



December 20, 2013

Mr. Robert G. Mool
Illinois Department of Natural Resources
One Natural Resource Way
Springfield, Illinois, 92702-1271

Re: Illinois Department of Natural Resources Proposed Rules to Implement the Hydraulic Fracturing Regulatory Act (62 Ill Adm Code 245: 37 Ill Reg 18097)

Dear Mr. Mool:

On behalf of the Illinois Manufacturers' Association (IMA), thank you for the opportunity to comment on the Department of Natural Resources' proposed rules for the Hydraulic Fracturing Act. The IMA is the oldest and largest state manufacturing trade association in the United States representing nearly 4,000 member companies and facilities. Manufacturing employs 580,000 direct workers and contributes the single largest share of Illinois' Gross State Product.

For more than three years, the IMA championed passage of hydraulic fracturing legislation in Illinois in order to unlock domestic energy reserves. Use of new and safe fracturing technology will create good jobs, generate tax revenue for local and state governments, and reduce our reliance on foreign sources of energy while protecting the air, water and land in the New Albany Shale basin.

Now that the Hydraulic Fracturing Regulatory Act (P.A. 98-0022) has been signed into law by Governor Quinn, it is essential that the Department of Natural Resources adopt reasonable and common sense rules that simply implement the law as passed. The Department's rulemaking process should not be utilized as a forum to consider new issues or debate issues that were resolved by the General Assembly during the extensive negotiations.

Public Act 98-0022 was the result of substantial negotiations between the IMA and members of the GROW-IL Coalition, Farm Bureau, Sierra Club, National Resource Defense Council, Environmental Law & Policy Center, and many more organizations.. Several of these organizations are now trying to renegotiate the bill through the rulemaking process in the hope that its implementation will be delayed or even stopped. All sides were forced to compromise to reach an agreement and the Department should uphold the statute rather than bending to these politically orchestrated maneuvers.

Finally, before I delve into a few specific areas that we do not believe follow SB 1715 and its legislative intent, I'd mention that the actions taken by DNR will play a major role in determining whether fracturing occurs in Illinois. The unconventional resource play is in its infancy in the state where early exploration is occurring. Illinois will be competing with many other states that have been utilizing fracturing for many years and have far less restrictive laws and regulations. The Department's rules should not impose additional burdens that will simply add costs and inefficiencies to the system.

With respect to the proposed rules, the IMA believes that several sections should be clarified to meet the statute and its intent.

Section 245.110: The proposed definition of "stimulation treatment" should be deleted. The definition is not contained in SB 1715. SB 1715 in fact is limited in scope to "high volume horizontal hydraulic fracturing operations" which are explicitly defined. If the proposed definition is included it will lead to substantial technical confusion on the part of both industry and the Department. From a strictly technical perspective, there are many other forms of "stimulation treatments" that can be applied to a well. These operations were intentionally not included in SB 1715.

Section 245.200(f): Public Act 98-0022 clearly states that registration information shall be updated annually if any information has changed. Rules proposed by the Department provide that operators shall update their registration within sixty days of any change that is a costly and time-consuming burden. The proposed rule very clearly violates the statute and should be eliminated or amended to match the annual reporting requirement.

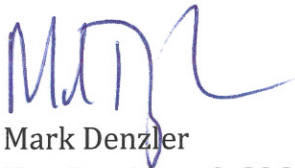
Section 245.270(a)(1)(v): The definition of "standing" was a point of contention during the negotiation and the final agreement allows for public hearings for hydraulic fracturing permits despite the fact that permits issued under the Oil and Gas Act do not require these hearings. As part of the agreement, all sides agreed that public hearings would be limited specifically to those people **directly impacted by the permit**. DNR should limit public hearings to people that have a real property interest or direct economic interest that may be adversely impacted by the granting of a permit.

Section 245.330(e)(2): The Department's proposed rules provide that they have ninety days to approve insignificant permit modifications while the statute sets a limit of sixty days for the original permit processing. Minor permit modifications should be approved within a tight fourteen-day window that provides adequate time for review of minor changes. The ninety-day requirement set forth in rules is arbitrary and represents a significant delay for operators that are working on tight schedules.

Sec. 245.540(b): The requirement to use fresh water or brine to conduct mechanical integrity tests should be deleted. Normally the surface and intermediate casing test are performed with mud, not brine or fresh water. As drafted the proposed language would require the operator to displace the mud from the casing before testing and replace it with brine or fresh water. After testing the casing the brine or fresh water would then have to be displaced out of the casing and replaced with mud before drilling could proceed. This is not only an economic waste because of the time and logistics involved, but it also creates a more negative impact on the environment because of the additional waste fluid the sequence would generate. The requirement should be revised to simply allow the test to be conducted with mud per standard industry practice.

Thank you for the ability to comment and consideration of changes to the proposed rules. The IMA appreciates the Department's desire to proceed in an expeditious manner but it's important to make sure that we get it done right.

Regards,



Mark Denzler
Vice President & COO