**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)