

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 240 THE ILLINOIS OIL AND GAS ACT

SECTION 240.1460 CONDITIONS FOR AND EFFECT OF ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

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 $\frac{1}{4}$ 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)