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Heather Graham

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*Heather Graham**

Introduction

While there have been no substantive changes in Missouri case law related to the oil and gas industry, there has been new legislation enacted by the Missouri General Assembly and new regulations enacted by the Missouri Department of Natural Resources (“DNR”). Oil and gas production increased in Missouri in 2018.

* Heather G. Graham is a member in the Bridgeport, WV office of Steptoe & Johnson.

*Enacted Legislation**A. House Resolution 1364*

Missouri House Resolution 1364, extended the state's petroleum storage tank insurance fund expiration date from December 31, 2020, to December 31, 2025, and also established the "Task Force on the Petroleum Storage Tank Insurance Fund" for the purpose of conducting research to compile a report by December 31, 2018, on certain topics relating to the petroleum storage tank insurance fund.¹ Missouri House Resolution 1364 took effect on August 28, 2018.²

*Enacted Regulations**A. Regulation 499725*

Missouri Regulation 499725, which was proposed on August 1, 2018, enacted on January 15, 2019, and took effect on February 28, 2019, amends Title 10, Section 23-3.020 of the Missouri Code of Regulations, which pertains to the general protection of groundwater quality and resources.³ In relevant part, the changes add new requirements that protect groundwater resources and prevent contamination by ensuring that the casing and wellhead completion are watertight, formations that are likely to pose a threat to groundwater are sealed off, and wells are maintained and repaired.⁴

B. Regulation 499761

Missouri Regulation 499761, which was proposed on August 1, 2018, enacted on January 15, 2019, and took effect on February 28, 2019, amends Section 50-2.040, which pertains to drilling and completion.⁵ The changes moved the requirement that documentation of cementing operations across strata be maintained by the operator from this section to Mo. Code Regs. Section 50-2.080, which pertains to record retention and reporting. The fluid injection pressure requirements from Section 50-2.055(9) were incorporated into subparagraph (7)(B)1.B. Pursuant to Executive Order 17-03, which required state agencies to review every regulation to determine whether it was essential and beneficial, and the Red Tape Reduction Initiative, a Missouri DNR initiative that seeks to alleviate burdensome regulations that

1. H.R. 1364, 99th Gen. Assemb., 2d Reg. Sess. (Mo. 2018).

2. *Id.*

3. 2019 MO REG TEXT 499725 (NS).

4. *Id.*

5. 2019 MO REG TEXT 499761 (NS).

provide only minimal enhancements to Missouri's natural resources, unnecessary restrictions on tubing and casing were removed.⁶

C. Regulation 499762

Missouri Regulation 499762, which was proposed on August 1, 2018, enacted on January 15, 2019, and took effect on February 28, 2019, amends Section 50-2.055, which pertains to injection wells, mechanical integrity testing, and well stimulation treatment.⁷ In relevant part, the changes clarified that no fee is assessed for injection permit modifications, moved to Section 50-2.040(7)1.B, which pertains to injection wells and well treatment, the requirement that for all injection well applications that require wellhead pressure to inject fluids, the operator shall inject fluids through tubing under a packer set immediately above the uppermost perforation or openhole zone, and removed unnecessary restrictions on fluid injection pursuant to Executive Order 17-03 and the Red Tape Reduction Initiative.⁸ The regulation also added a requirement that following an initial mechanical integrity test, once a month, the operator shall monitor and record, during actual injection, the pressure or fluid level in the annulus and any other information deemed necessary by the state geologist.⁹

D. Regulation 499764

Missouri Regulation 499764, which was proposed on August 1, 2018, enacted on January 15, and took effect on February 28, 2019, amends Section 50-2.065, which pertains to operations.¹⁰ In relevant part, the changes removed the requirement for gas metering, consolidated tank signage requirements by incorporating language from Section 50-2.010(6)(A)(7), which pertains to operator licenses, and removed unnecessary requirements about the size of the sign pursuant to Executive Order 17-03 and the Red Tape Reduction Initiative.¹¹

6. *Id.*

7. 2019 MO REG TEXT 499762 (NS) (Westlaw Jan. 15, 2019).

8. *Id.*

9. *Id.*

10. 2019 MO REG TEXT 499764 (NS) (Westlaw Jan. 15, 2019).

11. *Id.*

E. Regulation 499766

Missouri Regulation 499766, which was proposed on August 1, 2018, enacted on January 15, 2019, and took effect on February 28, 2019, amends Section 50-2.090, which pertains to disposal of fluids by injection.¹² In relevant part, the changes removed repetitive requirements, clarified existing requirements, and removed the requirement that an application for a permit to inject must be approved by the state geologist pursuant to Executive Order 17-03 and the Red Tape Reduction Initiative.¹³

Oil and Gas Activities

According to the 2018 Annual Report on Oil and Gas Activities, which was released on April 17, 2019 by the Missouri DNR State Oil and Gas Council, there were 466 active oil wells in Missouri in 2018, which produced 94,147 barrels of oil.¹⁴ This contrasts with the 443 active oil wells in 2017 and the 559 active oil wells in 2016.¹⁵ There were 14 active gas wells in 2018, which contrasts with 1 in 2017 and 14 in 2016.¹⁶ In 2018, those 14 gas wells produced 950 MCF of gas.¹⁷ In 2017, 820 MCF of gas was produced, and in 2016, 1090 MCF of gas was produced.¹⁸ The average price per barrel for Missouri oil was up 35% in 2018, with an average price per barrel of \$56.85.¹⁹ In 2019, the Missouri Department of Natural Resources is working with the EPA to conduct a comparison of state and federal rules to ensure that Missouri's program is meeting all federal requirements.²⁰

12. 2019 MO REG TEXT 499766 (NS) (Westlaw Jan. 15, 2019).

13. *Id.*

14. Larry "Boot" Pierce, RG, *2018 Annual Report on Oil and Gas Activities*, MISSOURI GEOLOGICAL SURVEY (April 17, 2019), <https://dnr.mo.gov/geology/geosrv/ogc/documents/oilandgasactivities-2018.pdf>.

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*