

**WEEKLY HIGHLIGHTS AT-A-GLANCE****FEDERAL – Legislative**

- **H.J. Res. 44.** (Update to 3/13/2017 Weekly Report) On March 28, President Trump signed [H.J. Res. 44](#) into law. This disapproval resolution will effectively overturn the Bureau of Land Management's (BLM) "Planning 2.0" rule, which was initially promoted as an effort to improve the BLM planning process but was criticized as a federal power grab to take control of land-use and resource planning away from states and local decision makers. The BLM rule, *Resource Management Planning* ([81 Fed. Reg. 89580](#)), which was promulgated under the Obama administration, and finalized in December 2016, will now be given no force or effect. House Natural Resources Committee Chairman Rob Bishop (R-UT) said, "This rule would have given even more power to the bureaucracy in Washington when what we need is the exact opposite. Reversing this rule is just one of many actions we will take to shift land management decisions back to the people who live in these areas and away from unelected, and in many cases unaccountable, bureaucrats." [Read more.](#)

**FEDERAL – Regulatory**

- **Executive Order.** On March 28, President Trump signed a sweeping Executive Order, [Promoting Energy Independence and Economic Growth](#), that aims to roll back the Obama-era Clean Power Plan as well as numerous regulations crafted under the prior administration that targeted the oil and gas industry. The Order "initiates a review of efforts to reduce the emission of methane in oil and natural gas production as well as a Bureau of Land Management hydraulic fracturing rule, to determine whether those reflect the president's policy priorities." [Read more.](#) One rule to be rescinded, revised or suspended under the Order, the Environmental Protection Agency's *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources* ([81 Fed. Reg. 35824](#)) would have imposed methane emissions regulations on both new and existing sources in the oil and gas sector. Other rules to be rescinded, revised or suspended under this Order are those promulgated by the Department of the Interior: the BLM's *Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands* ([80 Fed. Reg. 16128](#)); the National Park Service's *General Provisions and Non-Federal Oil and Gas Rights* ([81 Fed. Reg. 77972](#)); the Fish and Wildlife Service's *Management of Non Federal Oil and Gas Rights* ([81 Fed. Reg. 79948](#)); and the BLM's *Waste Prevention, Production Subject to Royalties, and Resource Conservation* ([81 Fed. Reg. 83008](#)), which would have imposed venting and flaring obligations on the oil and gas industry. [Read more.](#)

- Department of the Interior Secretarial Order No. 3349.** On March 29, Interior Secretary, Ryan Zinke, signed [Secretarial Order 3349](#), which implements review of agency actions directed by President Trump’s Executive Order signed on March 28, entitled *Promoting Energy Independence and Economic Growth* (see more above). Zinke’s order also “directs a reexamination of the mitigation and climate change policies and guidance across the Department of the Interior in order to better balance conservation strategies and policies with the equally legitimate need of creating jobs for hardworking American families. In particular, the order sets a timetable for review of agency actions that may hamper responsible energy development and reconsideration of regulations related to U.S. oil and natural gas development.” [Read more.](#)
- Department of the Interior Charter – Royalty Policy Committee.** On March 29, Secretary Zinke also signed a charter establishing a [Royalty Policy Committee](#) which will “advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands.” While the Committee is solely advisory in nature, it will also advise on the potential impacts of proposed policies and regulations related to revenue collection from federal resource development, including whether a need exists for regulatory reform. [Read more.](#) Western Senators, Steve Daines (R-MT), Mike Enzi (R-WY), and John Barrasso (R-WY) called for Zinke to reinstate the Committee – first established in 1995 and which [expired in 2014](#) – in a March 15, 2017 joint letter to the new Secretary. [Access the letter here.](#) The letter follows a 2016 effort by the Wyoming congressional delegation, which sponsored and introduced bicameral legislation, to reinstate the Committee. [Read more.](#)

## STATE – Legislative

- Hydraulic Fracturing Ban – Maryland.** (Update to 3/20/17 Weekly Report). On March 27, the Maryland Senate passed [HB 1325](#), the House bill which prohibits hydraulic fracturing in the state. The House approved the bill on March 10. While most expected Republican Governor Larry Hogan to veto such a bill, in a recent surprise move, the governor said he supports the ban. The bill now heads to his desk and Hogan has promised to sign it, despite opposition from others who say drilling could help the economy in western Maryland. “This politically-motivated decision moves Maryland further away from the state’s economic and environmental goals,” said Drew Cobbs, executive director of the Maryland Petroleum Council. Maryland will become the second state in the country to formally block hydraulic fracturing, after New York instituted a similar ban in 2015. [Read more.](#)
- Recordation – Nebraska.** On March 30, LB 535, introduced by Sen. Dan Hughes, advanced through the legislature to its final reading before passage. The bill would provide an exception for filing a statement with the register of deeds when recording

an oil, gas, or mineral lease. An [amendment](#) to the bill expands the exemption from filing a real estate transfer statement from oil, gas or mineral leases to include subsequent assignment of an easement or a lease. [Read more.](#)

- **Regulations – Oklahoma.** On March 27, SB 287, introduced by Sen. A.J. Griffin (R) in February was referred to the House Energy and Natural Resources Committee after passing in the Senate. The bill amends current law to authorize the Corporation Commission and the Department of Environmental Quality to obtain authorization from the Environmental Protection Agency (EPA) to administer, within their respective jurisdictions, any and all programs regulating oil and gas discharges into the waters of this state and provides for the delegation of certain authority to the state agency from the EPA. [Read more.](#)
- **Abstracts – Oklahoma.** (Correction to 3/27/2017 Weekly Report) HB 2303, originally required the removal of the requirement of an attorney to examine an abstract before issuance of title insurance. This provision was stricken from the amended version of the bill. Amended provisions related to requiring release of an abstract without delay, and associated penalties by an owner or another party to a current transaction remain. [Read more.](#)
- **Franchise Tax – Texas.** On March 30, HB 3621, introduced by Rep. Jason Villalba (R), was referred to the House Ways & Means Committee. The bill would allow a franchise tax discount of 25 percent for a taxable entity under certain circumstances. [Read more.](#)
- **Wells – Texas.** On March 30, HB 3025, introduced by Rep. Tracy O. King (D), was referred to the House Natural Resources Committee. The bill would impose certain requirements on landowners or lessees where an abandoned or deteriorated well is located. [Read more.](#)
- **Tax Liens; Surface Owners – West Virginia.** On March 28, SB 369, introduced by Sen. David Sypolt (R), passed in the Senate. The bill would permit surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien, as well as providing certain procedures, notice requirements, and remedies related to tax sales. [Read more.](#)
- **Drilling – Wisconsin.** On March 29, Sen. Kathleen Vinehout (D) introduced SB 152. The bill prohibits the Wisconsin Department of Natural Resources from authorizing a person conducting drilling operations for the exploration or production of oil or gas to withdraw water from a reservoir or flowage. [Read more.](#)

## **STATE – Regulatory**

- **Methane Emissions – California.** On March 23, the California Air Resources Board (CARB) approved new regulations aimed at curbing greenhouse gas emissions from

a wide range of industry infrastructure, including the oil and gas industry, which CARB claims accounts for about 15 percent of the state's methane emissions. One new regulation is aimed at reducing methane leaks from oil and gas operations. "It requires emissions-capture technology and stricter monitoring and reporting of potential methane leaks as a means of isolating and fixing them more quickly." The rule mandates regular inspections at facilities and promises to slash methane releases by as much as 45 percent over the next nine years. The regulation will go into effect in phases, starting Jan. 1, 2018. [Read more](#). Les Clark, Executive Vice President at the Independent Oil Producers' Agency, said on the eve of the vote that the rule would hit small oil and gas producers in the state harder than big operators. "Anything like this adds to the lifting costs," Clark said. [Read more](#).

### **INDUSTRY NEWS FLASH:**

◆ **Senators Urge Nomination of an Economic Geologist.** (*Oil & Gas Journal*, March 29, 2017)  
Four Republican U.S. senators asked President Trump "to refocus the U.S. Geological Survey on its primary mission, which they said is to assess U.S. mineral reserves, and to nominate an economic geologist as the U.S. Department of the Interior agency's next director." In their [March 27 letter](#) to the president, Senators Lisa Murkowski (AK), John Barrasso (WY), James E. Risch (ID) and Bill Cassidy (LA) urge Trump to choose an economic geologist trained in earth sciences who would also understand the economic and strategic value of domestic mineral production. [Read more](#).

## **State-by-State Legislative Session Overview**

The **Idaho** legislature adjourned on March 29 after extending the session by three days due to infighting, the [Idaho Statesman](#) reports. Major legislative highlights include the passage of [SB 1206](#), an infrastructure construction and repair package, and [HB 67](#), which would repeal the sales tax on grocery food. That bill was [introduced](#) as a proposal to cut the income tax, a proposal that had been a priority in the House, but the income tax cut did not gain momentum in the Senate. Both bills are pending gubernatorial action and Republican Gov. Butch Otter has indicated that he is likely to veto HB 67. A boost in education funding, which Governor Otter had indicated in his State of the State address was his top legislative priority, passed easily. A full list of legislation from the 2017 session can be found [here](#).

**Alaska, Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia and Wisconsin** are in regular session. The **District of Columbia** Council, **Puerto Rico** and the **United States** Congress are also in regular session.

**Wisconsin** convened a special session on January 5 that will run concurrently with the regular session.

**Michigan** is in recess until April 18. **New Jersey** is in recess until May 11.

**Louisiana** is scheduled to convene its legislative session on April 10.

The following states adjourned on the dates provided: **South Dakota** (March 28), **Idaho** (March 29) and **Georgia** and **Kentucky** (March 30).

The following states are expected to adjourn their legislative sessions on the dates provided: **Mississippi** (April 2), **West Virginia** (April 9) and **Arizona** (April 14).

**New Mexico** Republican Gov. Susana Martinez has until April 7 to act on legislation or it is pocket vetoed. **Idaho** Republican Gov. Butch Otter has until April 8 to act on legislation or it becomes law. **South Dakota** Republican Gov. Dennis Daugaard has until April 12 to act on legislation presented after March 23 or it becomes law. **Georgia** Republican Gov. Nathan Deal has until May 9 to act on legislation presented after March 24 or it becomes law. **Kentucky** Republican Gov. Matt Bevin has 10 days, Sundays excepted, to act on legislation or it becomes law.

**Virginia** Democratic Gov. Terry McAuliffe had a signing deadline on March 27. **Utah** Republican Gov. Gary Herbert had a signing deadline on March 29.

[Louisiana](#) is currently posting profiles for the 2017 legislative session.

## Endangered Species

Both the minority and majority caucus voted yes on **Arizona** [SCM 1009](#) on March 28 clearing the way for third reading. This resolution urges the director of the U.S. Fish and Wildlife Service to delist the gray wolf from the endangered species act and would require the Arizona secretary of state to bring this resolution to the president, the Senate president, the House speaker and every member of congress from Arizona.

## Franchise Tax

A March 27 hearing for **California** [AB 1256](#) in the Assembly Revenue and Taxation Committee was canceled at the request of the author. This bill would reduce that minimum franchise tax in the second taxable year for a new corporation, and that annual tax in the first taxable year for a new limited partnership, new limited liability partnership, and new limited liability company that is a small business, which is defined as a business entity with gross receipts of \$5,000 or less. The franchise tax would be \$100 if the company is doing less than \$5,000 per year in gross receipts. If this bill becomes law, it would take effect for taxable years beginning on or after January 1, 2018.

**Louisiana [HB 169](#)** was prefiled on March 28 and referred to the House Ways and Means Committee. Sponsored by Rep. Robby Carter, D-Amite, this bill would extend the natural gas franchise tax to oil franchises and increase the tax rate from one percent to two percent on gross receipts. If this bill becomes law, it will take effect on July 1, 2017.

**Mississippi [HC 102](#)** died in the House Rules Committee on March 29. This concurrent resolution would have suspended the deadline for the purpose of requesting the drafting, introduction and consideration of a bill to delay the date of the initial scheduled tax reduction for the phase out of the corporation franchise tax that was in [SB 2858](#) and became law in 2016. Rep. David Baria, D-Bar St. Louis, is the sponsor.

**Tennessee [HB 65](#)** is scheduled to be heard on April 5 in the House Finance, Ways and Means Committee subcommittee. This bill would exempt certain new companies from paying franchise tax or excise tax for their first two years in business if they employ no more than 25 people and revenue is below \$1.5 million. This bill is sponsored by Rep. Eddie Smith, R-Knoxville, and would become effective on July 1, 2017 if enacted.

The Senate companion, [SB 901](#), is pending in the Senate Finance, Ways and Means Committee after being recommended for passage by the subcommittee on March 15. The bill is sponsored by Sen. Mile Bell, R-Riceville, and would take effect on July 1 if enacted.

**Texas [HB 599](#)** was heard in the House Ways and Means Committee on March 29, where testimony was given but the bill was left pending in the committee. Beginning in 2018, this bill, sponsored by Rep. Mike Schofield, R-Katy, would decrease the franchise tax rate by .25 percent on even numbered years if certain circumstances are met until the franchise tax ultimately expires. If enacted, this bill would take effect on September 1, 2017.

**Texas [HB 1052](#)** was heard in the House Ways and Means Committee on March 29, where testimony was given but the bill was left pending in the committee. This bill would repeal the franchise tax by May 15, 2018. Rep. Leighton Schubert, R-Caldwell, is the sponsor.

## Landmen

### Employee Classification

Although a non-producing state, Vermont's take on independent contractor classification is worth noting. **Vermont [SB 141](#)** was read for the first time on March 28 and referred to the Senate Economic Development, Housing and General Affairs Committee. Sponsored by Sen. John Rodgers, D-Essex-Orleans, this bill aims to establish a common definition of what an independent contractor is for workers' compensation and unemployment insurance statutes. The bill would establish an individual as an independent contractor if it can be demonstrated that they are free from the essential direction and control of the employing unit and the employing unit proves that the individual meets all of the following criteria:

- The individual has the essential right to control the means and progress of the work except as to the final results.
- The individual is customarily engaged in an independently established trade, occupation, profession or business.
- The individual has a substantive investment in the facilities, tools, instruments, materials and knowledge used by him or her to complete the work.
- The individual has the opportunity for profit and loss as a result of the service being performed.
- The individual hires and pays his or her employees, if any, and supervises the details of their work.
- The individual makes his or her services available to the general public and is able to accept work for entities other than the employing unit.

To be classified as an independent contractor, the individual must meet at least two of the following criteria in addition to all those mentioned above:

- The individual is responsible for the satisfactory completion of the work and may be held contractually responsible for the failure to complete the work.
- The parties have a written contract that defines the relationship and gives the individual contractual rights in the event the contract is terminated by the employing unit before the completion of the work.
- Payment to the individual is based on factors directly related to the work performed and not solely on the amount of time expended by him or her.
- The work is outside the usual course of business of the employing unit for which the service is performed.
- The individual has elected to file taxes as an independent contractor with the federal Internal Revenue Service.

If this bill becomes law, it will take effect on July 1, 2017.

## **Lands**

### **Leasing**

**Montana** [HB 384](#) is scheduled for an April 11 hearing in the Senate Energy and Technology Committee. This bill would require a lessee to pay all costs of production from a working interest unless the Board of Land Commissioners finds that sharing the expense of transporting the oil to the nearest market better serves the interest of the state or a lessor and a lessee agree to other terms. This bill would take effect immediately if enacted.

**Nebraska** [LB 535](#) advanced to enrollment and review on March 30. This bill, sponsored by Sen. Dan Hughes, R-Venango, would exempt oil, gas or mineral lease conveyance from the requirement of filing a statement with the register of deeds. This bill would become effective three months after adjournment if enacted.

## Permits

A hearing for **Arkansas [HB 2086](#)** in the House Insurance and Commerce Committee was postponed until March 31. This bill, which is sponsored by Rep. Warwick Sabin, D-Little Rock, aims to empower landowners who are facing the seizure of their property by a pipeline company using the power of eminent domain. At least 30 days before requesting an order from the Arkansas Public Service Commission and a permit from the Department of Environmental Quality, pipeline companies would be required to provide a notice of their intent to exercise a right of eminent domain and include specifics for their development in the plan. The pipeline company would also have to obtain an order verifying that the pipeline will operate a common carrier facility and include certain information in the application process. Pipeline companies would be required to obtain a permit from the Department of Environmental Quality before exercising the right of eminent domain. The bill would hold pipeline companies liable to the landowner for damage caused to the property from surveying. There is an emergency clause in the bill and the bill would become effective when the governor signs it. If the bill is not signed by the governor it will become law without signature or if it is vetoed and the veto is overridden, it will become effective on that date.

**Pennsylvania [HB 1009](#)** was introduced on March 28 and referred to the House State Government Committee. Sponsored by Rep. Justin Walsh, R-Westmoreland, this bill would release Project 70 restrictions on a parcel of property and structure located in West Newton Borough in Westmoreland County in return for the development of park and open space in the West Newton Borough in Westmoreland County. If this bill becomes law, it will take effect immediately.

## Pooling

Republican Gov. Doug Burgum signed **North Dakota [HB 1257](#)** into law on March 24. Effective August 1, when filing for a petition for a proposed plan of unitization, in order for the plan to be approved, this law will require it to be signed by the person who is required to pay more than 55 percent of the cost of the unit operation, and by the owners of more than 55 percent of the royalty interests, a decrease from 60 percent in both cases.

# Oil and Gas

## Mineral Rights

**West Virginia [SB 369](#)** passed the Senate on March 29 as a committee substitute and was referred to the House Energy Committee. If the interest in real estate is subject to a tax lien, this bill would allow surface owners to purchase mineral interests that lay below the property. The surface owner who is buying the mineral interest must pay the local clerk the amount that would be required for redemption, the lesser of either the amount required for redemption or \$3,000 and a non-refundable \$20 administrative fee. Upon the closing of the transaction, the clerk would issue the surface owner a certificate of substitution. If there is more than one surface owner, the clerk would issue two separate certificates of substitution. This bill is sponsored by Sen. Dave Sypolt, R-Kingwood.

## Oil and Gas General

**California** [SB 44](#) is scheduled for an April 19 hearing in the Senate Environmental Quality Committee. This bill would require the State Lands Commission in the Natural Resources Agency to administer a legacy oil and gas well removal, plugging and remediation program. Carrying out this program is contingent on appropriation of funds by the legislature.

This bill is sponsored by Sen. Hannah-Beth Jackson, D-Santa Barbara, chair of the Senate Judiciary Committee.

**Colorado** [HB 1256](#) passed the House without amendments on March 29 and was delivered to the Senate, where it was referred to the Senate Agriculture, Natural Resources and Energy Committee. Sponsored by Rep. Mike Foote, D-Lafayette, this bill would require that all oil and gas production facilities and wells be located at least 1,000 feet from school buildings and other high occupancy buildings. All new oil and gas production facilities and wells must be located at a minimum of 1,000 feet from the school property line, not the school building. The bill does not apply if a school commences operations near oil and gas facilities or wells that are actively in use, or have been permitted.

**North Dakota** [HB 1151](#) passed the Senate on March 27 and was returned to the House the following day. This bill would make it so that people operating or controlling an oil well do not have to report a spill that is 10 or fewer barrels of oilfield fluid over a 15-day period.

**Texas** [HB 3025](#) was referred to the House Natural Resources Committee on March 30. Sponsored by Rep. Tracy King, D-Uvalde, this bill would change the number of days after a landowner or other person who possess an abandoned well has to plug or cap the well from 180 days to 30 days after discovering it. The bill would add a new section to the existing law that says no later than 10 days after a landowner who possesses a deteriorated well learns of its condition the landowner would have to have the well plugged. Districts would require that owners or a lessee of land with deteriorated wells plug or repair the well sufficiently to prevent pollution of any water, including ground water. If this bill becomes law, it will take effect immediately.

**Texas** [SB 1868](#) was referred to the Senate Natural Resources and Economic Development Committee on March 23. Sponsored by Sen. Judith Zaffirini, D-Laredo, this bill would require that any applicant for a permit to drill an oil or gas well to indicate on the application whether the proposed site is located within 1,500 feet of the property line of a child-care facility, private school or primary or secondary school. Permits would not be granted unless a public hearing is held in the county and public comments are received on whether or not granting the permit is in the public interest and the commission considers the comments received. If enacted, this bill would take effect on September 1.

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