



Rulemaking Report

Updated: 8/20/2015

Affected Rule: Amendment of 10 CSR 50-1, 10 CSR 50-2, 10 CSR 50-3, 10 CSR 50-4, and 10 CSR 50-5; new rules 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.055, 10 CSR 50-2.065, 10 CSR 50-3.020, and 10 CSR 50-4.020; and rescission of 10 CSR 50-2.070 and 10 CSR 50-2.110

1. What is the purpose of this rulemaking?

The purpose of this rulemaking is to bring the Oil and Gas Council Rules in line with current industry and financial standards and to establish a fee structure. The current rules were promulgated in 1966. Various amendments have been filed with the most recent taking effect in 2006.

Bonding requirements have not been updated since 1988, creating a situation where current bonds are not sufficient to ensure the proper closure of wells in the case of abandonment. A clarification of the circumstances for bond forfeiture and the return of a lease to pre-production conditions will be defined.

The oil and gas industry has created standards for testing injection wells for mechanical integrity. These practices are not addressed in the current regulations. The proposed change would standardize the method for testing injection wells for integrity. Additionally, clarification will be made to the division's requirements for the injection of production water from oil and gas operations.

When these rules were enacted, the drilling of horizontal wells was not addressed. Many oil and gas producing states, including Missouri, have experienced the construction of these wells in recent years. Missouri currently has operators drilling horizontal wells. These amendments will clarify permitting and construction regulations for horizontal wells.

Current regulations do not provide for assessment of fees. This new rule will establish a fee structure to support the department in administering the provisions of Chapter 259, RSMo, and implementing regulations, and to collect, process, manage, interpret, and distribute geologic and hydrologic resource information pertaining to oil and gas potential.

Commonly, operators fail to submit well completion, production, abandonment or injection reports in timeframes specified in the regulations. Current regulations do not provide for assessment of fees for late submittal of forms. This new rule would assess fees to encourage timely submittal of forms and provide support for the oversight and implementation of Chapter 259, RSMo, and implementing regulations.

Other amendments will include clarification of definitions, the authority of the state geologist, the distance from lease lines and permitting timeframes.

2. Why is the rulemaking being proposed now?

Many aspects of the current Oil and Gas Council Rules have not been changed since they were originally enacted in 1966. Changes in the industry and financial standards have made portions of these regulations outdated. The Oil and Gas Council, along with Council legal guidance, have recognized this issue and have asked MGS staff to review and revise the rules.

House Bill 92 (2015), which will be effective on August 28, 2015, creates the Oil and Gas Resources Fund and establishes the authority to create and modify a fee structure for oil and gas activities. This proposed rulemaking establishes a fee structure, pursuant to Section 259.080.2, RSMo.

3. Will the rulemaking incorporate any document by reference, rather than state the language within the rulemaking?

No

4. Does this rulemaking prescribe environmental standards, limits or conditions and is a Regulatory Impact Report required for this rulemaking?

The rulemaking does prescribe environmental standards, limits or conditions as authorized in Chapter 259, RSMo, regarding the drilling of oil and gas wells. No, the Regulatory Impact Report requirement does not apply to Chapter 259, RSMo.

5. What authority does DNR have to carry out this rulemaking?

Section 259.070, RSMo, gives the department's Oil and Gas Council the authority to make and enforce regulations pertaining to the state's oil and gas industry.

6. What does the rulemaking require and how does it produce benefits?

Many changes are proposed for these rules including a new section on the assessment of fees and for late submittal of forms. Changing industry standards, technology and inflation have caused these regulations to be outdated. Bonding requirements have not been updated since 1988, there are minimal regulations regarding mechanical integrity testing of injection wells, and there are no provisions for permitting horizontal wells or the assessment of late fees. Adoption of these amendments will provide division staff a clear set of rules to regulate the oil and gas industry, provide adequate bonding for the closure of abandoned wells, as well as provide an incentive for operators to submit required documents in a timely manner and establish enforcement and appeals procedures.

7. Who is most likely affected by the rulemaking?

Those affected by this proposed rulemaking include the oil and gas operators who produce Missouri's energy resources. There are currently twenty (20) companies who operate in the state. This rulemaking will require operators to submit additional funds to bond wells associated with the oil and gas industry, conduct mechanical integrity tests on injection wells in a more standardized method and submit required forms in a timely fashion. These changes will also clarify the rules making the permitting of horizontal wells more efficient, better define terms used in the rules including duties of the state geologist, and provide a clear understanding of setback distances from lease lines.

8. What impact will the rulemaking have on small businesses? (A small business is defined by statute as a for-profit enterprise with fewer than 100 full or part-time employees.)

A Small Business Impact Statement will be prepared for this rulemaking. The impact on small oil and gas operators is expected to be minimal and mostly positive. The rulemaking will address new technology by making permitting horizontal wells more efficient and better clarify inconsistent aspects of the existing rules. Minimal financial impact will occur to these small businesses from increases in bonding and the assessment of fees, including late fees. However, the late fees will not have an impact

on those operators who submit forms within established regulation timeframes. In addition, bonds may be returned to those operators who permanently plug permitted wells when they are no longer used.

9. What are the probable costs for the department or any other public agency in the implementation and enforcement of the rulemaking?

The department estimates that two additional personnel will be needed to implement this proposed rulemaking and support oversight of the oil and gas industry. The estimated annual cost for these additional personnel is \$184,776 per year, and will be supported by the newly-established fees. The cost to other public agencies will be less than \$500 in the aggregate.

10. What is the anticipated effect of the rulemaking on state revenue?

The financial impact resulting from this rulemaking is a result of the collection of newly-established fees, including but not limited to permit fees, operating fees, closure fees, late fees, and production fees, to support the department in administering the provisions of Chapter 259, RSMo, and implementing regulations, and to collect, process, manage, interpret, and distribute geologic and hydrologic resource information pertaining to oil and gas potential. A fiscal note will be prepared for this rulemaking. Those operators who submit required forms within the timeframe set by regulations will not be assessed fees.

11. Who was/will be involved in developing the rulemaking?

Stakeholders will be members of the oil and gas industry and public individuals who have leased their property to operators. Staff from the Geological Survey Program will be included in the rulemaking process. Stakeholder meetings have been held to gather industry interest on this proposal. The State Oil and Gas Council will also be involved, as they possess rulemaking authority under the Oil and Gas Production statute. The Oil and Gas Advisory committee, formed by statute, will also review the proposed rules.

12. How has/will the development of the rulemaking been/be shared with interested parties and the public at large?

Stakeholder meetings have been and will be announced via the Department web page, and mass mailings to the industry and other interested parties. The State Oil and Gas Council will also discuss and take comments from interested parties at its quarterly meetings.

13. Who may I contact to either ask questions or provide input on this rulemaking?

You may contact Mr. Larry Pierce of the Department's Missouri Geological Survey, Geological Survey Program's Geologic Resources Section at 573-368-2191, via email at larry.pierce@dnr.mo.gov, or in writing at PO Box 250, Rolla, MO 65402, or Ms. Carey Bridges of the Department's Missouri Geological Survey, Geological Survey Program at 573-368-2100, via email at carey.bridges@dnr.mo.gov, or in writing at PO Box 250, Rolla, MO 65402.

14. What is the expected calendar for this rulemaking, particularly the dates for the comment period and public hearing?

We anticipate the formal public comment period will begin October 15, 2015, and the public hearing is tentatively scheduled for November 16, 2015.