the presence of a Department representative, the permittee shall report the fluid level test on a form prescribed by the Department.

1) If the fluid level in the wellbore is no higher than 100 feet below the base of the fresh water, the Department may grant Temporary Abandonment status if the conditions in subsections (e)(1) through (3) are met. Unless the permittee elects to satisfy the conditions of subsections (f)(3)(A) or (B), the permittee shall perform additional fluid level tests, as prescribed in this subsection (f), every 2 years or until the well is removed from Temporary Abandonment status.

2) If the fluid level, as tested, is higher than 100 feet below the base of the fresh water and, at the time of the Temporary Abandonment request, the well is listed in Active status in the Department's records, the permittee may:

A) After notice to, and under the supervision of, a Department representative, remove any fluid to a level 100 feet below the base of the fresh water. At least 48 hours, but not more than 96 hours, after the fluid has been removed, the permittee shall measure the fluid level as prescribed in this subsection (f).

i) If the fluid level is higher than 100 feet below the base of fresh water, the permittee shall follow the requirements in this subsections (f)(3)(A) or (B); or

ii) If the fluid level remains more than 100 feet below the base of fresh water, at least 9, but no longer than 12 months from the date that fluid was removed from the well bore, the permittee shall obtain the fluid level in accordance with subsection (f). If, after the subsequent fluid level test, the fluid level within the wellbore has remained at least 100 feet below the base of fresh water, and the conditions in subsections (e)(1) through (3) continue to be met, the Department shall grant temporary abandonment status for 2 years from the date of the subsequent fluid level test. Thereafter, the permittee shall perform additional fluid level tests, as prescribed in this subsection (f), every 2 years or until the well is removed from Temporary Abandonment status.

B) Elect to follow the requirements of subsections (f)(3)(A) or (B).

3) If the fluid level, as tested, is higher than 100 feet below the base of the

fresh water and, at the time of the Temporary Abandonment request, the well is listed in Temporary Abandonment status in the Department's records, the permittee may, after notice to and under the supervision of, a Department representative:

A) set a cast iron plug within 200 feet above the uppermost perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, remove any fluid to a level at least 100 feet below the base of the freshwater zone, and monitor the fluid level every 2 years in accordance with this subsection (f); or

B) set a cast iron plug within 200 feet above the uppermost perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes. Subsequent pressure tests shall be conducted every 5 years or until the well is removed from Temporary Abandonment status.

g) If a Temporary Abandonment request is denied, the permittee shall, within 90 days, plug the well or correct the deficiency that caused the denial and secure an approved Temporary Abandonment permit.

h) Temporary Abandonment status for production wells shall not be terminated until the well has been inspected by an Office well inspector and a Temporary Abandonment termination request is approved by the Department. Temporary Abandonment termination requests shall be on a form prescribed by the Department.

i) Temporary Abandonment status will be granted every 2 years provided the wells remain in compliance with subsections (e) and (f) and the lease or unit on which the wells are located remains active, except for wells that fulfill the requirements of subsection (f)(3)(B), which will be granted every 5 years.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1140 General Plugging Procedures and Requirements

a) Notification of District Office
The permittee shall contact the District Office at least 24 hours prior to plugging a cased well or as soon as possible after determination has been made to plug an

uncased well.

b) Well Drilling and Construction Data
For all cased wells, the permittee shall have a well log and the well completion report at the site for review by the well inspector at the scheduled time of plugging. If the permittee cannot locate well logs or the well completion report, the permittee shall make available at the site copies of any logs and well construction records maintained by the Illinois State Geological Survey. For all uncased wells, all available drilling and well construction information shall be at the well site for review by the well inspector at the time of plugging.

c) Foreign Material Prohibited

1) Except for an unavoidable loss of drilling or logging tools or producing equipment, placing or lodging any material or substance in an unplugged well to either fill or bridge the hole for the purpose of avoiding proper plugging procedures is prohibited.

2) Foreign materials that have been placed in the hole shall be removed before plugging operations are commenced.

d) Plugging A Bridged Well
When a well becomes plugged or obstructed because of the loss of drilling or logging tools or producing equipment that would be impractical to remove, the Department may vary the plugging requirements of this Section and specify alternative plugging requirements. In determining whether to approve and in selecting alternative plugging requirements, the Department shall consider the time and cost of removing lost tools or equipment, the potential for damage to fresh water and coal seams and the depth of the lost tools or equipment in relation to the depth of freshwater zones and coal seams, and well construction characteristics.

e) Methane Monitoring Requirements During Plugging Operations
Plugging operations for all wells shall be continuously monitored by a methane gas detector that is properly calibrated and in proper working order to ensure the methane concentration in the work area remains less than 3%. If the methane concentration in the work area reaches 3%, plugging operations shall cease immediately and shall not resume until corrective actions have been taken and the methane concentration in the work area has been reduced to less than 3%.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1150 Specific Plugging Procedures

a) Circulation of Cement
Cement may be circulated from total depth or plugged back total depth to surface in lieu of the placing of plugs specified in subsection (b), (c) and (d), provided both the workable coal and the freshwater zones have been protected by cement in direct contact with both strata.

b) Producing Interval Plug

1) Cased Wells

A) Circulation Method
When using the circulation method, a cement plug shall be placed opposite each perforated interval, and each interval that is exposed after removal of production casing that has produced oil or gas or into which injection is occurring within ¼ mile radius of the well, and extend 50 feet below the deepest perforated interval, total depth, or plugged back total depth, and extend to 50 feet above the shallowest perforated interval or 50 feet above the open hole interval.

B) Dump Bailer Method
When using the dump bailer method, a cast iron plug shall be set immediately above each perforated interval, and each interval that is exposed after removal of production casing that has produced oil or gas or into which injection is occurring within ¼ mile radius of the well, and a minimum of 10 feet of cement shall be placed on top of each cast iron plug. As an alternative to setting a cast iron plug, a standard cement pump down plug can be placed in the well and a minimum of 50 feet of cement placed on top of each plug. To insure the cement plug has been properly set, the cement plug shall be tagged after a minimum of 2 hours. The use of the cement pump down plug is prohibited if the well is flowing fluid to the surface.

2) Uncased Wells
Wells shall be filled with mud before commencement of plugging operations and a cement plug shall be placed opposite any exposed interval that has produced oil or gas or into which injection is occurring within ¼ mile radius of the well. The cement plug shall extend from 50 feet below the exposed zone to 50 feet above the zone. The cement plug

may be placed using either the circulation or dump bailer method.

3) All wells shall be left open overnight or for a minimum of 12 hours after the surface plug has been set to allow for the verification of the top of the cement. If, after the required waiting period, the top of the cement has fallen more than 4 feet below the ground surface, additional cement shall be placed in the well to bring the top of the cement up to within approximately 4 feet of the ground surface.

c) Coal Plugs–
A plug shall be placed across each workable coal seam in accordance with Section 240.1151.

d) Surface Plug
Surface casing shall not be pulled from any well and a cement plug shall be placed across the freshwater zones using either the circulation or dump bailer method as follows:

1) Wells with Surface Casing

A) If surface casing extends 50 feet below the freshwater zones with cement circulated to the surface, a cement plug shall be placed in direct physical contact with the strata and surface casing from 25 feet below the setting depth of the surface casing and extend to the surface. If production casing is left in the hole and there is no cement behind the production casing, cement shall be placed inside and outside of the production casing from 25 feet below the setting depth of the surface casing and extend to the surface. Cement shall be placed outside of the production casing by perforating the casing 25 feet below the setting depth of the surface casing and squeezing cement behind the production casing to the surface, or by inserting tubing down the backside of the production casing to a depth of 25 feet below the setting depth of the surface casing and circulating cement to the surface.

B) If surface casing does not extend 50 feet below the base of the freshwater zone, a continuous cement plug shall be placed in direct physical contact with strata from a depth of 50 feet below the base of the freshwater zone to the surface. If production casing is left in the hole, and there is no cement behind the production casing, cement shall be placed inside and outside of the production casing from 50 feet below the base of the freshwater zone and extend to

the surface. Cement shall be placed outside of the production casing by perforating the casing 50 feet below the base of the freshwater zone and squeezing cement behind the production casing to the surface, or by inserting tubing down the backside of the production casing to a depth of 50 feet below the base of the freshwater zone and circulating cement to the surface.

2) Wells Without a Surface Casing–
A cement plug shall be placed from a depth of 50 feet below the base of the freshwater zones to the surface.

e) Plugging Requirements for Wells with Uncemented Casings.
When the Department determines that the plugging procedures set forth in this Section cannot be followed due to well construction and the lack of cement behind the casings, the Department will authorize the following alternative plugging procedures:

1) The production casings shall be removed from a point at least 50 feet below the base of the fresh water, the hole filled with mud, and a surface plug set in accordance with subsection (d);

2) If the production casings cannot be removed to a depth at least 50 feet below the base of the fresh water, all casings contained within the outermost casing shall be removed to a depth at least 50 feet below the base of the fresh water, and the outermost casing in direct contact with the borehole wall shall be perforated, ripped or parted at an interval 50 feet below the base of the fresh water to permit cement to infiltrate the annulus between the casing and the borehole wall. The hole shall be filled with mud, the perforated, ripped or parted interval shall be squeezed with cement, and a surface plug must be set in accordance with subsection (d).

3) If the well cannot retain mud because the producing interval takes fluid, the producing interval shall be covered with sand, crushed rock or other similar material to provide an anchor on which to place the column of mud, and the hole shall be filled with mud and a surface plug set in accordance with subsection (e)(1) or (2).

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1151 Procedures for Plugging Coal Seams

a) When the owner or manager of any inactive, nonproductive or nonoperative well in an active coal mine area desires to plug such well or partially plug back to a different formation or to withdraw casing from such well, he shall notify the well inspector for the county in which the well is located and notify the owner or operator of such coal mine at least eight (8) hours in advance of the time he expects to begin plugging or pulling casing. The commencement of such operations, including shooting off casing, is prohibited until an authorized Department Representative is present.

b) Protection of Coal Seams

1) Each coal seam of thirty (30) inches or more of thickness and lying above the depth of one thousand (1000) feet shall be protected by a cement plug extending one hundred (100) feet above said coal seam to a distance of fifty (50) feet below the same or to the bottom of the hole, whichever is less.

2) In wells penetrating an active mine or the worked out area of a mine or the undeveloped limits of a mine property having workable coal seam or seams, a substantial support shall be provided for each cement plug required for coal seam protection. The supporting plug shall consist of wood or other suitable material having adequate strength and shall be set and tested to determine that settlement or a movement of the cement plug will not take place during the period required for the setting of the cement.

c) The provisions of this Section are in addition to the plugging requirements of this Subpart.

(Source: Added at 14 Ill. Reg. 20427, effective January 1, 1991.)

Section 240.1160 Plugging Fluid Handling and Storage

a) When plugging a well, the permittee shall provide at least one (1) pit or leak free, above ground, portable container into which plugging fluid wastes shall be deposited.

b) Plugging pits shall be constructed with sufficient capacity to contain all plugging fluid wastes within the pits, and maintained in a manner that reasonably prevents against overflow during plugging operations. Plugging pits shall be used only for the temporary storage of plugging fluid wastes, and shall not be used for the disposal of general oilfield wastes.

c) All general oilfield wastes generated during plugging activities shall be temporarily stored in on-site containers, and shall be removed from the site at the conclusion of plugging activity. General oilfield wastes shall not be disposed of through on-site burial or in plugging pits.

(Source: Section repealed at 14 Ill. Reg. 13620, effective August 8, 1990, new Section added at 16 Ill. Reg. 15513, effective September 29, 1992)

Section 240.1170 Plugging Fluid Waste Disposal and Well Site Restoration

Within 6 months after a well is plugged:

a) The free liquid fraction of the plugging fluid waste, consisting of produced water and crude oil, shall be removed from the pit and disposed of in a Class II Injection well (or in above ground tanks or containers pending disposal) prior to restoration. The remaining plugging fluid wastes shall be disposed of by on-site burial.

b) All plugging pits shall be filled and leveled in a manner that allows the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

c) All drilling and production equipment, rock or concrete bases, machinery, and equipment debris shall be removed from the site.

d) Casing shall be cut off at least 4 feet below the surface of the ground, and a steel plate welded on the casing or a mushroomed cap of cement approximately one foot in thickness shall be placed over the casing so that the top of the cap is at least 3 feet below ground level.

e) Any drilling rat holes shall be filled with cement to no lower than 4 feet and no higher than 3 feet below ground level.

f) The well site and all excavations, holes and pits shall be filled and the surface leveled.

g) Upon written request of the permittee, the Department may approve extensions of time, not to exceed a date 12 months after the plugging of the well, to complete the work required by subsections (a) through (f). All extension requests must be received by the Department no less than 10 calendar days prior to the expiration of the initial 6 month period or any extensions of that time period. When

determining whether to grant an extension, and in determining the length of any extensions, the Department will consider factors including, but not limited to:

1) the permittee's diligence in completing the work since the well was plugged;

2) weather conditions;

3) amount and type of work completed;

4) amount and type of work still remaining to be completed;

5) number of wells and facilities involved in the work;

6) written consent to extension from surface owner;

7) availability of equipment and/or services; and

8) conditions beyond the permittee's control.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1180 Lease Restoration

a) Within 6 months after the last well on a lease has been plugged, all excavations and pits shall be filled and leveled and all pits and concrete storage structures shall be restored in accordance with Subpart H. Subject to an existing right of way, tank batteries and other production equipment, rock and concrete pads, general oilfield waste and equipment debris, flowlines at or above the surface, and electric power lines and poles extending on or above the surface, shall be removed. Containment dikes shall be removed if constructed with other than soil and leveled.

b) Upon written request of the permittee, the Department may approve extensions of time, not to exceed a date 12 months after the plugging of the well, to complete the work required to bring the lease into compliance with this Section. All extension requests must be received by the Department no less than 10 calendar days prior to the expiration of the initial 6 month period of any extensions. When determining whether to grant an extension and in determining the length of an extension, the Department will consider factors including, but not limited to:

1) the permittee's diligence in completing the work since the well was plugged;

2) weather conditions;

3) amount and type of work completed;

4) amount and type of work still remaining to be completed;

5) number of wells and facilities involved in the work;

6) written consent to extension from surface owner;

7) availability of equipment and/or services; and

8) conditions beyond the permittee's control.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1181 Lease Restoration Requirements (Repealed)

(Source: Repealed at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1190 Filing Plugging Report

Immediately after the plugging of any well has been completed, the permittee or his representative shall complete and file a plugging report on a form provided by the Department or provide necessary documents to the District Office containing information sufficient to complete a plugging report if a representative from the Department was not present at the well site during plugging.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

Section 240.1200 Applicability

The provisions of this Subpart apply to wells and drill holes other than oil or gas production wells, Class II UIC wells covered by Subparts B and C, Gas Storage and Service wells covered by Subparts R and S. This Subpart applies to the following types of wells or drill holes:

a) Coal or Mineral Groundwater Monitoring Well: a well drilled to monitor groundwater conditions in coal or mineral mining projects. A permit under this Subpart is not required in areas covered by a permit issued by the Department under the Surface-Mined Land Conservation and Reclamation Act (225 ILCS 715) and the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

b) Structure Test Hole: a hole drilled to evaluate the geologic nature of underlying strata for use in an oil and gas, gas storage or mining project. A permit under this Subpart is not required for holes which do not penetrate bedrock or for seismograph shot holes or for holes located in areas covered by a permit issued by the Department under the Surface-Mined Land Conservation and Reclamation Act and the Surface Coal Mining Land Conservation and Reclamation Act.

c) Coal Test Hole: a hole drilled to test for the presence, quality or quantity of coal. Coal strip mine overburden blast holes do not require a permit.

d) Mineral Test Hole: a hole drilled to test for the presence, quality or quantity of minerals including metallics, fluorspar, shale, limestone and sandstone or any other mineral which will be mined or quarried, excluding unconsolidated sand and gravel. Mineral test holes which do not penetrate bedrock do not require a permit under this Subpart. Quarry drill holes drilled on property owned by and contiguous to any established quarry do not require a permit.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1205 Application for Permit to Drill a Test Well or Drill Hole

a) No person shall drill a test well or hole covered by this Subpart without a permit from the Department.

b) An application for a permit to drill a coal test hole, mineral test hole, structure test hole, or coal or mineral groundwater monitoring well shall:

1) Be made on forms prescribed by the Department.

2) Be executed under penalties of perjury, and accompanied by the nonrefundable fee of $300 per section, or part of a section, as delineated by the United States Public Land Survey.

3) Contain a statement indicating whether the well or drill hole is located over an underground gas storage field as defined in Section 240.1805(c) or

the gas storage rights are owned by someone other than the lessor under the oil and gas lease; the applicant shall submit documentation establishing compliance with Section 240.1820.

4) Be accompanied by the bond required under Subpart O.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1220 Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well

a) Each application for a coal, mineral or structure test or coal or mineral groundwater monitoring permit shall be for those holes to be drilled in one Section of land, as established by the official United States Public Land Survey, by the applicant.

b) Each application shall include:

1) A map showing the proposed location(s) of the test hole(s); except that in the case of structure, coal and mineral test holes the application need only identify the Section.

2) The approximate proposed total depth of the test hole(s).

3) The type of drilling tools to be used.

(Source: Former Section recodified to 240.1420; new Section added at 17 Ill. Reg. 14097, effective August 24, 1993)

Section 240.1230 Authority of Person Signing Application

a) All applications for structure, coal and mineral test holes and mineral and coal groundwater monitoring wells shall identify whether the applicant is an individual, partnership, corporation or other entity and shall contain the address and signature of the applicant or person authorized to sign for such applicant.

b) If the applicant is an individual, the application shall be signed by the individual. If the applicant is a partnership, the application shall be signed by the general partner. If the applicant si a corporation, the application shall be signed by an officer of the corporation.

c) In lieu of the signature of the applicant or such authorized persons, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power to attorney accompanies the application.

d) The entity or person to whom the permit is used shall be called the Permittee and shall be responsible for all regulatory requirements relative to the well or drill hole.

e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1240 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b).

c) Mineral or coal groundwater monitoring well permits shall expire 1 year from the date of issuance unless acted upon by commencement of drilling.

d) Coal, mineral and structure test hole permits expire 1 year from date of issuance.

e) Mineral or coal groundwater monitoring well permits are not transferable prior to the drilling of the well or test hole.

f) Coal, mineral and structure test hole permits are not transferable.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1250 When Wells Shall Be Plugged and Department Notification

a) Structure, coal and mineral test holes shall be plugged within thirty (30) days after drilling ceases unless converted to a potable water well in accordance with Section 240.1280; however, if such hole is to be used as a mineral or coal groundwater monitoring well, the well shall be plugged in accordance with subsection (b) below. The permittee shall contact the District Office responsible

for the area in which the permit is located 24 hours prior to beginning drilling operations covered by the permit.

b) Mineral or coal groundwater monitoring wells shall be plugged when no longer used for the purpose for which they were permitted. At least 24 hours prior to commencing plugging the permittee shall notify the District Office for the county in which the well is located.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1260 Plugging and Restoration Requirements

a) Coal or mineral groundwater monitoring wells, structure test holes, coal test holes and mineral test holes shall be plugged as follows:

1) If the total depth of the well or hole extends below the base of the freshwater as determined by the department, the well or hole shall be plugged form total depth to the top of the bedrock with cement. When the plugging requirements of subsection (b)(1) would be impractical due to the presence of fractures in the bedrock or other geologic conditions that would prohibit the containment of fluids in the well, the Department may authorize alternative plugging requirements. In determining whether to approve and in selecting alternative plugging requirements, the Department shall consider the total depth of the hole and the depth and quality of the freshwater.

2) If the total depth of the well or test hole does not extend below the base of the freshwater as determine by the Department, the hole shall be plugged as stated above or may be plugged by circulating bentonite slurry from total depth to surface. When the plugging requirements of subsection (b)(2) would be impractical due to the presence of fractures in the bedrock or other geologic conditions that would prohibit the containment of fluids in the well, the permittee shall place a bridge plug above the fractured zone and circulate bentonite slurry from the plug to the surface.

b) At the conclusion of drilling, all drill cutting shall be buried I drill pits or landspread (with permission of surface owner), and all pits sued in drilling shall be filled and restored to support farm machinery, and all drilling debris shall be removed from the site.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1270 Confidentiality

a) The information and records of the Department for any mineral test, structure test, and coal test hole shall, on written request from the permittee, be kept confidential for two years after the date the permit for such hole was issued, provided that the request is made in writing at the time of the filing of the permit application.

b) The reports required to be filed with the Illinois State Geological Survey under Section 6(4) of the Illinois Oil and Gas Act, for any hole or well covered under this Subpart shall on request be kept confidential for two years form the date the permit for such hole or well is issued, provided that the request be made in writing at the time of the filing of the permit application.

(Source: Former Section recodified to 240.1270; new Section added at 17 Ill. Reg. 14097, effective August 24, 1993)

Section 240.1280 Converting to Water Well

a) Coal or mineral groundwater monitoring and service wells may not be converted to a water well required to have a permit from the Illinois Department of Public Health.

b) Mineral, coal and structure test wells may be converted to water wells required to have a permit from the Illinois Department of Public Health provided the permittee obtains a permit from the Illinois Department of Public Health.

(Source: Amended at 18 Ill. Reg. 8061, effective May 13, 1994)

SUBPART M - PROTECTION OF WORKABLE COAL BEDS

Section 240.1300 Introduction

To prevent waste, the Mining Board shall protect workable coal beds in the drilling, casing, and plugging of wells drilled for oil or gas, or for any other purpose in connection therewith.

(Source: Recodified from Section 240.805 at 15 Ill. Reg. 8566)

Section 240.1305 Permit Requirements in Mine Areas

a) Requirements for Areas of Mining Activity
When the location of a well to be drilled for oil or gas, or any purpose in connection with that drilling, will penetrate an active mine or through the mined

out and inaccessible or sealed off area of an active mine, or will penetrate those areas in a temporarily abandoned mine, or the undeveloped limits of any such mine property, as included in the shadow areas set forth in an approved mining permit, a drilling permit shall not be issued by the Mining Board until an agreement shall be reached between the owner of the proposed well and the mine owner, or in the event of failure to reach an agreement a permit will not be issued until a hearing is held as provided in this Section.

1) Agreement with Mine Owner
A copy of the agreement, jointly signed by the applicant for a permit and the mine owner, agreeing to the drilling of the well and the proposed location shall be filed with the application and accompanied by a map or sketch showing the well location, its relation to shafts and mine buildings and to each coal seam and mine workings underlying applicant's lease. As an alternative, a statement from the mine owner that the location is over the undeveloped limits of the mine shall be filed.

2) Requirements in Absence of Agreement

A) In the absence of the agreement or statement outlined in subsection (a)(1), the applicant shall file with the application for permit a map or sketch showing the well location, its relation to shafts and mine buildings, if any, and its relation to the mine workings underlying applicant's lease, with a sworn statement that a true and exact copy of application and accompanying exhibits was mailed postage prepaid to the coal company or its authorized agent in Illinois, by United States registered mail.

B) If, within 10 days from the receipt of the application for permit by the Mining Board, no written objections are filed, the Mining Board shall issue or deny the permit.

C) Upon the filing of objections to the issuance of the permit, the Mining Board shall promptly set the matter for hearing and decisions.

b) Requirements for Areas with Presence of Workable Coal
In inactive mining areas where the existence of workable coal is known and the coal rights are owned by someone other than the lessor under an oil and gas lease, the applicant for a permit to drill a well for oil and gas or to drill any well in connection with the production of oil and gas shall notify the owner of the workable coal by registered mail, return receipt requested. The notice shall show

the exact location of the proposed test and the approximate depth of the formation to be tested. The Mining Board shall be furnished with a copy of the notice attached to the application for permit, with the return receipt from the owner of the workable coal or a sworn statement that the applicant has the return receipt in his or her possession, giving the names and addresses of the owners of the coal rights and date of delivery of the notice.

1) Notice to Owner of the Workable Coal
No permit shall be issued to the applicant until 10 days have elapsed following the receipt of the registered notice by the owner of the workable coal.

2) Maps Available at Well Site
During the drilling of a well, the permittee shall keep at the well site for use of the Mining Board and its representatives an exact copy of the maps and sketches that accompanied his or her application for the permit.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1310 Workable Coal Beds Defined

All coal beds or seams thirty (30) inches or more in thickness less than one thousand (1000) feet below the surface shall be determined as workable. When any well drilled for oil or gas, or to be used in connection therewith, penetrates such coal seams or ceases to be used for the purpose drilled, such coal seams shall be protected as herein provided.

(Source: Recodified from Section 240.810 at 15 Ill. Reg. 8566)

Section 240.1320 Mining Board May Determine Presence of Coal Seams

The Mining Board shall have authority to determine when workable coal beds or seams are present, by geological data obtained from the State Geological Survey, or other relevant information which would indicate the presence of workable coal beds or seams underlying the well site. When the presence of any coal strata or seam is disputed by the owner or manager of a well, and such condition is contrary to the geological information possessed by the Mining Board, such contention of the owner or manager shall be supported by an affidavit on a form prescribed and furnished by the Mining Board, which affidavit shall be executed by a geologist or other person qualified and competent to determine the presence of such disputed coal strata or seam. When such affidavit has been filed with the Mining Board, it shall have authority to determine the issue, after obtaining all further geological information possible, or if the Mining Board deems expedient, it may on its own motion, call a hearing to be held as herein provided to determine such facts.

(Source: Recodified from Section 240.820 at 15 Ill. Reg. 8566)

Section 240.1330 Well Locations Prohibited

No well for oil or gas shall be drilled within two hundred fifty (250) feet from any opening of an active coal mine used as a means of ingress or egress for the persons employed in such mine, or which is used as an air shaft, except by mutual agreement between the person owning or operating the mine and oil or gas operator.

(Source: Recodified from Section 240.830 at 15 Ill. Reg. 8566)

Section 240.1340 Notice to Mining Board

At least twenty-four (24) hours prior to reaching the depth of mine workings or the undeveloped limits of the mine, the person in charge of drilling operations shall notify the Mining Board or Mining Board Representative and the mine representative of the time when such well shall reach such point, in order that the Mining Board may have a Mining Board Representative present on the well site at such time.

(Source: Recodified from Section 240.840 at 15 Ill. Reg. 8566)

Section 240.1350 Casing and Protective Work

a) Whenever the rules require a mine string to be set in a mine area, the casing used inside the mine string shall be new.

b) Any protective work required in a mine area shall be under the supervision of the Mining Board.

(Source: Recodified from Section 240.850 at 15 Ill. Reg. 8566)

Section 240.1360 Operational Requirements Over Active Mine

a) Mining Board to Determine Safety Factors

1) No well shall be drilled into any coal mine or mine workings in any active mine until the Mining Board representative is present and determines that the mine or mine workings are safe.

2) Until the Mining Board representative is satisfied that adequate protection has been provided so that no hazard exists, drilling operation shall be

suspended. After any protective or corrective work, required by the Mining Board representative, has been satisfactorily completed by the well owner, manager or his or her representative, drilling operations may be ordered resumed; but if, in the opinion of the Mining Board representative it is impossible to adequately protect the mine or mine workings, he or she shall order the permit revoked and the well plugged in the manner provided in this Section.

b) Drilling Methods and Procedure

1) Notice
The permittee is required to notify the mine owner at least 24 hours prior to drilling to the depth of the mine.

2) General
All wells drilled through an active coal mine or through an abandoned portion of an active mine shall:

A) be located, if possible, in order to pass through an adequate pillar;

B) first have at least 100 feet of conductor pipe set and cemented with a blowout preventer attached prior to drilling to the depth of the mine. After the conductor pipe has been set and the blowout preventer has been installed, all further drilling shall be completed through the blowout preventer; and

C) during drilling operations, be continuously monitored by a methane gas detector that is properly calibrated and in proper working order to ensure the methane concentration in the work area remains less than 3%. If the methane concentration in the work area reaches 3%, drilling operations shall cease immediately and shall not resume until corrective actions have been taken and the methane concentration in the work area has been reduced to less than 3%.

3) Mine Protective String

A) Whether drilled through a pillar or not, a mine string or casing of good quality shall be set to protect the mine. The mine string shall be treated with a heavy impervious coating of asphalt, plastic, or other acid-resisting material from 50 feet above the mine roof to a point 50 feet below the mine floor or base of coal seam.

B) The outside diameter of the mine string shall be at least 4 inches smaller than the diameter of the well bore and equipped with centralizers or similar mechanical device above and below the coal seam. The mine string shall be set at an approximate depth of 50 feet below the base of the coal seam and cemented from the casing seat to the surface.

C) If the mine string misses a pillar and is set through an open room of an active mine or the abandoned portion of an active mine, an umbrella, basket, or packer must be used on the mine string to set above the mine roof and the mine string shall be cemented from the casing seat to the mine floor and also cemented from the umbrella, basket, or packer set above the mine roof to the surface.

4) Cementing Oil String

A) The outside diameter of the oil string shall be at least 3 inches smaller than the inside diameter of the mine string when set through a pillar, and the outside diameter of the oil string shall be at least 4 inches smaller than the mine string when set through an open room and equipped with centralizers, or similar mechanical devices, immediately above and below the coal seam. The centralizers shall be so spaced as to be within the mine string of casing.

B) The oil string shall be surrounded with cement from the casing shoe to the surface, or the oil string may be cemented using multiple-stage cementing tools, as provided in subsection (b)(4)(C) and (D).

C) When the multiple-stage cementing method is used at least 100 sacks of cement shall be placed around the casing shoe and the multiple-stage cementing tool placed 100 feet below the floor of the mine and cemented from that point to the surface.

D) In areas where thief zones or high permeability horizons occur below the level of the mine, the Mining Board may require multiple-stage cementing tools to be used in the cementing of the oil string in order to assure protection for the mine.

5) Temperature Survey Required

When drilling through mined out areas that are not accessible, and, if, in the opinion of the Mining Board representative, it is necessary, a self-registering thermometer shall be lowered to the mined out level and, if the recorded temperature shows the possibility of fire at or near the position of the hole, the drilling permit shall be revoked and the hole plugged, as required in this Section.

c) Shooting Wells Over Active Mine or Worked Out Portions of Active Mines

1) Shot Less Than 50 Quarts
When any well is located over or penetrates an active mine or worked out portions of an active mine, before shooting the oil-bearing formation, the well owner or manager shall proceed as follows:

A) Notify the Mining Board or Mining Board representative at least 24 hours in advance of the time the shot is to be fired.

B) Notify the mining company at least 24 hours in advance of the time the shot is to be fired.

C) Tamp the shot with a minimum of 60 feet of tamp, at least the top 30 feet of which shall be of impervious material, being sure that the top of the tamp extends to a place in the hole opposite solid rock formation. Fill the hole to the top with fluid of consistent viscosity and specific gravity.

2) Shot of 50 Quarts or More
When the charge consists of 50 quarts or more of nitroglycerin:

A) Apply to the Mining Board for permission to shoot, indicating the size of charge to be used.

B) In the absence of written authority from the coal company of the specific shot, the Mining Board shall:

i) Immediately upon receipt of the application, notify the coal company, indicating the location of the well and the size of the charge to be used.

ii) If no objection is filed by the coal company within 24 hours, the Mining Board shall give permission to fire the shot.

iii) If the coal company objects, the Mining Board shall, within 24 hours after receipt of the objection, set the matter for hearing and determination in the county where the well is located.

d) Extend the tamp with impervious material 10 feet beyond the minimum tamp of 60 feet for each additional 10 quarts of charge used, being sure that the top of the tamp extends to a place in the solid rock formation. Fill the hole to the top with fluid of consistent viscosity and specific gravity.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section 240.1400 Definitions

As used in this Subpart:

"Current Permittee" means the individual or entity required to hold the permit or to whom the permit has been issued and who is the owner of the right to drill and/or produce the well or wells, possesses the full rights and responsibilities for operating the wells in accordance with all requirements of the Act and has the current obligation to plug the wells, who is the assignor, transferor (whether voluntary or involuntary), or seller of the wells.

"New Permittee" means the individual or entity acquiring the well or wells and the right to drill and/or produce said wells, the full rights and responsibilities for operating the wells in accordance with the Act, and the current obligation to plug said wells, and who, as owner in accordance with the Act, is required to hold the permit.

"Operator" means the individual or entity controlling the right to drill and/or produce the wells, has the full rights and responsibilities for operating the wells, along with the obligation to ultimately plug the wells under an operating agreement with the owners in interest.

"Ownership Certification Statement" means a statement that the new permittee owns the right to operate wells on the lands and formations required for the purposed transfer, as set forth in Subpart D, pursuant to valid and existing documents or memoranda of public record.

"PRF Well" means a well designated as abandoned in accordance with Subpart P and that has been placed in the Plugging and Restoration Program established under Section 19.6 of the Act.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1410 Applicability

a) The provisions of this Subpart apply to all assignments, transfers (whether voluntary or involuntary) and sales of the interest of the individual or entity required to hold and to whom the permit is issued (permittee), including:

1) a change of ownership of the right to drill and/or produce said wells, along with the full rights and responsibilities for operating the wells in accordance with the Act and the obligation to ultimately plug said well(s) through assignment, voluntary release, corporate or other business takeover, buyout, merger or similar transaction, involuntary termination of lease rights by court order, new base lease, sale, gift, devise or other transfer; or

2) a change in the designation of the operator under an operating or other similar agreement in which the owner of the right to drill and/or produce said wells, along with the full rights and responsibilities for operating the wells in accordance with the Act and the obligation to ultimately plug said wells assigns that right; or

3) pursuant to the action of the owners of separate interests who designate an owner to be permittee; or

4) the appointment, by a court of competent jurisdiction, of a trustee or a receiver to exercise custody and control over the well or wells, including the right to drill and/or produce said well(s) along with the full right and responsibilities for operating the wells.

b) The provisions of this Subpart shall not apply to the assignment, transfer or sale of royalty, overriding royalty or fractional working interests not affecting the rights or responsibilities of the permittee.

c) The provisions of this Subpart shall also apply to transfers of PRF wells to a person or entity requesting to be permittee in accordance with the Act and to administrative record correction transfers initiated by the Department in which the

Department transfers the permit or well to the person who is required to be the permittee for that well under the Act.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.1420 Notification of Transfer

a) The current permittee shall provide notification to the Department and new permittee, on a form prescribed by the Department, of the assignment, transfer or sale of any permitted well or any well required to be permitted under the Act within 30 days after the effective date of the assignment, transfer or sale.

b) The wells listed in the notification of transfer request will be placed on the new permittee's well list after Departmental review and confirmation. The new permittee shall not operate wells covered by the notification of transfer until all conditions in Section 240.1440 are met and the transfer request is approved by the Department.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1425 Authority of Person Signing Notification of Transfer

a) The notification to transfer a permitted well or a well required to be permitted under the Act shall provide information to indicate whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for the owner unless such information is currently on file with the Department.

b) If the owner is an individual, the notification shall be signed by the individual. If the owner is a partnership, the notification shall be signed by a general partner. If the owner is a corporation, the notification shall be signed by an officer of the corporation.

c) In lieu of the signature of the owner or an authorized person, the notification may be signed by a person having a power of attorney to sign for the owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the notification.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1430 Responsibilities of Current Permittee

a) The current permittee shall notify the Department and the new permittee of the assignment, transfer or sale on a form prescribed by the Department. A separate form shall be completed for each lease, well or other unit assigned, transferred or sold. The notification shall be signed, under penalty of perjury, by the current permittee or the permittee's authorized representatives.

b) The Department may request copies of the lease assignment, voluntary release, court order involuntarily terminating a lease, or other documents evidencing the assignment, transfer or sale to the new permittee of the right to drill and operate the well or wells on the lands in question, if necessary for clarification of the right to operate.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1440 Responsibilities of New Permittee

Prior to the Department giving effect to the transfer, the new permittee shall:

a) Confirm with the Department and the current permittee the acceptance of the transfer or sale on a form prescribed by the Department. The form shall include an Ownership Certification Statement as defined in Section 240.1400. A form shall be completed for each lease, well or unit assigned, transferred or sold. The notification of acceptance shall be signed, under penalty of perjury, by the new permittee or the permittee's authorized representatives.

b) pay the required non-refundable transfer fee as follows: *A fee of $75 per well for the first 100 wells and a fee of $50 per well for any wells in excess of 100 wells shall be paid by the new owner for each transfer of well ownership* (Section 14 of the Act);

c) provide the required bond, if applicable, in accordance with Subpart O;

d) if a corporation, provide evidence that the corporation is incorporated or authorized to do business in the State of Illinois, and authorized under its charter to engage in the permitted activity;

e) if an individual, partnership or other unincorporated entity that is not a resident of Illinois, provide an irrevocable consent to be sued in Illinois;

f) if issued, submit an FEIN number;

g) if the transfer request is for a PRF well, the new permittee shall comply with Section 240.1465.

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.1450 Authority of Person Signing Notification of Acceptance

a) The notification of acceptance shall be signed by the new permittee or by the new permittee's authorized representative.

b) If the new permittee is an individual, the notification of acceptance shall be signed by the individual. If the new permittee is a partnership, the notification of acceptance shall be signed by a general partner. If the new permittee is a corporation, the notification of acceptance shall be signed by an officer of the corporation.

c) In lieu of the signature of the new permittee or authorized individual, the notification of acceptance may be signed by a person having a power of attorney to sign for a permittee or authorized individual, provided a certified copy of the power of attorney is on file with the Department or accompanies the notification.

d) The new permittee may also submit a court order or other documents evidencing his or her ownership of the lease or unit to be transferred in the event that the current permittee cannot be located or refuses to sign the notification of transfer form.

e) The current permittee may submit documentation evidencing the transfer of the ownership of the lease, unit or wells in the event the new permittee refuses to sign the notification of acceptance form.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1460 Conditions for and Effect of Issuance or Transfer of Permit to Operate

a) When the Department receives the current permittee's notice of transfer, the wells listed in the notice of transfer shall be transferred to the new permittee's well list and the new permittee shall be responsible for all Annual Well Fees, as prescribed by Subpart Q, and for compliance with all aspects of the Act and all rules and regulations promulgated pursuant to the Act associated with those wells. No permit to operate the transferred wells shall be issued to or transferred to a new permittee, and the new permittee shall not operate the transferred wells when:

1) *the* new permittee *has falsified or otherwise misstated any information on or relative to the* transfer *application;*

2) *the* new permittee *has failed to abate a violation of the Act specified in a final administrative decision of the Department;*

3) *an officer, director,* agent, power of attorney, *or partner* in the new permittee*, or person with an interest in the* new permittee *exceeding 5%*, was an officer, director, partner, or person with an interest exceeding 5% in another entity that *failed to abate a violation of the Act specified in a final administrative decision of the Department;*

4) *the* new permittee was or *is an officer, director,* agent, power of attorney, *partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department* (Section 8a of the Act);

5) funds have been expended and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P, for which the new permittee was a previous permittee, or the new permittee was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or an officer, director, agent, power of attorney, or partner in the new permittee, or person with an interest in the new permittee exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

6) the new permittee is delinquent in the payment of Annual Well Fees; or the new permittee was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5%, in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney, or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.

b) The Department shall only transfer the permit to operate the transferred wells to the new permittee after the new permittee has abated any and all noncompliant conditions listed in subsection (a).

c) The entity or person to whom the permit is transferred or issued shall be called the permittee and shall be responsible for all regulatory requirements relative to the

well.

d) When the requirements of this Subpart have been satisfied, and subject to subsections (e) and (f), the Department shall render permit transfer decisions based upon the manner in which the new permittee came into possession of the wells sought to be transferred. Specifically:

1) The new permittee requesting the transfer is the mineral owner. If the new permittee owns the mineral rights to the tract of land on which production or injection wells subject to a prior lease are located and came into possession of the right to operate the wells by virtue of a voluntary release or involuntary termination of lease rights by court order, this new permittee shall become responsible for all regulatory requirements relative to:

A) only those production wells identified in the transfer request;

B) all wells in existence within the prior lease if the new permittee seeks to operate any of the injection wells located within this leasehold, convert any production well to an injection well or drill a new injection well; and

C) all pits, concrete storage structures, tank batteries and other surface production facilities in existence within the lease boundaries.

2) The new permittee requesting the transfer is a new base lessee. If the new permittee came into possession of the right to operate wells by virtue of a new base lease, the new permittee shall provide documentation indicating the termination of the original lease and shall become responsible for all regulatory requirements relative to only the wells identified within the new base lease document, except that:

A) if the new base lease conveys the right to produce from all formations, and the new base lessee or its assignee permits or operates any injection well located within the tract of land being leased, converts any production well to an injection well or drills a new injection well within this area, the new base lessee or its assignee shall become responsible for all regulatory requirements relative to all wells that penetrate the injection well formation, concrete storage structures, pits and tank batteries in existence, all as may be located within ¼ mile of the injection well and within the lease boundaries. If the operation of the injection well directly

causes any other wells, flowlines or other well site equipment located within the lease boundary to leak any fluids into fresh water or to the surface, the new base lessee or its assignee shall be responsible for all regulatory requirements relative to those wells, flowlines or other well site equipment. Nothing in this subsection (d)(2)(A) precludes this new base lessee or its assignee from voluntarily taking responsibility for all regulatory requirements relative to any additional wells, concrete storage structures, pits and tank batteries located greater than ¼ mile away from the injection well and within the lease boundaries; or

B) if the new base lease conveys the right to produce from specified formations only, and the new base lessee or its assignee permits or operates any injection well located within the formations specified in the new base lease, converts any production well to an injection well or drills a new injection well to the specified formations, the new base lessee or its assignee shall become responsible for all regulatory requirements relative to all wells that penetrate the injection well formation, concrete storage structures, pits and tank batteries in existence relative to the specified formations, all as may be located within ¼ mile of the injection well and within the lease boundaries. If the operation of the injection well directly causes any other wells, flowlines or other well site equipment located within the lease boundary and the specified formations to leak any fluids into fresh water or to the surface, the new base lessee or its assignee shall be responsible for all regulatory requirements relative to those wells, flowlines or other well site equipment. Nothing in this subsection (d)(2)(B) precludes this new base lessee or its assignee from voluntarily taking responsibility for all regulatory requirements relative to any additional wells, concrete storage structures, pits and tank batteries located greater than ¼ mile away from the injection well and within the lease boundaries.

3) A new permittee requesting the transfer is an assignee if the new permittee came into possession of the right to operate wells by virtue of a lease assignment or appointment, by a court of competent jurisdiction, as trustee or receiver, in accordance with Section 240.1410(a)(4). This new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within the lease hold being assigned.

e) If any well, or any lease or other unit associated with the well, is in violation of the Act or this Part at the time of the transfer to the new permittee, the new permittee shall be notified of the violations and the amount of time allotted by the Department for abatement.

f) If the transfer is denied by the Department, the Department shall transfer the wells back to the current permittee's well list and the current permittee shall be responsible for all Annual Well Fees, as prescribed by Subpart Q, and for compliance with all aspects of the Act and all rules and regulations promulgated pursuant to the Act associated with those wells. Nothing in this subsection (f) shall affect the contractual rights and obligations of the Seller and Buyer.

g) The transfer of a permit pursuant to this Subpart shall not affect the rights of the Department or any obligation or duty of the current permittee arising under the Act and this Part. Any cause of action accruing or any action or proceeding had or commenced, whether administrative, civil or criminal, may be instituted or continued without regard to the transfer of the permit in accordance with this Subpart.

h) A current permittee or new permittee may request a hearing in accordance with Section 240.1490 to challenge the Department's permit transfer decision.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1465 Condition for and Effect of Transfer of PRF Wells

a) Upon review and acceptance of the transfer documents and prior to approval of the transfer request, the new permittee shall be required to:

1) pay a salvage value for the downhole well equipment as follows (wells older than 30 years from the date drilled, as shown in Department files, shall be deemed to have $0 salvage value):

A) $50 per well for wells 750 feet or less in depth; and

B) $100 per well for wells greater than 750 feet but less than 2000 feet in depth; and

C) $250 per well for wells 2000 feet and greater in depth; and

2) pay a salvage value for the tanks, pumping units, and other related equipment, as determined by submission of 2 independent salvage value

estimates from commercial salvage oil and gas production equipment dealers and approved by the Department; and

3) pay the fair market value per barrel, to be determined at the time of the transfer approval, for all oil fluids (hydrocarbons) stored on the lease or unit.

b) All payments shall be by cashier's checks, payable to the Department of Natural Resources, Plugging and Restoration Fund.

c) If a well requested to be transferred has been active within the 2 year period immediately preceding the transfer request or accompanying assignment and no court order has been entered terminating the lease, the Department may transfer the well without payment of the salvage values outlined in subsection (a).

d) The Department has sole discretion to approve or deny requests for transfer of PRF wells. If, upon review of a transfer request for PRF wells, the Department determines that property rights, environmental, or public safety and welfare concerns will be advanced through plugging of the PRF well, in accordance with Section 19.1 of the Act, the transfer request may be denied.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1470 Revocation of Permit to Operate

a) The Department may revoke a permit to operate if:

1) The transfer of the permit to operate was issued in error;

2) The new permittee fails to maintain permit conditions; or

3) The new permittee is not in compliance with Section 240.1460(a).

b) The Department shall notify the permittee of its intent to revoke a permit to operate effective 30 days from the date of notice unless a hearing is requested in accordance with Section 240.251(c).

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1480 Involuntary Transfer

a) The Department may administratively transfer a permit to a person required to be

the permittee under the Act when the Department determines, based on records or documents of title submitted to or collected by the Department that may indicate that the current permittee of the well or wells is not the owner of the well or wells as defined in the Act.

b) The new permittee shall pay the required transfer fee for transfers occurring under the provisions of this Section.

c) Transfers occurring under the provisions of this Section shall not be subject to the requirements of Section 240.250(b).

d) Prior to operating the transferred wells the permittee must provide a bond, if required, in accordance with Section 240.1500(a)(1) and (2).

e) Upon determination of an Involuntary Transfer, the Department shall notify the current and new permittees that the pending administrative transfer that will be effective 30 days from the date of notice unless a hearing is requested in accordance with Section 240.1490.

f) Following the completion of the administrative transfer, the person to whom the well or wells were transferred shall immediately become responsible for all regulatory requirements under the Act.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1485 Administrative Record Correction

a) The Department may administratively correct a permit to reflect the person or entity required to be the permittee under the Act, when the Department determines, based on Department records, that the transfer was not made by the Department due to an administrative oversight during a previous transfer.

b) A new permittee under this Section shall pay the required transfer fee for the record correction if the date of the original transfer.

c) Record corrections occurring under this Section shall not be subject to the requirements of Section 240.1500(a)(1) and (2).

d) Upon determination of an Administrative Record Correction, the Department shall notify the current and new permittees of the correction, which will be effective immediately. The new permittee shall have 30 days from the date of notice to request a hearing to contest the record correction in accordance with

Section 240.1490.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1490 Transfer Hearings

a) A current or new permittee may request a hearing to challenge a permit transfer or denial decision if that hearing is requested in writing within 30 days after the date of the transfer or denial notice. All requests for hearing must be accompanied by documents evidencing basis for objection. If no hearing is requested in this time period, the permit transfer shall be a final administrative decision of the Department. If a hearing is requested by the current or new permittee:

1) A pre-hearing conference may be held within 30 days after the receipt of the request for hearing.

A) A pre-hearing conference shall be scheduled in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

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

iv) Set a hearing date; and

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

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

2) All hearings under this Subpart N shall be conducted by an impartial hearing officer not employed by the Department and shall be held in the Department's offices located in Springfield, Illinois.

b) At the permit transfer hearing, the Department shall present evidence in support

of its determination under subsection (a). Both the current and the new permittee may present evidence contesting the Department's determination under subsection (a). The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

c) Within 30 days after the close of the record for the permit transfer hearing, the hearing officer shall issue recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case.

d) The person's or permittee's failure to request a hearing in accordance with subsection (c) shall constitute a waiver of all legal rights to contest the permit transfer decision. Within 30 days after the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

e) If, after a hearing, the Department finds that a transfer of wells from the current permittee to the new permittee was invalid, the Department shall transfer the wells back to the current permittee's well list and the current permittee shall be responsible for all Annual Well Fees, as prescribed in Subpart Q, and for compliance with all aspects of the Act and all rules and regulations promulgated pursuant to the Act associated with those wells.

f) The Director shall review the administrative record in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

SUBPART O: BONDS

Section 240.1500 When Required, Amount and When Released

a) To Drill, Deepen, Convert or Operate an Oil or Gas Well

1) A bond, in the amount provided in this Section, shall be submitted, along with an application to drill, deepen, convert, operate or transfer a production or Class II well, if:

A) the applicant was not an owner on September 26, 1991 of the right

to drill and produce the well or wells in the transfer request; or

B) the applicant was not a permittee of record on September 26, 1991; or

C) the applicant has had a bond forfeited or is the subject of an unappealed, unabated Department final administrative decision requiring wells to be plugged; or

D) the applicant was not assessed an annual well fee as of July 1 preceding the application date, unless applicant was a permittee of record of an unplugged well in the previous fiscal year and not the subject of an unappealed, unabated Department final administrative decision; or

E) the applicant has had funds expended and/or wells plugged on its behalf by the Department using funds from the PRF; or

F) the applicant is not an appointed trustee or receiver in accordance with Section 240.1410(a)(4).

2) When a bond is required to be filed with the Department to drill, deepen, convert or operate an oil or gas well or Class II well, the amount of the bond shall be:

A) $1,500 for a well less than 2000 feet deep;

B) $3,000 for a well 2,000 or more feet deep;

C) $25,000 for up to 25 wells of a permittee;

D) $50,000 for up to 50 wells of a permittee; or

E) $100,000 for all wells of a permittee.

3) Failure to provide the required bond will result in the issuance of a cessation of operations order in accordance with Section 240.185(b).

4) A bond submitted pursuant to Section 240.1500(a) shall be released when:

A) all wells covered by the bond are plugged and restored in accordance with Subpart K; or

B) all wells covered by the bond are transferred in accordance with Subpart N; or

C) the permittee has paid assessments to the Department in accordance with Section 19.7 for 2 consecutive years and the permittee is not in violation of the Act.

b) To Operate a Liquid Oilfield Waste Transportation System
The amount of bond required to be filed with the Department before a permit is issued authorizing a person to operate a liquid oilfield waste system shall be $10,000. When requested by permittee, bond shall be released when the permittee ceases operation and this system and the permittee's system is not in violation of the Act.

c) To Drill a Test Hole
The amount of bond required to be filed with the Department before a permit is issued to drill a geological structure, coal or other mineral test hole, or a monitoring well in connection with any activity regulated by the Department shall be $2500 for each permit or a blanket bond of $25,000 for all permits. The bond requirements of this Subpart shall not apply to a hole or well drilled on acreage permitted and bonded under the Surface-Mined Land Conservation and Reclamation Act [225 ILCS 715] or the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]. When requested by permittee, bonds shall be released when the hole or holes are plugged and restored in accordance with Section 240.1260 and the permittee is not in violation of the Act.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1510 Definitions

a) Bond means surety bond or other security in lieu thereof.

b) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the permittee as principal and which is supported by the guarantee of a corporation authorized to transact business as a surety in Illinois. Surety bond does not include surplus line insurance procured by a surplus line producer.

c) Other security means an indemnity agreement in a sum certain executed by the permittee as principal which is supported by the deposit with the Department of one or more of the following:

1) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the Department upon presentation;

2) Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the Department and placed in its possession.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.1520 Bond Requirements

a) Form

Bonds shall be in such form and content as the Department prescribes payable to the "Illinois Department of Natural Resources."

b) Conditions Generally

1) Each bond shall conform with the requirements of the Act and this Part and with the declared purpose for which the bond is required.

2) Bonds shall remain in effect until the obligations for which it is given have been satisfied and the bond has been released by the Department, pursuant to the Act and this Subpart.

c) Surety Bond Requirements

1) Bonds shall be signed by the permittee as principal, and by a good and sufficient corporate surety, authorized to transact business as a surety in Illinois.

2) Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than 90 days notice to the Department. Such notice shall be served upon the Department in writing by registered or certified mail to the Department's Springfield offices.

3) Prior to the expiration of the 90 days notice of cancellation, the permittee shall deliver to the Department a replacement bond. If such bond is not delivered, all activities covered by the permit and bond shall cease at the expiration of the 90 day period.

4) If the license to transact business in Illinois of any surety upon a bond filed with the Department shall be suspended or revoked, the permittee, within 30 days after receiving notice thereof from the Department, shall make substitution by providing a surety bond or other security as required by this Subpart. Upon the failure of the permittee to make the substitution of bond, all activities covered by the permit and bond shall cease until substitution has been made.

d) Other Securities Requirements

1) Letters of credit shall be subject to the following conditions:

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

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

C) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with Section 240.1530.

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

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

2) Certificates of deposit shall be subject to the following conditions:

A) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

B) The Department shall not accept an individual certificate of deposit in an amount in excess of the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

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

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

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.1530 Forfeiture of Bonds

a) A permittee's failure to comply with the Department's order to plug, replug or repair a well, or to restore a well site, within thirty (30) days of the issuance of such order constitutes grounds for bond forfeiture, pursuant to Sections 6 and 19.1 of the Act [225 ILCS 725/6 and 725/19.1].

b) The Department shall send written notification by certified mail, return receipt requested, to the permittee and the surety on the bond, if any, informing them of the determination to forfeit the bond pursuant to subsection (a) above.

c) The Department may allow a surety to undertake necessary plugging, replugging, repair or site restoration work if the surety can demonstrate an ability to complete such work in accordance with the requirements of the Act. No surety liability shall be released until the successful completion of all plugging, replugging, repair or site restoration ordered by the Department.

d) In the event forfeiture of the bond is warranted by subsection (a), the Department shall afford the permittee the right to a hearing, if such hearing is requested in writing by the permittee within fifteen (15) days after the bond forfeiture notification is mailed in accordance with subsection (b). If the permittee does not request a hearing within the fifteen (15) day period, the Department shall issue a final administrative decision ordering forfeiture. If a hearing is requested by the permittee, the hearing shall be scheduled within fifteen (15) days of the receipt of the request for hearing, and shall be conducted by an impartial hearing officer not employed by the Department.

e) At the bond forfeiture hearing, the Department shall present evidence in support of its determination under subsection (a). The permittee shall present evidence contesting the Department's determination under subsection (a). The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.

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

g) The Director shall review the administrative record in a contested case, in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

Section 240.1600 Definitions

The following definitions are applicable to this Subpart:

"Abandoned Well" means:

A well:

for which the underlying lease has been released in writing by the lessee or has been declared forfeited or invalid by a court order, the

order is final and the appeal period has lapsed; and

the lessor states in writing that the lessor has not leased out the oil and gas working interest to any other person and does not intend to so lease, that the lessor does not intend to operate the well, and that the lessor desires that the well be plugged;

A well owned by a permittee who has made no payment by November 1 of a current annual well fee assessment;

A well for which a bond was forfeited in accordance with Section 6 of the Act;

A well that has not had commercial production in the last 2 years;

A well for which the permit has been revoked in accordance with Section 240.251; or

A well that has been plugged but not restored in accordance with Section 240.1170.

"Commercial Production" means oil and/or gas has been produced and sold from the well.

"Emergency Remediation Project" means an emergency crude oil production facility, crude oil or saltwater spill remediation, or remediation of conditions endangering public health or safety or contaminating surface waters or groundwater, or the surface of the land.

"Emergency Repair Work" means work to repair or contain leaks of produced fluids from production equipment, pits, or other containment structures that are contaminating surface waters or groundwaters or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land.

"Emergency Well Plugging" means the plugging and abandonment of a well or wells that are actively flowing oil or saltwater and are contaminating surface waters or groundwaters or flowing in sufficient quantity to create an increasing area of contamination on the surface of the land, or a well leaking natural gas or hydrogen sulfide gas in sufficient quantity to endanger public safety or create a fire hazard or a non-leaking well that poses an imminent danger to public safety.

"PRF" means the Department's Plugging and Restoration Fund, established under

Section 6 of the Act. Monies from this fund shall be spent in accordance with 44 Ill. Adm. Code 610.

"Well Site Equipment" means the equipment, *including but not limited to an associated tank battery and production facility equipment, hydrocarbons from the well that are stored* in tanks located *on the lease, and hydrocarbons recovered during the plugging operation,* that *may be sold at a public auction or a public or private sale. All well site equipment and hydrocarbons acquired by a person by sale shall be acquired under clear title, subject to any perfected prior legal or equitable claims.* (Section 19.6 of theAct)

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1610 Plugging Leaking or Abandoned Wells

a) If the Department finds, upon inspection, that a well drilled for the exploration, development, storage or production of oil or gas, or for injection, saltwater disposal, saltwater source, observation, and geological or structure test may be abandoned or leaking saltwater, oil, gas or other deleterious substances into any freshwater formation or onto the surface of the land, the Department may schedule a hearing pursuant to Section 19.1 of the Act to order the well plugged if abandoned or repaired or plugged if leaking.

b) Hearings

1) Notice of Hearing
Whenever the Department holds a hearing pursuant to Section 19.1 of the Act, the Department shall give written notice to the permittee personally or by certified mail sent to the permittee's last known address. The notice shall include the date, time, place and nature of the hearing and the name and address of the Hearing Officer. The notice shall be mailed at least 14 days prior to the scheduled hearing date.

2) Permittee Right to Counsel; Appearance

A) Right to Counsel
Any party may appear and be heard through an attorney authorized to practice in the State of Illinois.

B) Appearance of Attorney
An attorney appearing in a representative capacity in any proceeding under this Subpart shall file a written notice of

appearance identifying his or her name, address and telephone number and identifying the party represented.

3) Burden and Standard of Proof
The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.

4) Hearing Officer; Powers and Duties

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

i) To administer oaths and affirmations;

ii) To receive relevant evidence;

iii) To regulate the course of the hearing and the conduct of the parties and their counsel;

iv) To consider and rule upon procedural requests;

v) To hold conferences for the settlement or simplification of the issues; and

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

B) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument that may be relevant to the proceeding.

5) Hearing Location
All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the

Department.

6) Pre-Hearing Conferences

A) Upon the motion of either party, the Hearing Officer shall schedule a conference in order to:

i) Simplify the factual and legal issues presented by the hearing request;

ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

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

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

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

7) Postponement or Continuance of Hearing
A hearing may be postponed or continued for due cause by the Hearing Officer or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuance so that the subject matter of the hearing may be resolved expeditiously.

8) Default
If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of that party. If the failure to appear at the pre-hearing conference or hearing is due to emergency situation beyond the party's control, and the Department

is notified of the situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (b)(7). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the parties' control.

9) Within 30 days after the close of the hearing record, the Hearing Officer shall issue proposed findings of fact, conclusions of law and recommendations as to the disposition of the case.

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

c) Upon the issuance of a final administrative decision that finds that a well has been abandoned or is leaking saltwater, oil, gas or other deleterious substances into any freshwater formation or onto the surface of the land, the permittee shall, within 30 days, properly plug, replug or repair the well so as to remedy the situation.

d) If the permittee fails to remedy the situation within 30 days from the date of the order, the well shall be placed in the PRF Program. A well in the PRF Program shall not be operated unless the Department has approved a transfer of the well or unless the permittee has complied with Section 240.1650 or Section 240.1660.

e) The Department may authorize any person to enter upon the land and plug, replug, or repair the well and restore the well site. The Department may dispose of all well site equipment and hydrocarbons in accordance with Section 19.6 of the Act as follows: public sale, auction, private sale, or by assignment or quit claim deed to a third party to offset plugging costs.

f) Proceeds from any public sale, auction or private sale shall be deposited into the PRF in accordance with Section 6(19) of the Act or used to offset plugging costs.

g) The cost of all work completed under this Section shall be paid from the Annual Well Fee portion of the PRF.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1620 Plugging Orphaned Wells

a) If upon review of Department records a determination is made that no permittee can be located, no bond exists and no fees have been paid in accordance with Section 19.7 of the Act, the well shall be deemed an orphaned well and placed in the PRF Program.

b) The Department may elect to plug, replug or repair the well and/or restore the well site of any orphaned well. The Department may authorize any person to enter upon the land and plug, replug, and restore the well site. The Department may dispose of all well site equipment and hydrocarbons in accordance with Section 19.6 of the Illinois Oil and Gas Act as follows; public sale, auction, private sale, or by assignment or quit claim deed to a third party to offset plugging costs.

c) Proceeds from any public sale, auction or private sale shall be deposited into the Plugging and Restoration Fund in accordance with Section 6(19) of the Illinois Oil and Gas Act or used to offset plugging costs.

d) If the Department determines that any condition or practice exists which creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, the Department or its agent may immediately take any action necessary to temporarily correct the source of oil, salt water, gas or other deleterious substances intrusion into fresh water zones or onto the surface.

e) The cost of all work completed under this Section shall be paid from the bond forfeiture monies portion of the Plugging and Restoration Fund.

(Source: Amended at 22 Ill. Reg. 8845, effective April 28, 1998)

Section 240.1625 Plugging Abandoned Wells Through Landowner Grant

a) The provisions of this Section apply to:

1) Wells determined to be abandoned in accordance with this Subpart P and placed into the Department Plugging and Restoration Program.

2) Abandoned wells and associated well and/or production sites may be eligible to be plugged and sites restored under the Landowner Grant Program upon application to the Department by the owner of the land surface on which a well(s) is located, provided that the land surface owner is not the current or a past permittee of the well(s).

b) All wells plugged and well sites restored under this Section shall be completed in accordance with Subpart K.

c) The number of wells plugged and expenditures made under this program are limited to the annual appropriation of funds to the Landowner Grant Program by the legislature.

d) Each land surface owner is limited to receiving a grant amount for a maximum of 5 wells per fiscal year, unless available funds allow the Department to award increased grant amounts.

e) The Department shall only accept and process grant applications after April 1 for the coming fiscal year. Applications received before April 1 for the coming fiscal year shall be returned to the applicant for submission after April 1. Applications shall be accepted and processed until the allocated funds in the grant program have been awarded, after which time all unawarded grant applications shall be returned to the applicant.

f) Approved applications shall be considered for funding each year in the order they were received after April 1. The exception will be if the Department determines a well is creating or has the potential to create environmental damage to surface waters or groundwater or poses an immediate danger to the health and safety of the public, the well may be given greater priority on the current year's plugging list.

g) Grant applications shall contain at a minimum:

1) The land surface owner's name, address and telephone number.

2) The location of the well(s), with verification from the Department well inspectors.

3) An estimated salvage value of the well and well site equipment.

4) The cost to plug the well and restore the well site.

5) A signed contract between the land surface owner and plugging contractor on a form provided by the Department.

6) A signed statement by the land surface owner that the applicant is the owner of the land surface, will be responsible for all costs of plugging the

well and well site restoration in accordance with Department regulations, and indemnifies the Department from any liability relative to the plugging activity.

h) Application Review and Approval

1) In determining the approval of the application the Department shall review:

A) eligibility of the well to be plugged;

B) the reasonableness of the cost to plug the well;

C) the salvage value of the on-site equipment; and

D) the enforcement history of the proposed plugging contractor.

2) If the Department determines that the well is eligible for plugging, the application is properly completed, the plugging cost and estimated salvage value are reasonable in relation to industry standards, and the plugging contractor has no unabated notices of violation or a substantial enforcement history of environmental related violations, the Department shall notify the landowner of the grant award.

i) Grant Award

1) The grant amount shall be the amount requested less the salvage value specified in the grant application or established by the Department during the grant review process.

2) The land surface owner shall be notified of the grant award at which time the applicant shall have 10 working days to accept in writing by signing and returning the grant award document.

3) Upon completion of the well plugging and site restoration, approved by a well inspector, the Department shall forward the grant funds to the land surface owner. If the well plugging and site restoration is not approved, grant funds will not be awarded.

4) All well plugging and well site restoration activities shall be completed by June 30 of the fiscal year in which the grant was approved unless the grant funds are automatically re-appropriated for the next fiscal year.

(Source: Added at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.1630 Emergency Well Plugging, Emergency Repair Work, Emergency Projects

a) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act, this Part or any permit condition, and this practice, condition or violation creates an imminent danger to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property, the Department shall issue a cessation order pursuant to Section 240.186 of this Part to the last known permittee of record or the permittee responsible for the condition in accordance with Sections 240.870 and 24.875 of this Part. If the responsible party cannot be readily located or refuses to abate the violation after written notification or is no longer in existence, the Department is not required to issue a cessation order and may take any action deemed necessary to correct the condition.

b) Upon the expiration of time within which abatement was required under the cessation order, if issued, the Department may take any action, including well and facility repair, well plugging, well site restoration, facility remediation, or emergency remediation, deemed necessary to cause a cessation of the danger to the public health and safety or environmental harm and abatement of any condition.

c) The cost of all emergency well plugging, emergency repair work and emergency remediation projects completed under this Section shall be paid from the Annual Well Fee portion of the Plugging and Restoration Fund. Permittees or responsible parties for which funds were expended under this Section shall be required to reimburse the Plugging and Restoration Fund for all the expenditures.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.1635 Emergency Well Plugging and Emergency Project Reimbursement

a) If the Department determines that any condition or practice exists, as specified in Section 240.1630 of this Part, endangers the waters of the U.S. as a result of a crude oil spill or indicates the potential for a crude oil spill in accordance with the Federal Oil Pollution Act of 1990 (OPA), the Department may seek reimbursement of monies expended from the Plugging and Restoration Fund from the Federal Oil Pollution Act (OPA) Fund in accordance with USEPA guidelines.

b) Reimbursement funds shall be deposited in the Plugging and Restoration Fund.

(Source: Amended at 22 Ill. Reg. 8845, effective April 28, 1998)

Section 240.1640 Repayment of Funds

a) The permittee must reimburse PRF for all funds expended from the PRF, excepting OPA reimbursed monies, for repair, plugging, restoration or remediation work on the permittee's wells or sites, together with all interest accrued, as provided under Section 19.9 of the Act.

b) Prior to repayment of all expended funds, the permittee shall not operate any other existing wells.

c) If funds were expended to plug wells, the permittee shall be required to post a bond for all unplugged wells in the permittee's name in an amount in accordance with Section 240.1500(a)(2) for a period of 2 consecutive billing cycles, in accordance with Section 240.1500(a)(4)(C). The permittee shall not operate or permit any wells until the required bond has been posted with the Department.

d) If funds were expended to repair a well or production facility, restore a well site or perform remediation resulting from a leak or spill, the permittee shall have 90 days from the date of demand for reimbursement of the expended funds. If reimbursement is not received within 90 days, the permittee shall be required to post a bond for all unplugged wells in the permittee's name in an amount in accordance with Section 240.1500(a)(3) for a period of 2 consecutive billing cycles, in accordance with Section 240.1500(a)(5)(C). The permittee shall not operate or permit any wells until the required bond has been posted with the Department.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1650 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Abandonment

a) A permittee shall not work on, operate or produce any of its wells or facilities that have been placed into the PRF Program without first obtaining temporary relief through the Department's final administrative decision placing the wells and facilities into the PRF Program.

b) A permittee's application to the Department for temporary relief from the Department's final administrative decision placing its wells or facilities in the PRF Program shall contain the following information on a lease by lease basis:

1) A list of all the wells and facilities in the PRF Program on the lease;

2) A plan of action for each well on the lease (e.g., production, injection, plug or temporarily abandon);

3) A plan to bring the wells and facilities on the lease into full compliance with the Act and this Part;

4) The date by which all work bringing the wells and facilities on the lease into full compliance will be completed;

5) Either a new base lease or a copy of a valid lease, along with lease ratifications by the current mineral owners signed within the last 180 days affirming the permittee's existing lease is valid. Lease ratifications shall include the mineral owner's name, address, signature, date, and the name and legal location of the lease;

6) Certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record, and/or any statute or regulation, to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D;

7) Payment of a non-refundable administrative fee of $250 per well for each well the permittee is requesting to remove from the PRF Program, made payable to the Illinois Department of Natural Resources/Plugging and Restoration Fund; and

8) A request to authorize the permittee's access to the lease for the purpose of implementing the proposed plan of action so the wells and facilities can be brought into full compliance and, upon Department approval, removed from the PRF Program.

c) The Department shall approve or deny the application for temporary relief from the Department's final administrative decision placing the wells and facilities in the PRF Program. If the application is approved, the Department shall request that the Hearing Officer issue an Order granting temporary relief. If, however, upon review of the application for temporary relief, the Department determines that property rights or environmental or public safety and welfare will be adversely affected, the proposed plan of action does not meet the requirements of the Act or this Part, the time proposed by the permittee to complete the required

work is deemed to be excessive, or the permittee owes the Department civil penalties, annual well fees or funds expended from the PRF Program, the application shall be denied.

d) All Hearing Officer Orders granting temporary relief to permittees to work on, operate and produce wells and facilities in the PRF Program shall subject permittees to the following terms and conditions:

1) All work required to bring the wells and facilities on the lease into full compliance with the Act and this Part shall be completed in accordance with the plan of action submitted by the permittee with the application for temporary relief and by the date specified in the Hearing Officer's Order.

2) All wells, facilities and hydrocarbons on the lease shall remain in the PRF Program until:

A) All wells and facilities on the lease have been inspected by the Department and are in compliance with the Act and this Part;

B) The Department has modified or vacated the final administrative decision that placed the wells and facilities into the PRF Program; and

C) The Department has removed the wells and facilities from the PRF Program.

3) No equipment or hydrocarbons may be removed or sold from the lease until the Department has removed the wells and facilities on the lease from the PRF Program.

e) The Hearing Officer may approve or deny any request or motion for an extension of time to complete the work required to bring the wells and facilities on the lease into compliance with the Act and this Part. When determining to approve or deny a request for an extension of time to complete the required work, the Hearing Officer will consider factors including, but not limited to, the permittee's diligence in completing the work since the issuance of the Order granting temporary relief, weather conditions, amount and type of work still remaining to be completed in accordance with the plan of action, amount and type of work completed, number of wells and facilities involved in the work, and conditions beyond the permittee's control.

f) Any work performed on the wells or facilities on the lease is solely at the permittee's own expense and risk. If all work required to bring the wells and facilities on the lease into compliance with the Act and this Part is not completed by the date specified in the Hearing Officer's Order, or the Hearing Officer's Order is revoked, the Order including authorization to access the lease shall terminate and the permittee is required to abandon the lease, leaving any equipment, improvements and hydrocarbons on the lease. Any equipment, improvements and hydrocarbons shall be placed into the PRF Program and disposed of by the Department in accordance with Section 240.1610(e).

g) If, after a hearing on the matter, the Hearing Officer determines that a permittee failed to comply with the terms and conditions of the Hearing Officer's Order granting temporary relief from the Department's final administrative decision or violated the requirements of the Act or this Part on the leasehold that is the subject of the Order, the Hearing Officer shall revoke the order granting temporary relief.

h) If the permittee completes all work required to bring the wells and facilities on the lease into compliance with the Act and this Part pursuant to the terms and conditions of the Hearing Officer's Order to work on, operate or produce wells and facilities in the PRF Program, the permittee shall notify the Department of the completion of the work. Upon notification, the Department shall, within 30 days, make an inspection of the wells and facilities on the lease to determine compliance with the Act and this Part. Upon an inspection indicating that the wells and facilities are in compliance with the Act and this Part, the Hearing Officer shall, within 30 days, modify or vacate the final administrative decision that placed the wells and facilities into the PRF Program and notify the permittee in writing that the wells and facilities have been removed from the PRF Program.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1660 Authorization for a Permittee to Operate Their Wells Placed into the Plugging and Restoration Fund Program for Non-payment of Annual Well Fees

a) A permittee shall not work on, operate or produce any of its wells or facilities that have been placed into the PRF Program because of delinquent payment of annual wells fees until the wells and facilities have been removed from the PRF Program by the Department.

b) The permittee shall pay to the Department all delinquent annual well fees and all associated civil penalties assessed as a result of the delinquent annual well fees and payment of a non-refundable administrative fee of $250 per well for each of

the permittee's wells in the PRF Program, made payable to the Illinois Department of Natural Resources/Plugging and Restoration Fund, before the Department may remove any of the wells and facilities from the PRF Program.

c) Within 60 days after receipt by the Department of payment in full of all delinquent annual well fees, associated civil penalties and non-refundable fees, the Department's Hearing Officer, on his or her own motion, shall modify or vacate the final administrative decision that placed the wells and facilities into the PRF Program and notify the permittee in writing that the wells and facilities have been removed from the PRF Program.

(Source: Added at 35 Ill. Reg. 13281, effective July 26, 2011)

SUBPART Q: ANNUAL WELL FEES

Section 240.1700 Fee Liability

a) The Department shall assess annual well fees during each fiscal year for all permits of record as of July 1, including wells reported to be transferred pursuant to Subpart N but not yet approved for transfer by the Department. The permittee for each well is responsible for paying the full assessed amount.

b) The permittee will be assessed annual well fees until:

1) the well or wells under permit to the permittee are plugged and restored;

2) the well or wells have been transferred to a new permittee pursuant to Subpart N. The effective date of transfer will be the date stated on the Department's Notification of Transfer Form;

3) the permittee notifies the Department in writing that a well for which the permittee has a valid permit has not been drilled and the permittee requests that the permit be cancelled; or

4) the permittee has been determined to be an uncollectable entity for a previous Annual Well Fee Assessment by the Illinois Attorney General's Office or Department staff.

c) Liability for assessed annual well fees does not cease until full payment is received by the Department or until a Department-approved reduced payment is received by the Department.

d) If a permittee fee check is returned due to insufficient funds or because payment, was stopped, the permittee is required to repay fees for that fiscal year by cashier's check or money order.

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.1705 Amount of Assessment

Well fees shall be assessed for total permits issued to the permittee as of July 1 of each year as follows:

a) $100 per well for the first 100 wells attributed to each permittee;

b) $75 per well for any wells in excess of 100 wells attributed to each permittee.

(Source: Amended at 46 Ill. Reg. 20013, effective January 1, 2023)

Section 240.1710 Annual Permittee Reporting

a) Permittees are required to submit, on a form prescribed by the Department, an annual verification of address and status. The address submitted under this Section will be used by the Department to provide notice of any hearings or other proceedings under the Act or this Part.

b) The form shall contain the permittee's:

1) current address;

2) verification of well ownership;

3) type of business entity and supporting documentation;

4) FEIN, or Social Security Number if an individual; and

5) names and addresses of principals, officers or owners.

c) Forms shall accompany the Annual Well Fee payment and shall be submitted by September 1 of each year.

d) Authority of Person Signing Forms

1) If the permittee is a sole proprietor, the form shall be signed by the

individual. If the permittee is a partnership, the form shall be signed by a general partner. If the permittee is a corporation, the form shall be signed by an officer of the corporation.

2) In lieu of the signature of the permittee, the form may be signed by a person having a power of attorney to sign for the permittee, provided a certified copy of the power of attorney is on file with the Department or accompanies the form.

e) If a permittee did not submit an annual verification of address and status form during the most recent annual fee payment period, a reporting form is required at the time of all well permit and transfer requests.

f) Permittees shall submit to the Department any address changes within 30 days after the effective date of the change in address, on a form prescribed by the Department. Permittee shall ensure that any mail sent to the previous address is forwarded to the new address between the effective date of the change of address and the Department's notification of the change.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1720 When Annual Well Fees are Due

Annual well fees shall become due on September 1 of each year and shall be deemed delinquent if not paid by November 1 of each year. The Department may cease mailing the annual well fee bill to a permittee if those fees have been unpaid for 3 consecutive years. However, the permittee may not thereafter operate, permit or transfer wells within the State of Illinois without first paying all delinquent fees and associated civil penalties and submitting a bond in accordance with Subpart O.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1730 Opportunity to Contest Billing

a) Permittees may contest the amount of fees or the wells for which the permittee is listed as the permittee of record as of July 1 by submitting a written objection to the billing on or before October 30 of each year. The objection must be accompanied by the full assessed amount.

b) The objection must be in writing, signed by the permittee, or by an individual authorized to sign for the permittee, and must identify the nature of the objection.

The written objection must include a statement of the facts supporting the objection and copies of any relevant assignments or other title documents.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)

Section 240.1740 Delinquent Permittees

Fees not received by November 1 of each year, shall be deemed delinquent and the wells covered by the fees shall be determined to be abandoned in accordance with Section 240.1600 and subject to plugging in accordance with Section 240.1610.

(Source: Amended at 19 Ill. Reg. 10981, effective July 14, 1995)

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS AND FOR GAS STORAGE AND OBSERVATION WELLS

Section 240.1800 Applicability

The provisions of this Subpart apply to the design, installation, testing, construction, extension, replacement, maintenance, groundwater protection requirements and operating requirements of Underground Gas Storage Fields; the drilling and conversions of gas storage and observation wells in an Underground Gas Storage Field, and permitting requirements in Underground Gas Storage Fields for oil and gas production and Class II wells covered by Subparts B and C and Test Wells covered by Subpart L. This Subpart shall apply to the downhole portion of an underground natural gas storage facility.

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1805 Definitions

"Act", for the purposes of this Subpart, means the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160].

"Downhole" means the portion of an underground natural gas storage facility from the first flange attaching the wellhead to the pipeline equipment and continuing down the well casing to and including the storage reservoir. (Section 5 of the Act)

"Emergency Abatement Order" or "EAO" means an order issued by the Department under Subpart H.

"Fault" means a fracture surface or zone of fractures in Earth materials along

which there has been vertical and/or horizontal displacement or movement of the strata on opposite sides relative to one another.

"Fluid" means any material or substance that flows or moves, whether semisolid, liquid, gas, or steam.

"Gas Storage Operator", "Operator" or "Owner" means any entity that owns or operates an underground gas storage field.

"Gas Storage Well" means a well drilled for input and/or withdrawal of natural gas or manufactured gas in a gas storage field.

"Natural Gas Incident" or "Incident" means an event that involves a release of stored natural gas from the downhole portion of an underground natural gas storage facility located in this State that:

results in the unintentional estimated gas loss of 3,000,000 cubic feet or more;

results in the unintentional estimated gas loss of 500,000 cubic feet or more that occurs within ⅛ mile of a dwelling used as a residence, place of business, or place of public assembly;

results in death;

causes personal injury necessitating in-patient hospitalization;

causes property damage in excess of $50,000; or

results in an emergency shutdown of an underground natural gas storage facility.

Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

"Observation Well" means a well drilled to monitor subsurface conditions in oil and gas projects or gas storage fields.

"Person" means an individual, firm, joint venture, partnership, corporation, company, limited liability company, firm, association, municipality, cooperative association, or joint stock association. "Person" includes a trustee, receiver, assignee, or personal representative of the person. (Section 5 of the Act).

"Produced Fluid" means liquids regardless of chloride and total dissolved solids content, that is produced in conjunction with oil or natural gas production or natural gas storage operations.

"Release" means the escape of natural gas from an underground natural gas storage facility, regardless of whether the escape is underground or to the atmosphere.

"Secretary of Transportation" means the U.S. Secretary of Transportation or his or her designee.

"Sole Source Aquifer" means an aquifer that:

is the sole or principal drinking water source for an area; and

if contaminated, would create a significant hazard to public health as defined in 42 USC 300h-3(e) and further defined in the Sole Source Aquifer Designation Decision Process, Petition Review Guidance (USEPA; 1987; this incorporation by reference includes no later editions or amendments).

"Stored Natural Gas" means natural gas that is:

transported by pipeline into an underground natural gas storage facility for the purpose of storage prior to transmission back to the pipeline; and

stored within the underground gas storage field.

"Underground Natural Gas Storage Facility" means a facility that stores natural gas in an underground natural gas storage field incident to natural gas transportation, including:

a depleted hydrocarbon reservoir;

an aquifer reservoir;

a solution-mined salt cavern reservoir; and

associated material and equipment used for injection, withdrawal, monitoring, or observation wells, and wellhead equipment, piping, rights-of-way, property, buildings, compressor units, separators, metering

equipment, and regulator equipment.

An underground natural gas storage facility is subject to regulation by the Illinois Department of Natural Resources and has not been preempted by the United States Government pursuant to 49 USC 60104(c).

"Underground Gas Storage Field" means an area of land that is contained within the lowest closing structural contour for which gas can be stored in a subsurface stratum.

"Violation" means a failure to comply with any provision of the Act or any Department order or rule under the Act. (Section 35 of the Act)

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1810 Submission of Underground Gas Storage Field Map

a) Each gas storage operator shall submit to the Department, by January 1, 2020, a map for every underground gas storage field in operation on October 15, 2019. For an underground gas storage field that was not in operation on October 15, 2019, the gas storage operator shall submit its map within 90 days following the start of operations.

b) All maps required to be filed with the Department pursuant to subsection (a) shall include:

1) The lowest closing contour at which gas can be stored;

2) The area of land currently under a valid lease or storage rights agreement, including the top and bottom depths of the lease;

3) Any protective boundaries established by a governmental agency; and

4) Any known faults located in the storage area.

c) All maps submitted to the Department shall be updated by the operator within 30 days after discovery by the operator that there has been a change to any item required by subsection (a).

d) Upon written request to the Department, the information listed in subsection (a) will be considered proprietary information and shall be held confidential.

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1820 Permit Requests in a Underground Gas Storage Field

a) When the proposed location to drill, deepen, convert or amend an oil or gas production or Class II well, as defined in Subparts B and C, or a test hole, as defined in Subpart L, occurs within the limits of an underground gas storage field, or within any protective boundary shown on the gas storage operators map submitted to the Department, a permit shall not be issued until the applicant complies with subsection (a)(1) or (2):

1) The applicant enters into an agreement with the gas storage operator, outlining safety precautions and well drilling, completion, operating and plugging specifications. The agreement shall be signed by the applicant and the gas storage operator and shall be submitted with the permit application.

2) The applicant submits a copy of an agreement previously reached with the gas storage operator that governs the relationship between the applicant and the gas storage operator with respect to safety precautions and well drilling, completion, operating and plugging issues. The agreement must be in full effect and cover the proposed drilling location.

3) If an agreement cannot be reached after the applicant has exercised due diligence in negotiations, the applicant shall notify the gas storage operator of the proposed location and depth of the well by certified mail, return receipt requested. The certified mail receipt shall be attached to the permit application. If a written objection is not received by the Department within 15 days after the date of receipt, the permit shall be issued, subject to the fulfillment of all other requirements for the issuance of a permit under this Part, the Act, or the Illinois Oil and Gas Act. If a written objection to the application is filed with the Department within 15 days after receipt of the notice of application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a question regarding public safety, resource ownership or sufficiency of application, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

b) Administrative Hearing

1) Any hearing held pursuant to this Section shall be a formal hearing

conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.

2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the notice by U.S. Mail, postage prepaid, addressed to their last known home or business addresses.

3) A certified court reporter shall record the hearing at the Department's expense.

4) A Hearing Officer designated by the Department shall conduct the hearing. The Hearing Officer shall allow all parties at the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determines the evidence is irrelevant, immaterial, unduly repetitious, or of such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.

5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.

6) Within 30 days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

7) All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1830 Application for Permit to Drill or Convert Wells

a) No person shall drill or convert a well covered by this Subpart without a permit from the Department.

b) Application for a permit to drill or convert an observation or gas storage well shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the nonrefundable fee of $300 and the bond required under Subpart O.

(Source: Amended at 38 Ill. Reg. 18717, effective August 29, 2014)

Section 240.1835 Contents of Application for Permit to Drill or Convert to an Observation or Gas Storage Well

The application for a permit shall include:

a) the name of the well;

b) the surveyed well location, the GPS latitude and longitude location, and ground elevation of the well. All GPS locations shall be recorded as degrees and minutes with the minutes recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement. All well locations shall be surveyed by a registered Illinois Land Surveyor or an Illinois Registered Professional Engineer. A survey is not required for a converted or deepened well or a drilled out plugged hole if the original well location was surveyed;

c) a brief statement of the purpose of the well and a schematic showing the proposed construction of the well;

d) certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record and/or any statute or regulation, to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D;

e) a statement as to whether the proposed well location is within the limits of any incorporated city, town, or village (and a certified copy of the official consent of the municipal authorities if the well is within the corporate limits);

f) the name and address of the drilling contractor and the type of drilling method to be used;

g) a statement whether the well is located over an active mine or temporarily abandoned mine, or within the undeveloped limits of a mine, and whether the coal rights are owned by someone other than the lessor under the oil and gas lease;

h) the proposed depth of the well and the name of the lowest geologic formation to be penetrated; and

i) an email address by which the gas storage operator may be served with a notice of probable violation of the Act. All such email addresses shall be updated by the gas storage operator or person authorized to sign for the gas storage operator within 3 days after any email address becoming inactive or unmonitored. Any application not containing an email address for the owner or gas storage operator will be denied by the Department.

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1840 Authority of Person Signing Application

a) All applications for gas storage, observation and service wells shall identify whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.

b) If the applicant is an individual, the application shall be signed by the individual. If the applicant is a partnership, the application shall be signed by the general partner. If the applicant is a corporation, the application shall be signed by an officer of the corporation.

c) In lieu of the signature of the applicant or such authorized persons, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney accompanies the application.

d) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the state of Illinois.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1850 Issuance of Permit

a) If the applicant satisfies the requirements of the Illinois Oil and Gas Act, the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant if:

1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;

2) the applicant has failed to abate a violation of the Illinois Oil and Gas Act or the Act as specified in a final administrative decision of the Department;

3) an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5%, was or is an officer, director, partner, agent, power of attorney or person with an interest exceeding 5% in another entity that failed to abate a violation of the Illinois Oil and Gas Act or the Act as specified in a final administrative decision of the Department;

4) the applicant was or is an officer, director, power of attorney, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Illinois Oil and Gas Act or the Act as specified in a final administrative decision of the Department;

5) funds have been expended and remain outstanding from the Plugging and Restoration Fund (PRF) to plug wells (see Subpart P) for which the applicant was a previous permittee; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

6) the applicant is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer director, agent, power of attorney, partner, or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.

c) Gas storage, observation and other service well permits shall expire 1 year from the date of issuance unless acted upon by the commencement of drilling or converting operations authorized by the permit.

d) Gas storage, observation and other service well permits are not transferable prior to the drilling of the well or test hole.

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1851 Gas Storage and Observation Well Safety, Construction, and Operating Requirements

a) All underground natural gas storage facilities and gas storage operators shall comply with the safety standards adopted by the Secretary of Transportation under 49 USC 60141 and 49 CFR 192.12. These standards are in addition to and supplement any other standards in this Part.

b) The standards adopted under 49 USC 60141 and 49 CFR 192.12 shall apply to the design, installation, inspection, testing, construction, extension, operation, replacement, conversion, and maintenance of underground natural gas storage facilities. These standards are in addition to and supplement any other standards in this Part.

c) Wells shall, at a minimum, be constructed in accordance with Section 240.610(a).

d) All applicable facilities in a storage field and general storage field operation shall be conducted in accordance with Subpart H.

e) Wells shall be subject to the operating requirements of Section 240.630(a), (b) and (c) and the leaking well provisions of Section 240.1610. Production of hydrocarbon from a well permitted as an observation well is prohibited until a permit is obtained to convert the well to a production well under Section 240.210.

f) If there is a conflict between 49 USC 60141, 49 CFR 192.12 and any provision of this Part, the more stringent rule shall control.

(Source: Section 240.1851 renumbered from Section 240.1852 and amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1852 Inspection and Maintenance Plan

a) In addition to Section 240.640, every gas storage operator shall file with the Department a plan for inspection and maintenance of the downhole portion of each underground natural gas storage facility owned or operated in whole or in part in the State of Illinois.

b) All plans must be submitted by December 1 annually for the succeeding year.

(Source: Former Section 240.1852 renumbered to Section 240.1851; new Section 240.1852 added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1853 Gas Storage and Observation Well Records and Reporting Requirements

a) *A person who operates an underground natural gas storage facility shall:*

1) *after the date any applicable safety standard established under the Act takes effect, comply with the requirements of that standard at all times;*

2) *file and comply with the plan of inspection and maintenance required by Section 20;*

3) *keep records, make reports, provide information, and permit inspection of that person's books, records, and facilities as the Department reasonably requires to ensure compliance with the Act and this Subpart R; and*

4) *file with the Department, under this Section, reports of all accidents involving or related to the downhole portion of an underground natural gas storage facility.* (Section 25 of the Act)

b) Records. All underground natural gas storage facilities and gas storage operators shall maintain, for the life of the underground natural gas storage facility:

1) the reports required by Section 240.640;

2) a report of all intentional or unintentional natural gas releases greater than 500,000 cubic feet. These records shall include, at a minimum:

A) the underground natural gas storage field where the release occurred;

B) the origin and extent of the release, including the name and location of the well;

C) the cause of the release; and

D) any corrective action taken by the gas storage operator to address the release or an explanation why corrective action was not taken; and

3) a quarterly loss estimate of gas migrating from a storage formation.

c) Reporting. All underground natural gas storage facilities and gas storage operators shall submit to the Department:

1) the reports required by Section 240.640;

2) within 24 hours after an incident is discovered by the operator, reports of all natural gas incidents involving or related to the downhole portion of an underground natural gas storage facility;

3) unless otherwise directed by this Part, a report of all natural gas releases greater than 500,000 cubic feet. This report is to be filed with the Department by the 10th of every month for the previous month. This report shall indicate:

A) the underground natural gas storage field where the release occurred;

B) the origin and extent of the release, including the name and location of the well;

C) the cause of the release; and

D) any corrective action taken by the gas storage operator to address the release or an explanation why corrective action was not taken; and

4) a quarterly report of the loss estimate of gas migrating from a storage formation for each underground natural gas storage facility.

d) Confidentiality. All reports required under this Section are subject to the confidentiality provisions of Section 240.650.

e) If not previously provided pursuant to Section 240.1835(m), all gas storage operators shall provide to the Department an email address by which the gas storage operator may be served with a notice of probable violation. All such email addresses shall be updated by the gas storage operator or person authorized to sign for the gas storage operator within 3 days after any email address becomes inactive or unmonitored.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1854 Notice of Probable Violation, Complaints, Hearings and Civil Penalties

When an inspector or authorized employee or agent of the Department determines, after investigation, that any permittee, or any person engaged in conduct or activities required to be permitted under the Act, is in violation of any requirement of the Act, the Illinois Oil and Gas Act, or this Part, or any permit condition, or has falsified or otherwise misstated any information on or relative to the permit application, a notice of probable violation shall be completed and delivered to the Director.

a) *A notice of probable violation shall include:*

1) *the date the notice of probable violation was issued and served;*

2) *a description of the violation or violations alleged, including a citation of the specific Section of the Department's rules or Section of the Act alleged to have been violated;*

3) *the date and location of the safety incident, if applicable, related to each alleged violation;*

4) *a detailed description of the circumstances that support the determination of each proposed violation;*

5) *a detailed description of the corrective action required with respect to each proposed violation;*

6) *the amount of the penalty, if any, recommended with respect to each proposed violation;*

7) *the applicable recommended deadline for payment of each proposed penalty and completion of each proposed corrective action;*

8) *notification that any such recommended deadline may be extended by mutual agreement of the parties for the purpose of facilitating settlement or compromise; and*

9) *a brief description of the procedures by which any recommended penalty or proposed corrective action may be challenged at the Department or approved pursuant to Section 30(f) of the Act.* (Section 35 of the Act)

b) Unless otherwise specified in this Subpart, all notices of violations, Director's Decisions or hearing shall be created or conducted pursuant to Subpart A.

c) Failure of the owner to timely request a hearing within 30 days after notice or, if a civil penalty has been assessed, to timely tender the assessed civil penalty to the Department shall constitute a waiver of all legal rights to contest the notice of probable violation, including the amount of the civil penalty.

d) Any underground natural gas storage facility or gas storage operator that violates the Act or this Part regarding an underground natural gas storage facility is subject to a civil penalty not to exceed the maximum penalties established by 49 USC 60122(a)(1) for each day the violation persists.

e) Whenever the Department is required to serve upon a gas storage operator a notice of probable violation, the Department shall give that notice:

1) personally;

2) by first class U.S. Mail sent to the operator's last known address; or

3) by email sent to the email address filed with the Department (see Section 240.1835 or 240.1853).

f) Any notice of probable violation issued and served as described in this Section may also be posted on the Department's website as a public document.

g) All such notices of probable violation sent to the gas storage operator by email shall be deemed to be served on the gas storage operator once the notice is sent by the Department to the most recent email address that has been submitted to the Department.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1855 Civil Complaint

a) The Department may elect to request the Attorney General to file an action with or without issuing a notice of probable violation pursuant to Section 240.1854.

b) In accordance with Section 11 of the Illinois Oil and Gas Act, the Department, through the Attorney General, shall bring an action in the name of the People of the State of Illinois in the circuit court of the county in which any part of the land or any activity that is the subject matter of the action is located, or a final administrative order was entered, to restrain that person from continuing the violation or from carrying out the threat of violation. In such action, the

Department, in the name of the People of the State of Illinois, may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, or other enforcement orders, as the facts may warrant, including but not limited to:

1) an assessment of civil penalties;

2) submission of a bond in accordance with Subpart O; or

3) denial of new drilling and/or operating permits.

c) This Section applies to the following:

1) violations of any requirement of the Act that the Department determines creates a substantial and imminent danger to the health or safety of the public;

2) violations of the Act that pose an imminent danger of substantial environmental harm or cause environmental damage to property or contamination of surface or ground waters of the State as a result of improper disposal, release or discharge of produced fluid or fluid; or

3) the permittee has shown a pattern of documented events involving improper disposal, release, or discharge of produced fluids or fluids within the previous 2 years from the date of the most recent event.

(Source: Former Section 240.1855 renumbered to Section 270.1862; new Section 240.1855 added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1856 Determination of Penalty

a) *In determining the amount of the penalty, the Department shall consider the standards set forth in 49 USC 60122(b).* (Section 30 of the Act) The Director shall determine whether to assess civil penalties based on the factors set forth in subsection (b).

b) In determining the amount of a civil penalty:

1) the Department shall consider:

A) the nature, circumstances and gravity of the violation, including adverse impact on the environment;

B) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business; and

C) good faith in attempting to comply.

2) the Department may consider:

A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

B) other matters that justice requires.

c) Penalty Range. All civil penalties issued under the Act shall not exceed the maximum penalties established by 49 USC 60122(a)(1) for each day of the violation.

d) All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund.

e) Upon further investigation, the Department may enter into a compromise agreement.

1) A compromise agreement may be issued to:

A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the notice of probable violations;

B) reduce the civil penalty assessed in the notice of probable violation; or

C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.

2) An amended notice of probable violation shall be issued to:

A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the notice of probable violation; or

B) reduce the civil penalty assessed in the notice of probable violation.

3) An amended notice of probable violation shall be issued to correct an administrative error contained in the notice of probable violation.

4) The permittee shall have no right to hearing associated with the issuance of an amended notice of probable violation, but shall have a right to hearing on the underlying violation that the amended notice of probable violation is seeking to enforce.

f) If the notice of probable violation includes the assessment of a civil penalty, and the person or permittee named in the notice of probable violation does not request a hearing in accordance with Section 240.1858 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the notice of probable violation.

g) All civil penalties or compromise agreements shall be submitted to the Director for approval, pursuant to Section 30 of the Act.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1857 Director's Approval of Penalty or Agreed Compromise

Upon receipt of a notice of penalty or compromise, the Director shall conduct an investigation and may affirm, or enter into a hearing concerning, the propriety of the applicable notice of probable violation, payment or compromise.

a) The Director must consider:

1) the nature, circumstances and gravity of the violation, including adverse impact on the environment;

2) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business; and

3) good faith in attempting to comply.

b) The Director may consider:

1) the economic benefit gained from the violation without any reduction because of subsequent damages; and

2) other matters that justice requires.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1858 Enforcement Hearings

a) *The person charged in the applicable notice of probable violation shall have 30 days from the date of service of the notice of probable violation to request a hearing*. (Section 35 of the Act) A gas storage operator seeking to contest any notice of probable violation in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashier's check or money order, together with a timely request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount shall be refunded to the gas storage operator at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Department's office located in Springfield, Illinois.

b) Upon receipt of a request for hearing submitted in accordance with subsection (a), the Department shall provide an opportunity for a formal hearing upon not less than 5 days written notice mailed to the permittee or person submitting the hearing request. The hearing shall be conducted by a Hearing Officer designated by the Director and shall be conducted in accordance with the following procedures:

1) Pre-Hearing Conference

A) A pre-hearing conference shall be scheduled within 30 days after the request for hearing:

i) to define the factual and legal issues to be litigated at the administrative hearing;

ii) to determine the timing and scope of discovery available to the parties;

iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify, and a summary of the testimony of each witness;

iv) to schedule a date for the administrative hearing; and

v) to arrive at an equitable settlement of the hearing request, if possible.

B) Pre-hearing conferences under this Section may be conducted via telephone conference if that procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at the place designated by the Hearing Officer.

C) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders, and motions for orders compelling discovery. The Department's Hearing Officer shall render an order granting or denying motions filed within 15 days after service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision, subject to Section 10-50 of the Administrative Review Law [5 ILCS 100/Art. III].

2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of probable violation was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the DNR Director and shall constitute the Department's final administrative decision as to matter being contested.

3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield to the production and/or injection/disposal well identified in the Director's decision being contested if facilities are available, convenient and satisfactory to the Department.

4) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the notice of probable violation at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or

permittee shall have the right to challenge the Hearing Officer if the person or permittee believes the Hearing Officer is prejudiced against him or her or has a conflict of interest. If the Hearing Officer disqualifies himself or herself, the Director shall designate a new Hearing Officer. The Hearing Officer shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.

5) The Director shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. Within 30 days after the close of the hearing record or expiration of the time to request a hearing, the Director shall issue a final administrative decision.

c) *Failure of the person or permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty shall constitute a waiver of all legal rights to contest the notice of probable violation, including the amount of any civil penalty*. (Section 35 of the Act)

d) If, at the expiration of the period of time originally fixed in the notice of probable violation or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order abatement of the operations or the portions of the operation relevant to the violations.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1859 Emergency Abatement Orders

a) The Department may issue an emergency abatement order requiring the abatement of a violation of this Part, the Act, or the Oil and Gas Act that is creating an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property at a gas storage operation, with or without issuing a notice of probable violation under Section 240.1854.

b) Before the issuance of an EAO, the Department shall:

1) Attempt to contact the operator and inform it of a condition, practice or violation that is creating an imminent danger to the health or safety of the

public, or an imminent danger of significant environmental harm or significant damage to property.

2) Attempt to resolve the condition, practice or violation with the operator within a timeframe set by the Department that takes into consideration the seriousness of the situation, the disruption, if any, to the natural gas utility customers, and the likelihood of a quick resolution.

3) Communicate and work cooperatively, as appropriate, with the Illinois Commerce Commission or any other entities in federal and State government in the resolution of the condition, practice or violation. Pursuant to the Act, the Department will at all times exercise its sole jurisdiction over the downhole portion of the underground natural gas storage facility.

c) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act, this Part or any permit condition, and that the condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, and after the Department has complied with subsection (b), the Director of the Department's Office of Oil and Gas Resource Management (OOGRM) may issue an EAO. The EAO shall be for the abatement, in whole or in part, of the condition, practice or violation.

d) An EAO shall include:

1) The date the EAO was issued.

2) The specific portion of the gas storage operation that is the subject of the EAO.

3) A description of the condition, practice or violation that is creating an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property.

4) The date and location of the condition, practice or violation.

5) A detailed description of the circumstances that support the issuance of an EAO.

6) The timeframe in which required corrective action must be completed.

7) The date, location and procedures for the hearing that shall be held pursuant to subsection (h).

8) Notice to the operator of the right to request a temporary relief hearing under Section 240.1860.

e) The Department will immediately notify the Illinois Commerce Commission upon the issuance of an EAO.

f) If a responsible party cannot be readily located, in the judgment of the OOGRM Director, or fails, within the time frame specified in the EAO, to correct the condition endangering the public health, safety or environment, the OOGRM Director may order any Department agent or employee to take any action the OOGRM Director deems necessary to cause an abatement of the condition, practice or violation.

g) Notice of the EAO shall be served by personal delivery to the person or gas storage operator named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or gas storage operator as soon as is practicably possible but in no event later than 5 days after its issuance.

h) The EAO shall contain a date for a hearing that shall be held within 15 days after the issuance of the EAO. The hearing shall be conducted by a Hearing Officer, designated by the Director, held in the Department's office in Springfield, Illinois, and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. If a settlement agreement is entered into at any stage of the hearing process, the person to whom the EAO was issued will be deemed to have waived all right to further review, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the DNR Director and shall constitute the Department's final administrative decision as to the matter being contested.

i) The EAO shall also provide that the person or gas storage operator named in the order has the right to a temporary relief hearing, within 5 days after a request for a temporary relief hearing is served upon the Department, in accordance with Section 240.1860. The EAO shall be considered served when personally delivered to the person or gas storage operator named in the order or when the cessation order is mailed by certified mail, return receipt requested, to the person or permittee at his or her last known address.

j) The EAO hearing shall be held to determine whether the person or gas storage operator has complied with the EAO. The Department shall have the burden of proving the facts of the violation alleged in the EAO. The standard of proof shall be a preponderance of the evidence. The Hearing Officer shall conduct the hearing, hear the evidence, and, at the conclusion of the hearing, render findings of fact and conclusions of law. The DNR Director shall issue the final administrative decision of the Department under Section 10 of the Illinois Oil and Gas Act.

k) An EAO issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. The filing of a request for temporary relief under Section 240.1860 shall not operate as a stay of the EAO. The EAO may be stayed by the grant of temporary relief in accordance with Section 240.1860 or by voluntary order of the Department.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1860 Temporary Relief Hearings

a) Pending the holding of a hearing in accordance with Section 240.1859 relating to an EAO issued under Section 240.1859, the person or gas storage operator affected by the Department's action may file a written request for temporary relief from the EAO, together with a detailed statement giving reasons for granting that relief. The person or gas storage operator shall serve the request for temporary relief within 14 days after service of the EAO to the Department's offices located in Springfield, Illinois.

b) The Department shall commence a hearing within 5 working days after receipt of a timely request for temporary relief and may grant that relief, under such conditions as it may prescribe, if the person or gas storage operator requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to the gas storage operator and the relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.

c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.

d) At the hearing, the gas storage operator shall have the burden of proving that temporary relief from the EAO will not adversely affect the health or safety of the public or cause environmental harm or significant damage to property. The

Hearing Officer shall conduct the hearing, hear the evidence, and, at the conclusion of the hearing, render findings of fact and conclusions of law, and shall make recommendations to the DNR Director regarding the disposition of the case.

e) The DNR Director shall issue a final administrative decision, under Section 10 of the Illinois Oil and Gas Act, granting or denying temporary relief from the EAO within 7 days after the close of the administrative record. Temporary relief shall not extend for more than 90 days, after which the EAO shall be reinstated pending the outcome of the EAO and pending a resolution of the violations of the Act specified in the EAO.

(Source: Amended at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1861 Subpoenas

a) Any party to proceedings brought under this Subpart may apply for subpoenas to compel the attendance of witnesses and the production of relevant documents.

b) The applicant shall submit the subpoena request to the Department's hearing officer. The subpoena request shall specifically identify the witness or relevant documents sought to be produced.

c) The Hearing Officer shall issue subpoenas within 7 calendar days from receipt of a request made in accordance with subsection (b) and deliver the subpoena to the Petitioner, who shall serve all subpoenas issued by certified mail, return receipt requested, at least 7 days before the date set for the hearing. Any witness shall respond to any lawful subpoena of which he has actual knowledge, if a voucher for payment of the witness fee and mileage applicable in the State circuit courts has been tendered. Prima facie evidence of service of a subpoena may be proven by a return receipt signed by the witness or his or her authorized agent and an affidavit showing that the mailing was prepaid and was addressed to the witness, restricted delivery, with a State voucher for the fee and mileage enclosed.

d) Any person served with a subpoena under this Section may file with the hearing officer, and serve on all parties, a motion for an order quashing the subpoena, in whole or in part. All motions to quash filed under this Section shall set forth a factual and/or legal basis for granting that relief.

e) The hearing officer shall issue, and serve on all parties, a decision granting or denying the motion to quash within 7 calendar days after receipt of the motion.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1862 Well Drilling Completion and Workover Requirements

All wells shall be drilled and all drilling waste disposed in accordance with Subpart E of this Part.

(Source: Section 240.1862 renumbered from Section 240.1855 at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1865 Liquid Oilfield Waste Disposal

a) All produced water generated as a result of gas storage operation shall be disposed in accordance with Section 240.930 of this Part.

b) All fluid waste classified as Class II fluids in accordance with Section 240.750(h) of this Part can be disposed in a Class II well in accordance with subsection (a) above.

c) All other fluid waste not classified as a Class II fluid shall be disposed of in accordance with Illinois Environmental Protection Agency (IEPA) regulations.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1870 Plugging of Gas Storage and Observation Wells

a) Gas Storage and observation wells shall be plugged when no longer used for the purpose for which they were permitted. At least twenty-four (24) hours prior to commencing plugging operations, the permittee shall notify the District Office for the county in which the well is located.

b) Gas storage and observation wells shall be plugged in accordance with Subpart K.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1880 Sole Source Aquifer: Natural Gas Incident Notice to Department

a) Applicability. This Section applies to all natural gas incidents from an underground natural gas storage facility that lies on the footprint of a Sole Source Aquifer designated by the U.S. Environmental Protection Agency.

b) For all natural gas incidents, the permittee shall immediately notify the District

Office in which the underground natural gas storage facility is located and provide public notice in compliance with Section 7.5 of the Illinois Oil and Gas Act.

c) *In addition, all private residents, owners and operators of private water systems, or businesses, including agricultural operations, located within 1.5 miles of the boundaries of the natural gas incident must be notified as soon as practically possible. Notices to private residents and businesses must be attempted through verbal communication, whether in person or by telephone. If verbal communication cannot be established, a physical notice must be posted on the premises of the private residence or business in a conspicuous location where it is easily seen by the inhabitants of the private residence or employees at the business. The physical notice shall carry the following text in at least 18-point font: "NATURAL GAS INCIDENT NOTICE – READ IMMEDIATELY". Notices required under this Section shall be provided whether or not the threat of exposure has been eliminated. Both verbal and physical notices shall include the location of the natural gas incident, the date and time that the natural gas incident was discovered, contact information of the operator of the natural gas storage field, and any applicable safety information.* (Section 7.5 of the Illinois Oil and Gas Act)

d) *The operator of a natural gas storage field has a continuous and ongoing obligation to further notify the affected parties as necessary if it is determined that the boundaries of the natural gas incident have increased, moved, or shifted. This notice requirement shall be construed as broadly as possible.* (Section 7.5 of the Illinois Oil and Gas Act)

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1890 Sole Source Aquifer: Inspection Fees for Underground Natural Gas Storage Fields

a) *The Department will conduct annual inspections at all gas storage fields lying on the footprint of a Sole Source Aquifer designated as such in 2015 by USEPA in the State to ensure that there are no infrastructure deficiencies or failures that could pose any harm to public health. The owner of the gas storage field shall cover the costs of the annual inspection.* (Section 7.6 of the Illinois Oil and Gas Act.)

b) Beginning on January 1, 2019, the Department will assess an inspection fee during each fiscal year for the total costs incurred by the Department to perform annual inspections of all wells permitted under the Act and this Section, present at an underground natural gas storage facility located within the footprint of a Sole

Source Aquifer, including wells reported to be transferred pursuant to Subpart N but not yet approved for transfer by the Department. The permittee for each well is responsible for paying the full assessed amount.

c) Assessment of Inspection Fees

1) No later than December 31, 2019, the Department will calculate the applicable Department inspection fees incurred by the permittee during the period of January 1, 2019 through June 30, 2019 and issue that assessment to the permittee.

2) For the fiscal year beginning on July 1, 2019 and for every fiscal year thereafter, no later than December 31, the Department will calculate the applicable annual inspection fees incurred by the permittee during the preceding fiscal year and issue the assessment to the permittee.

d) Liability for assessed inspection fees does not cease until full payment is received by the Department.

e) If a permittee fee check is returned due to insufficient funds or because payment was stopped, the permittee is required to repay fees for that fiscal year by cashier's check or money order.

f) All fees collected under this Subpart shall be deposited into the Department's Underground Resources Conservation Enforcement Fund.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1892 Sole Source Aquifer: When Annual Inspection Fees Are Due

Annual inspection fees assessed under Section 240.1890 shall become due upon assessment and shall be deemed delinquent if not paid within 90 days after the initial assessment date. Any permittee with delinquent annual inspection fees shall not operate, permit or transfer wells within the State of Illinois without first paying all delinquent fees and associated civil penalties assessed under the Act.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1894 Sole Source Aquifer: Opportunity to Contest Billing

a) Permittees may contest the amount of annual inspection fees assessed under Section 240.1890 by submitting a written objection to the billing no later than 30

days after the assessment date.

b) The objection must be in writing, signed by the permittee, or by an individual authorized to sign for the permittee, and must identify the nature of the objection. The written objection shall be mailed to the Department at its Springfield, Illinois location and must include a statement of the facts supporting the objection.

c) The Department shall respond to any valid objections within 30 days and either deny the objection or affirm and issue an amended assessment. The Department's decision to deny or affirm the objection is a final administrative decision of the Department for purposes of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

Section 240.1898 Waiver

a) Subject to 49 USC 60118(d), the Department, upon application by any gas storage operator, may waive, in whole or in part, compliance with any standard established under this Subpart or the Act if the Department determines that the waiver is consistent with the safety of the underground natural gas storage facility and the protection of the environment and natural resources of the State of Illinois.

b) All waiver requests shall be made by the gas storage operator on Department created waiver forms and shall include all information requested in the forms.

c) The waiver forms shall include:

1) name of the underground natural gas storage facility;

2) if the waiver is related to a well, an underground gas storage field map of the natural gas storage facility and a brief statement of the purpose of the well and a schematic of the well;

3) a description of the waiver that is being requested;

4) written technical justifications as to why compliance with a provision of this Subpart or the Act is not practicable and not necessary for safety with respect to specified underground storage facilities or equipment. The justifications for any deviation from any provision of this Subpart or the Act must be technically reviewed and documented by a subject matter

expert to ensure there will be no adverse impact on design, construction, operations, maintenance, integrity, emergency preparedness, the environment, response, and overall safety and must be dated and approved by a senior executive officer, vice president, or higher office with responsibility for the underground natural gas storage facility;

5) a full description of any safety and environmental protection procedures that will be implemented or modified if the waiver is granted;

6) certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record and/or any statute or regulation, to drill or operate an underground natural gas storage facility on the lands and formations, as set forth in Subpart D;

7) a statement as to whether the underground natural gas storage facility is located within the limits of any incorporated city, town or village (and a certified copy of the official consent of the municipal authorities if the underground natural gas storage facility is within the corporate limits);

8) a statement as to whether the underground natural gas storage facility is located over an active mine or temporarily abandoned mine, or within the undeveloped limits of a mine, and whether the coal rights are owned by someone other than the lessor under the oil and gas lease; and

9) if the waiver is related to a well, the proposed depth of the well and the name of the lowest geologic formation that is to be, or is, penetrated.

d) The gas storage operator must provide the Department with any additional information the Department requires to ensure that the requirements of this Subpart are met. If the application does not contain all the required information documents, or there is other information that the Department requests, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of notification.

e) All waiver requests submitted to the Department will be reviewed by the Department. The Department may issue such a waiver at its sole discretion. The waiver request will be denied if the purpose of the waiver is outweighed by safety or environmental contamination concerns, as determined at the sole discretion of

the Department.

f) No waiver may be granted if:

1) the gas storage operator, or any corporate or business entity of which the gas storage operator is a part, has active or pending violations, or has unpaid fines or penalties as a result of any violation, of the Illinois Oil and Gas Act, or the Act;

2) the applicant has falsified or otherwise misstated any information on, or relative to, the permit application;

3) the applicant has failed to abate a violation of the Illinois Oil and Gas Act or the Act specified in a final administrative decision of the Department;

4) an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5% was or is an officer, director, partner, agent, power of attorney or person with an interest exceeding 5% in another entity that failed to abate a violation of the Illinois Oil and Gas Act or the Act specified in a final administrative decision of the Department;

5) the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Illinois Oil and Gas Act or the Act specified in a final administrative decision of the Department;

6) funds have been expended and remain outstanding from the PRF to plug wells (see Subpart P) for which the applicant was a previous permittee; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5% was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

7) the applicant is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney or partner in the applicant, or person with an interest in

the applicant exceeding 5% was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.

g) A waiver may be granted by the Department upon review of the waiver form and any additional information requested by the Department.

h) Waivers are valid for one year from the date of issuance. A waiver may be renewed upon application by the applicant and subject to the requirements of this Section.

i) The Department shall give the Secretary of Transportation written notice of any issued waiver at least 60 days before the effective date of the waiver and any such waiver issued by the Department is subject to 49 USC 60118(d). Any waiver granted shall take effect 61 days after notice of approval by the Department is issued to the gas storage operator.

j) An operator must discontinue use of any waiver if the Department determines, at any time, and provides written notice that the waiver adversely impacts design, construction, operations, maintenance, integrity, emergency preparedness and response, the environment, or overall safety. An operator must discontinue the use of the waiver listed in the Department's written notice within 14 days after receipt of the notice. The written notice shall be served by certified mail or by personal service.

(Source: Added at 43 Ill. Reg. 11524, effective September 24, 2019)

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section 240.1900 Applicability

The provisions of this Subpart apply to wells and drill holes other than oil or gas production wells and Class II UIC wells covered by Subparts B and C, test wells covered by Subpart L, and gas storage and observation wells covered by Subpart R. This Subpart applies to wells or drill holes drilled to perform a service or function in relation to oil and gas production or a gas storage project or mining activity coming within this Subpart. A permit is not required under this Subpart in areas covered by a permit issued by the Department under the Surface-Mined Land Conservation and Reclamation Act and the Surface Coal Mining Land Conservation and Reclamation Act.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1905 Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes

a) No person shall drill or convert a service well covered by this Subpart without a permit from the Department.

b) Application for a permit to drill or convert a service well shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the nonrefundable fee of $300 and the bond required under Subpart O.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1910 Contents of Application for Permit to Drill or Convert to a Service Well

The application for a permit shall include:

a) The name of the well;

b) The surveyed well location, the GPS latitude and longitude location of an actual field measurement (all GPS locations shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet), and ground elevation of the well. All well locations shall be surveyed by a registered Illinois Land Surveyor or an Illinois Registered Professional Engineer. A survey or GPS location is not required for a converted or deepened well or a drilled out plugged hole if the original well location was surveyed;

c) A brief statement of the purpose of the well and a schematic showing the proposed construction of the well;

d) Certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record, and/or any statute or regulation, to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D;

e) A statement as to whether the proposed well location is within the limits of any incorporated city, town, or village (and a certified copy of the official consent of the municipal authorities if the well is within the corporate limits);

f) The name and address of the drilling contractor and the type of drilling tools or equipment to be used;

g) A statement whether the well is located over an active mine, temporarily abandoned mine or within the undeveloped limits of a mine and whether the coal rights are owned by someone other than the lessor under the oil and gas lease;

h) A statement whether the well or drill hole is located within the limits of a gas storage field in accordance with Subpart R;

i) The proposed depth of the well and the name of the lowest geologic formation to be penetrated.

(Source: Amended at 42 Ill. Reg. 5811, effective March 14, 2018)

Section 240.1920 Authority of Person Signing Application

a) All applications shall identify whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.

b) If the applicant is an individual, the application shall be signed by the individual. If the applicant is a partnership, the application shall be signed by the general partner. If the applicant is a corporation, the application shall be signed by an officer of the corporation.

c) In lieu of the signature of the applicant or such authorized persons, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney accompanies the application.

d) The entity or person to whom the permit is issued shall be called the Permittee and shall be responsible for all regulatory requirements relative to the well or drill hole.

e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1930 Issuance of Permit

a) If the applicant satisfies the requirements of the Act and this Part, the Department shall issue a permit.

b) A permit shall not be issued to an applicant not in compliance with Section 240.250(b).

c) Service well permits shall expire 1 year from the date of issuance unless acted upon by commencement of drilling or converting operations authorized by the permit.

d) Service well permits are not transferable prior to the drilling of the well or test hole.

(Source: Amended at 35 Ill. Reg. 13281, effective July 26, 2011)

Section 240.1940 When Wells Shall Be Plugged and Department Notification

Service wells shall be plugged when no longer used for the purpose for which they were permitted. At least 24 hours prior to commencing plugging the permittee shall notify the District Office for the county in which the well is located.

(Source: Amended at 21 Ill. Reg. 7164, effective June 3, 1997)

Section 240.1950 Plugging and Restoration Requirements

a) Service wells shall be plugged as follows:

1) If the total depth of the well or hole extends below the base of the freshwater as determined by the Department, the well or hole shall be plugged from total depth to the top of the bedrock with cement. When the plugging requirements of this subsection would be impractical due to the presence of fractures in the bedrock or other geologic conditions that would prohibit the containment of fluids in the well, the Department may authorize alternative plugging requirements. In determining whether to approve and in selecting alternative plugging requirements, the Department shall consider the total depth of the hole and the depth and quality of the freshwater.

2) If the total depth of the well or test hole does not extend below the base of the freshwater as determined by the Department, the hole shall be plugged as stated above or may be plugged by circulating bentonite slurry from total depth to surface. When the plugging requirements of this Section

would be impractical due to the presence of fractures in the bedrock or other geologic conditions that would prohibit the containment of fluids in the well, the permittee shall place a bridge plug above the fractured zone and circulate bentonite slurry from the plug to the surface.

b) At the conclusion of drilling, all drill cuttings shall be buried in drill pits or landspread (with permission of surface owner), and all pits used in drilling shall be filled and restored to support farm machinery, and all drilling debris shall be removed from the site.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)

Section 240.1960 Converting to Water Well

Service wells may not be converted to a water well that is required to have a permit from the Illinois Department of Public Health.

(Source: Added at 18 Ill. Reg. 8061, effective May 13, 1994)