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The 2021 Survey on Oil & Gas

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Table of Contents

I. Introduction	346
II. Statutory Law	346
A. Michigan House Introduces Bill Requiring New Comment Procedure for Hydraulic Fracturing Permit Applicants	346
B. Michigan House Introduces Bill Increasing Penalties for Petroleum Spills in Michigan Waters	347

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C. Michigan Senate Passes Resolution Urging Reconsideration of Cancellation of Keystone XL Pipeline	347
III. Administrative Law	347
IV. Common Law	347
V. Conclusion	347

I. Introduction

Apart from a proposed bill requiring new community comment procedures regarding hydraulic fracturing, increased penalties for oil spills, and a resolution urging reconsideration of the cancellation of the Keystone XL Pipeline, there were no significant oil and gas developments in Michigan for the period reported herein.

II. Statutory Law

A. Michigan House Introduces Bill Requiring New Comment Procedure for Hydraulic Fracturing Permit Applicants

The Michigan House of Representatives introduced a bill that would amend Michigan Code § 324.61525¹ to require the supervisor of oil and gas wells to publish whether an application for a permit to drill will include a well that is used for hydraulic fracturing.² Additionally, if the department evaluating the permit application receives a request from a municipality in which fracturing will occur, the department must hold a public hearing in the location where the well is proposed before the permit may be issued.³ Interested parties would have the right to comment and make recommendations to the supervisor considering the application.⁴ The bill would also amend Michigan Code § 324.1301,⁵ which dictates the processing periods for permit applications.⁶ If a permit is sought under §§ 324.61525 or 324.62509,⁷ the processing period is 20 days unless a hearing is held.⁸ Under §§ 61525 or 62509, if a hearing is required, the processing

1. Mich. Comp. Laws Ann. § 324.61525 (West 2004).

2. H.R. 4169, 101st Leg., Reg. Sess. (Mich. 2021).

3. *Id.*

4. *Id.*

5. Mich. Comp. Laws Ann. § 324.1301 (West 2019).

6. H.R. 4169, 101st Leg., Reg. Sess. (Mich. 2021).

7. Mich. Comp. Laws Ann. § 324.62509 (West 2004).

8. H.R. 4169, 101st Leg., Reg. Sess. (Mich. 2021).

period for a permit is 60 days.⁹ The bill is currently under review by the Michigan House Energy Committee.

B. Michigan House Introduces Bill Increasing Penalties for Petroleum Spills in Michigan Waters

Another proposed bill would add penalties of not more than \$500,000 per day if petroleum is discharged into any waters in Michigan.¹⁰ If petroleum is discharged from a pipeline crossing under, through, or over any Michigan waters, it is prima facie evidence of a violation and subjects the violator to penalties.¹¹ The bill is currently under review by the Michigan House Committee on Natural Resources and Outdoor Recreation.

C. Michigan Senate Passes Resolution Urging Reconsideration of Cancellation of Keystone XL Pipeline

Relatedly, in May 2021, the Michigan Senate adopted a resolution urging President Biden to reverse his decision to cancel the permit for the Keystone XL Pipeline in order to bolster the American oil and gas industry.¹²

III. Administrative Law

There were no significant regulatory developments affecting the oil and gas industry in Michigan for the period reported herein.

IV. Common Law

There were no significant developments in case law affecting the oil and gas industry in Michigan for the period reported herein.

V. Conclusion

While no significant changes in Michigan oil and gas rights have occurred recently, there were minor proposed procedural updates in the fracturing permit process as well as new proposed penalties for oil spills in Michigan waterways. It remains to be seen how the new Presidential Administration, with its focus on “green” energy alternatives, will affect

9. *Id.*

10. H.R. 4170, 101st Leg., Reg. Sess. (Mich. 2021).

11. *Id.*

12. S. Res. 53, 101st Leg., Reg. Sess. (Mich. 2021).

developments in the oil and gas industry, and consequently, how states will react.