

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **Regulatory Reform.** On March 1, the U.S. House of Representatives passed [H.R. 998](#), *Searching for and Cutting Regulations that are Unnecessarily Burdensome Act*, also known as the SCRUB Act. The measure would require federal agencies to repeal existing regulations to offset the cost of any new rulemaking. The bill would establish the Retrospective Regulatory Review Commission to conduct a review of the Code of Federal Regulations to identify rules and sets of rules that collectively implement a regulatory program that should be repealed to lower the cost of regulation. [Read more.](#)
- **Agency Regulations.** On March 1, the U.S. House of Representatives passed [H.R. 1009](#), known as the *OIRA Insight, Reform, and Accountability Act*. Under the measure, federal agencies would be barred from issuing rules with significant economic effects unless the White House Office of Information and Regulatory Affairs (OIRA) first determines that the agency took certain required actions, such as assessing costs and benefits, considering alternatives, and minimizing the burden on businesses and local governments. Under the current process, OIRA doesn't review a rule unless an agency submits it, and agencies determine on their own whether the rule would have a significant economic effect. [Read more.](#)

FEDERAL – Regulatory

- **EPA Emissions Reporting on Hold.** On March 2, in a surprise move drawing high praise from the oil and gas industry, the new EPA Administrator, Scott Pruitt, [announced](#) that the agency has withdrawn an EPA request, made under the Obama administration, that "owners and operators in the oil and natural gas industry provide information on equipment and emissions at existing oil and gas operations. The withdrawal is effective immediately, meaning owners and operators – including those who have received an extension to their due dates for providing the information – are no longer required to respond." Under the previous administration, EPA sent letters to more than 15,000 owners and operators in the oil and gas industry, requiring them to provide information. The information request comprised of two parts: an "operator survey" that asked for basic information on the numbers and types of equipment at all onshore oil and gas production facilities in the U.S., and a "facility survey" asking for more detailed information on sources of methane emissions and emission control devices or practices in use by a representative sampling of facilities in several segments of the oil and gas industry. EPA is now withdrawing both parts of this information request. [Read more.](#)

- **New Interior Secretary Supports Permitting Improvements.** On March 1, Rep. Ryan Zinke (R-MT) was confirmed as the next Secretary of the Interior Department. In his testimony during confirmation hearings, Zinke not only voiced his support for greater federal land resource development but also recognized the need to improve the BLM permitting process. According to law firm, Crowell & Moring, LLP, “permitting delays of six to ten years have become common for large onshore mineral development projects over the past two decades.” Zinke agreed that the red tape needs to be removed, saying “our permitting process is broke[n]...” He added that the current permitting process is “somewhat arbitrary and I do think we need to focus on it” to make it “fair.” [Read more.](#)
- **Gov. Rick Perry Confirmed as Energy Secretary.** On March 2, Governor Rick Perry (R-TX) was confirmed as the next Secretary of the Department of Energy. Those Texas legislators who know Perry best praised his confirmation. Weighing in were Sen. John Cornyn (R-TX), who touted Perry’s “commonsense approach to regulation”, and Rep. Joe Barton (R-TX) who championed Perry’s “strong energy background” and a “track record of proven executive leadership.” [Read more.](#)

STATE – Legislative

- **Notary Law – Idaho.** On February 23, the State Affairs Committee introduced HB 208. This bill would repeal the current notary statutes and introduces a completely new notary act, “Revised Uniform Law on Notarial Acts”, utilizing a draft that was originally provided by the Uniform Law Commission. The primary purpose of this new Act is to provide notaries public with the option to use technology to perform notarial acts. The measure also requires the Secretary of State to provide a course of education for applicants and notaries who wish to use it. [Read more.](#)
- **Regulations – Oklahoma.** On February 28, HB 2151, introduced by House Speaker Charles McCall, was referred to the Energy and Natural Resources Committee. The bill creates the Oklahoma Oil and Gas Regulation Modernization Task Force. The Task Force will study current regulations related to the identification, exploration and development of oil and natural gas resources in Oklahoma and identify opportunities for modernizing regulation so as to enhance efficiencies related to such identification, exploration and development while also preserving the interests of owners of oil and gas rights in the state. [Read more.](#)
- **Targeted Reservoirs; Unitization – Oklahoma.** On March 2, the Senate Energy Committee passed an amended version of SB 284, a bill that makes changes to certain provisions related to extended lateral horizontal units. The changes amend the bill name to the Horizontal Well Development Act as well as allowing multiunit horizontal wells in any targeted reservoir, among other provisions. [Read more.](#)

- **Development Plans – Oklahoma.** On March 2, the Senate Energy Committee introduced their version of SB 669, which makes no substantive changes to the version first introduced by Sen. Bryce Marlatt (R). The bill makes changes to the plan of development requirements under existing law to now include the conditions upon which a unit will terminate. [Read more.](#)
- **Targeted Reservoirs – Oklahoma.** On March 2, the Senate Energy Committee introduced its version of SB 680, with only technical changes to the originally version sponsored by Sen. Greg Treat (R). The bill defines how the Corporation Commission would in certain instances define a targeted reservoir as well as amending the definition of an associated common source of supply, among other provisions. [Read more.](#)
- **Royalties; Production Proceeds – Oklahoma.** On March 2, the Senate Energy Committee introduced its version of SB 731 originally introduced by Sen. Bryce Marlatt (R). The bill makes certain changes to royalty proceeds, unmarketable title relating to proceeds of production, and the process for uncured proceeds held by a court. [Read more.](#)
- **Real Estate Trustees – Utah.** On March 2, the House Committee adopted SB 203, introduced by Sen. Gene Davis (R) on February 10. The bill would require trustees of trust deeds to be an active member of the Utah State Bar or any entity in good standing that is organized to provide licensed professional legal services and employs an active member of the Utah State Bar, and only an entity meeting these requirements may sign documents in the capacity of a trustee. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Oil majors shifting resources to smaller-scale shale drilling.** On March 2, the *Energy Fuse* article, *Oil Majors Look To Smaller, Shorter-Cycle Shale Drilling*, details how short-cycle drilling has become much more attractive to larger E&P companies than the complex megaprojects. “The oil majors are deferring large projects and instead pouring money into shale drilling, hoping to catch up with some of their smaller peers.” For example, one such player, ExxonMobil, has laid out a “strategy to shift its sights to thousands of shale wells in Texas and North Dakota” and plans to spend \$5.5 billion on shale with their output in the Permian and the Bakken expected to grow at a 20 percent rate over the next decade. [Read more.](#)

State-by-State Legislative Session Overview

Virginia adjourned its 2017 legislative session on February 25, [The Washington Post](#) reports. Both chambers of the legislature agreed to and passed [HB 1500](#), which contains amendments to the 2016-2018 state operating budget, before gaveling out of the session. The bill is pending

enrollment and presentation to Democratic Gov. Terry McAuliffe, who will have until March 27 to act on the bill and all other pending legislation or it becomes law without signature. Legislators notably did not address contentious pieces of legislation on the final day of the session, which was the last regularly scheduled legislative day before the 2017 general election in which all 100 seats in the House as well as the governor's, lieutenant governor's and attorney general's offices are up for election.

Alaska, Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming 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 legislative session.

Virginia adjourned on February 25.

Florida is scheduled to convene its 2017 legislative session on March 7 and **Louisiana** is scheduled to convene on April 10.

The following states are expected to adjourn their 2017 legislative sessions on the dates provided: **Utah** (March 9); **Wyoming** (March 10) and **New Mexico** (March 18).

Louisiana Democratic Gov. John Bel Edwards has until March 5 to act on legislation from the first special session or it becomes law. **Virginia** Democratic Gov. Terry McAuliffe has until March 27 to act on legislation presented after February 18 or it becomes law without signature.

The following states are currently posting bill draft requests/prefiles for the 2017 session: [Florida](#) and [Louisiana](#).

Endangered Species

Arizona [SCM 1001](#) was heard in the House Energy, Environment and Natural Resources Committee on February 28, but no action was taken. This resolution urges the U.S. Congress to take action to repeal final rules expanding the definition of critical habitat 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.

New Mexico [SB 481](#) is scheduled to be heard in the Senate Conservation Committee on March 4. This bill, sponsored by Sen. William Burt, R-Alamogordo, would have the director of the Department of Game and Fish conduct research on the economic impact in New Mexico of

having a species being listed, or potentially listed, as being threatened or endangered. The director would also, if requested by local or regional government, residents, property owners or other stakeholders in the state, be required to provide assistance in evaluating and implementing cost effective strategies for mitigating impacts to and recovery of endangered species that are consistent with economic development and growth in the state. The director would also be required to conduct research on species of interest, which are species that are being considered as a candidate for endangered species. If this bill becomes law, it will take effect on July 1, 2017.

Franchise Tax

Arkansas [HB 1644](#) passed the House on February 24, the bill was then referred to the Senate Revenue and Taxation Committee on February 27 and it passed that committee on March 1. This bill would change the filing date for corporate franchise tax from December 31 to the end of the last day of the corporation's fiscal year.

If this bill is enacted, it would go into effect for tax years beginning on or after January 1, 2017. The bill is sponsored by Rep. Dwight Tosh, R-Jonesboro.

Action on **Tennessee** [SB 8](#) in the Senate Finance, Ways and Means Committee's Revenue Subcommittee was deferred from March 1 to March 15. This bill would change the apportionment formula used to calculate franchise tax from a three-factor formula to a single-sales-factor formula.

This bill is sponsored by Sen. Mark Green, R-Clarksville, and would become law immediately if enacted.

The House companion bill, [HB 714](#), is pending in the House Finance, Ways and Means Subcommittee.

Texas [SB 17](#) was heard in the Senate Finance Committee on February 28, where testimony was given but no vote was taken. This bill would decrease the franchise tax rate until it is eliminated. If enacted, the bill would become effective on September 1, 2017.

This bill is sponsored by Sen. Jane Nelson, R-Flower Mound.

Texas [SB 142](#) was left pending in the Senate Finance Committee after a hearing on February 28. This bill offers amendments to the way cost of goods is calculated for the purpose of determining a corporation's franchise tax.

This bill would take effect on January 1, 2018 and is sponsored by Sen. Van Taylor, R-Plano.

Landmen

Employee Classification

Massachusetts [HB 1018](#), sponsored by Rep. Bradley Jones Jr. R-Middlesex, was given a bill number on February 22 and is pending in the Joint Labor and Workforce Development Committee. This bill would amend [General Law Section 148B](#) of Chapter 149, which governs employee classification, by striking out paragraph (a) and replacing it with the definition that people should be classified as employees unless:

- The individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and
- The service is performed outside the usual course of the business of the employer; or
- The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

Massachusetts [HB 1036](#), sponsored by Rep. Shaunna O'Connell, R-Bristol, was recently assigned a bill number and is pending in the Joint Labor and Workforce Development Committee. This bill would amend [General Law Section 148B](#) of Chapter 149, which governs employee classification, by striking out paragraph (a) and replacing it with the definition that people should be classified as an employee unless the person is a separate business entity or all of the following criteria are met, in which case they should be classified as an independent contractor:

- The person is free from control and direction in performing the job.
- The service is performed outside the usual course of business of the contractor for which the service is performed.
- The person is customarily engaged in an independently established trade, occupation, profession or business that is similar to the service at issue.

Massachusetts [SB 1043](#) was assigned a bill number on February 22 and referred to the Joint Labor and Workforce Development Committee. This bill would amend [General Law Section 148B](#) of Chapter 149, which governs employee classification, by adding that the state should adopt rules and regulations to align the state law with [section 3121](#) of the Internal Revenue Code and [section 530 \(d\)](#) of the Revenue Act of 1978. Sen. Michael Rodrigues, D-Bristol, is the sponsor.

Massachusetts [SB 1049](#) was given a bill number on February 22 and is currently pending in the Joint Labor and Workforce Development Committee. This bill would amend [General Law Section 148B](#) of Chapter 149, which governs employee classification, by adding that a person is an independent contractor if they have consented to that classification and paid a compensation that is equal to, or exceeds, \$30 per hour, \$1,200 per week or \$5,160 per month. They would also have to provide certain professional services, use discretion and independent judgment or advanced knowledge in a field, or retain ownership or copyright to their work. This bill is sponsored by Sen. Bruce Tarr, R-Essex.

Another Massachusetts bill sponsored by Senator Tarr, [SB 1050](#), would amend [General Law Section 148B](#) of Chapter 149, which governs employee classification, by adding people who are in franchise agreements should not be considered employees of the parent company that granted them the license or authority to sell the product or service.

SB 1050 was given a bill number on February 22 and is currently pending in the Joint Labor and Workforce Development Committee.

Washington [HB 1300](#) was discussed during an executive session in the House Appropriations Committee on February 24, but no action was taken. This bill would prohibit employers from misclassifying employees as independent contractors, charge them a fee to be an independent contractor, require an employee to enter into an agreement that would result in a change of their employment classification to independent contractor or evade detection of their goal to misclassify employees. The Department of Labor would be permitted to conduct investigations into the misclassification of employees and provide penalties if companies are found to have misclassified employees. The substitute clarifies that employees and independent contractors have the same meaning in the bill, and includes provisions regarding court orders in the final judgment for violation of the bill.

Lands

Leasing

Oklahoma [HB 1902](#) passed House Rules Committee on March 1. This bill, sponsored by Rep. Kevin Calvey, R-Oklahoma City, would declare any action taken by a municipality or other political subdivision that substantially interferes with a mineral estate, imposes limitations that adversely impact the use and development of minerals or prohibits access to the development of a mineral estate to be a taking of property rights under [Article II](#) of the Oklahoma Constitution.

This bill would take effect immediately if enacted.

Pooling

North Dakota [HB 1257](#) is scheduled for a March 10 hearing in the Senate Energy and Natural Resources Committee. When filing for a petition for a proposed plan of unitization, in order for the plan to be approved, it will have to be signed by the person who will be 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 proposed decrease from 60 percent in both cases.

Public Lands

Nevada [SJR 7](#) was introduced on February 27 and referred to the Senate Natural Resources Committee. This resolution urges U.S. Congress to enact legislation that would transfer certain public lands to the state of Nevada. The bill would exclude lands that are designated by congress as wilderness and lands that are national conservation areas. It would also exclude lands that are

designed by the Bureau of Land Management as areas of critical environmental concern to protect the desert tortoise as well as lands that are administered by the U.S. Department of Energy, the U.S. Department of Defense, the Bureau of Indian Affairs, the U.S. Fish and Wild Life Service and the National Park Service.

Sen. Michael Roberson, R-Henderson, is the sponsor.

Oil and Gas

Oil and Gas General

North Dakota [HB 1151](#) is scheduled to be heard in the Senate Energy and Natural Resources Committee on March 9. 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.

West Virginia [HB 2688](#) was introduced by Del. William Anderson, R-Williamstown, on February 23 and referred to the House Energy Committee. This bill would allow natural gas companies to enter private property without the written permission of the owner under certain circumstances to make examinations, tests, hand auger borings, appraisals and surveys for proposed line if the work is necessary to satisfy regulatory requirements and for the selection of the most advantageous route or to make improvements on existing lines. The companies would be permitted to enter property without written consent if the company has requested permission, the owner's written permission is not received prior to the date of entry or that the natural gas company has given the owner a notice of the intent to enter.

Royalty Payments

Nevada [AB 82](#) was heard in the Assembly Taxation Committee on February 28, but no action was taken. This bill would require every person who is extracting minerals to include the royalties paid, and name and address of each recipient of a royalty payment in their annual statement showing gross yield and claimed net proceeds. The bill would also require the Department of Taxation to send the amount of taxes due to the person who is extracting the mineral along with a statement of the amount of net proceeds and royalties paid. The taxes are due by the person who is extracting the mineral on or before May 10 of the year in which the certificate is received. If enacted, this bill would take effect on July 1.

This bill is sponsored by the Assembly Taxation Committee on behalf of the Department of Taxation.

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