

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Regulatory

- **Public Lands** – The Bureau of Land Management has issued Instruction Memorandum 2015-124, which represents a positive change and clarification as to how federal Communitization Agreements are administered by attempting to “clean-up” the process and eliminates some of the cumbersome issues that arose from the BLM’s recently proposed changes to Onshore Order No. 3, which were called into question by many AAPL members during the public comment process. [Read more.](#)

FEDERAL – Administrative Law

- **Employee Misclassification** – The U.S. Department of Labor reached an historic \$18 million settlement with Halliburton over alleged employee misclassification of field service representatives, in addition to 28 different job categories. The Halliburton investigation, which led to the settlement, is reportedly part of a larger scale investigation into oil and gas industry pay practices that also affect landman services, and may portend future settlements affecting landmen. [Read more.](#)

State-by-State Legislative Session Overview

Pennsylvania’s budget impasse has continued for 119 days, during which the state has nevertheless spent \$27 billion. That did not stop the Senate from voting recently along party lines to recess for two weeks while the stalemate over taxes, spending, pensions and liquor reform continued between Democratic Gov. Tom Wolf and Republican leadership, [TribLive](#) reports. Senate Republicans failed to garner the necessary votes from Democrats to override Governor Wolf’s recent veto of a stopgap budget on October 28. However, there is reportedly a “budget-plus” package in the works that would address reforms to the state’s two major public pensions plans, liquor privatization and significant school property tax relief, [PennLive](#) reports. There is also talk of legislation that would include property tax relief and a sizable increase in the state’s main subsidy to public schools, which are both top priorities for Wolf. The House is expected to reconvene on November 4 and the Senate is not scheduled to return until November 16.

Illinois, Massachusetts, Michigan, Ohio and Wisconsin are in regular session. The **District of Columbia** Council and the **U.S.** Congress are also in regular session.

New Jersey is currently in recess and is expected to reconvene on November 9. **Pennsylvania** is also in recess. The House is expected to reconvene on November 4, while the Senate is scheduled to return November 16.

California's special sessions on health and transportation have yet to adjourn, though the legislature has adjourned for the year and will not reconvene until January 4, the *Los Angeles Times* reports. **Florida** convened its third special session on October 19 to redraw House and Senate districts, and is expected to adjourn November 6. **Alaska** convened a third special session on October 24 to consider details of the Alaska LNG Project. **Arizona** convened a special session on a school funding lawsuit on October 29. **Hawaii** is expected to convene a three-day special session on judicial appointments beginning November 3.

The following governors have bill signing deadlines on the dates provided: **North Carolina** Republican Gov. Pat McCrory had until October 30 to act on any bills still pending approval upon adjournment, or that were presented after adjournment. **South Carolina** Republican Gov. Nikki Haley has until January 14 to act on legislation or it becomes law without signature. **Maine** Republican Gov. Paul LePage has until January 16 to act on any bills sent to him on July 16. All other legislation has been acted on. **Montana** Democratic Gov. Steve Bullock has 0 days from presentment to act on legislation or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Haslam has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

Alabama, Florida, the Kansas House, Kentucky, Oklahoma and the **Tennessee House** and Senate are now pre-filing for the 2016 legislative session.

The following states are currently holding interim committee hearings: **Alabama, Alaska, Arizona, Arkansas, the California Assembly and Senate, Colorado, Connecticut, the Florida House and Senate, the Georgia House and Senate, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, the Mississippi House and Senate, the Missouri House and Senate, Montana, Nebraska, Nevada, New Hampshire House and Senate, New Mexico, the New York Assembly, North Dakota, the Oklahoma House and Senate, the South Carolina House and Senate, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin** and **Wyoming**.

Endangered Species

Massachusetts [SB 468](#) was scheduled for a hearing on October 28 in the Joint Environment, Natural Resources and Agriculture Committee. Details from the hearing are not yet available. The bill would add new sections to the Massachusetts Endangered Species Act to prohibit the Division of Fisheries and Wildlife from promulgating any regulations which could result in the restriction or taking of land unless the regulation were promulgated in accordance with certain existing processes and the land were deemed a significant habitat, as defined. The division would further be required to rescind any such existing restrictions that do not comply with those requirements. The division would have 180 days from the passage of this bill to comply with these provisions.

Landmen

Wisconsin [AB 456](#), sponsored by Rep. Scott Allen, R-Waukesha, and others, was introduced on October 27, and considered in a public hearing in the Assembly Housing and Real Estate Committee on October 29. Details from the hearing are not yet available. Representative Allen is vice-chair of that committee. Co-sponsors Rep. Robert Brooks, R-Saukville, and Rep. Leon Young, D-Milwaukee, are also members of that committee. The bill would generally amend current law regulating the practice and licensure of real estate brokers and real estate salesperson. It would create provisions addressing independent real estate practice by brokers, which is not addressed under current law. Under these provisions, a broker who is associated with a firm would also be authorized to engage in independent real estate practice, as specified. The bill would also define an “employee” for the purposes of these provisions to specify that a licensee would not be considered an employee of a firm if:

- A written agreement has been entered into with the firm that provides that the licensee may not be treated as an employee for federal and state tax purposes.
- 75 percent or more of the annual compensation related to sales or output paid by the firm to the licensee pursuant to the agreement is directly related to the brokerage services performed by the licensee on behalf of the firm.

The majority of the bill would take effect on July 1, 2016 or on the day after publication by the Legislative Reference Bureau, whichever is later.

As the bill relates to landmen engaged in real property transactions, the bill provides needed clarity on the issue of independent contractor status and would militate against audits and investigations on the basis of alleged employee misclassification.

Lands

Wisconsin [AB 319](#) passed the Assembly Energy and Utilities Committee 14-1 on October 27 and was placed on the Assembly floor calendar for November 3. The bill would extend current laws relating to the condemnation of land for the construction of high-voltage transmission lines to include condemnation for natural gas distribution and transmission lines. It would impose a 90-day deadline for the utility and the owner of the land to agree on the fair market value of the land to be conveyed, except that this deadline could be extended by an additional 90 days if the two parties agree.

Oil and Gas

General Oil and Gas

Pennsylvania [HB 1674](#), primarily sponsored by Rep. Curt Sonney, R-Erie, was introduced and referred to the House Environmental Resources and Energy Committee on October 29. The bill would permit annual oil and gas well reports to be submitted electronically or by mail at the discretion of the well owner. It would also exempt from existing reporting requirements all

owners and operators of operating wells that were drilled for the purpose of supplying fuel to a residential dwelling or any structure auxiliary to a residential dwelling prior to the effective date of this bill. If enacted, the bill would take effect 60 days after final passage and approval.