

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

- **H.R. 3608 – Endangered Species Transparency and Reasonableness Act.** On September 27, [H.R. 3608](#), known as the “Endangered Species Transparency and Reasonableness Act” passed the House Natural Resources Committee. The bill, introduced by Rep. Tom McClintock (R-CA), requires the federal government to disclose, and publish on the Internet, the basis for determinations that species are endangered species or threatened species including all data used prior to any Endangered Species Act (ESA) listing decision. The measure also requires that prior to making ESA determinations affected states must receive all data that is the basis for the determination. Additionally, the bill requires the U.S. Fish and Wildlife Service to track, report to Congress and make available online information on funds expended to respond to ESA lawsuits, such as those brought by environmental activist groups. [Read more.](#)
- **H.R. 6345 – EMPOWERS Act of 2018.** Related to the above bill, [H.R. 6345](#), known as the “Ensuring Meaningful Petition Outreach While Enhancing Rights of States Act of 2018” or the “EMPOWERS Act of 2018,” also passed the House Natural Resources Committee on September 27. The bill, introduced by Rep. Stevan Pearce (R-NM), would amend the Endangered Species Act of 1973 to revise the process for listing, delisting, or reclassifying a species. Before submitting a petition to list a species as threatened or endangered to the Department of the Interior or the Department of Commerce, the petitioner would have to notify each county and state in which the species is located of the intent to submit a petition. Upon finding that the petition may be warranted, the appropriate department must solicit advice from each county and state in which the species is located. [Read more.](#)
- **H.R. 6346 – WHOLE Act of 2018.** Related to the above bills, [H.R. 6346](#), known as the “Weigh Habitats Offsetting Locational Effects Act of 2018” or the “WHOLE Act of 2018,” also passed the House Natural Resources Committee on September 27. The bill, introduced by Rep. Mike Johnson (R-LA), would amend the Endangered Species Act of 1973 to revise the process by which the Department of the Interior or the Department of Commerce reviews an agency action to determine whether the action is likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of the critical habitat of the species. Specifically, the bill requires the appropriate department, when making such a determination, to consider the offsetting effects of protection or conservation measures that are already in place or proposed to be implemented as part of the action. [Read more.](#)

- **H.R. 6355 – PETITION Act of 2018.** Related to the above bills, [H.R. 6355](#), known as the “Providing ESA Timing Improvements That Increase Opportunities for Nonlisting Act of 2018” or the “PETITION Act of 2018,” passed the House Natural Resources Committee on September 27. The bill, introduced by Rep. Bruce Westerman (R-AR), would amend the Endangered Species Act of 1973 to revise the process by which the Department of the Interior or the Department of Commerce reviews petitions to list a species on the endangered or threatened species list. Specifically, the bill establishes a process for the appropriate department to declare a petition backlog and discharge the petitions when there is a backlog. [Read more.](#)
- **U.S. House of Representatives Schedule.** U.S. House of Representatives Majority Leader Kevin McCarthy announced that no votes will occur in October and that the House will reconvene on November 13, following the midterm elections. The House was originally scheduled to be in session through October 15, but instead will adjourn to allow House members to spend more time in their districts in advance of the elections. [Read more.](#)

FEDERAL – Regulatory

- **BLM Resource Advisory Council.** On October 1, the Bureau of Land Management (BLM) reopened their request for public nominations to BLM Resource Advisory Councils (RAC) in their *2018 Second Call for Nominations for Resource Advisory Councils* ([83 Fed. Reg. 49429](#)). The RAC panels are comprised of various stakeholders, including representatives of “organizations associated with energy and mineral development” as well as environmental groups, elected officials, and Indian tribes. Individuals may nominate themselves to RACs. The deadline for nominations is October 31, 2018. To learn more about becoming a RAC member: [Read more.](#)
- **Interior Department Administrative Appeal – Wyoming.** On September 26, environmentalists filed an administrative appeal with the U.S. Department of the Interior’s Board of Land Appeals in an effort to halt a BLM-approved drilling plan in the Upper Green River region of Western Wyoming. In their [petition](#), WildEarth Guardians challenge the BLM Record of Decision which in 2018 authorized the development of 3,500 oil and gas wells over a 10-year period in Sublette County, Wyoming, including lands within the Rock Springs and Pinedale Field Offices. The group calls on the Board of Land Appeals to block the plans, citing the failure of the BLM to limit air pollution to legally acceptable levels under the Clean Air Act. [Read more.](#)

FEDERAL – Judicial

- **BLM Methane Emissions Rule – California Federal Court.** On September 28, a group of environmentalists filed suit against the Trump administration, challenging the BLM’s move to roll back the Obama-era methane emissions rule. In [Sierra Club v. Zinke](#) (Case

No. 3:18-cv-05984), filed in the U.S. District Court for the Northern District of California, the litigants challenge the BLM final rescission rule, *Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain Requirements* ([83 Fed. Reg. 49184](#)) which becomes effective November 27, 2018. The group alleges that the “BLM illegally rescinded the rule, which requires oil and gas companies operating on public lands to take reasonable measures to prevent the waste of publicly owned natural gas.” The environmentalists are asking the court to stop the new rule from taking effect and to reinstate the 2016 rule. [Read more.](#)

- **BLM Leasing – Colorado Federal Court.** On September 27, environmental groups filed suit against the BLM in an attempt to invalidate 121 oil and gas leases near Dinosaur National Monument, an area in northwestern Colorado and eastern Utah spanning more than 117,000 acres. The lawsuit, filed in the U.S. District Court for the District of Colorado, [Rocky Mountain Wild v. Zinke](#) (Case No. 1:18-cv-02468), alleges that Interior Secretary Ryan Zinke and the BLM didn’t properly assess the environmental impact of drilling on the land, and how “the air pollution from developing the leases will adversely impact public health, the environment, and treasured public lands like Dinosaur National Monument.” A spokesperson for the BLM said the agency is reviewing the complaint. [Read more.](#)
- **Sage Grouse – Colorado Federal Court.** On September 27, the U.S. District Court for the District of Colorado issued an order affirming a 2014 final listing decision and final critical habit designation issued by the U.S. Fish and Wildlife Service for the Gunnison sage-grouse. In [Colorado v. U.S. Fish and Wildlife Service](#) (Case No. 15-cv-00286-CMA-STV), Judge Christine M. Arguello upheld the Endangered Species Act designation of “threatened” for the bird species. In 2014, the species was protected with 1.4 million acres of designated critical habitat. “At the center of the dispute is how much land the species needs in order to survive. The land designation impacts ranchers and farmers in the Gunnison area. It also can affect the sale of oil and gas leases on BLM lands.” [Read more.](#)
- **National Monuments – Colorado Federal Court.** On September 24, federal judge Tanya S. Chutkan ruled that two consolidated lawsuits filed against the Trump administration for reducing the Grand Staircase-Escalante and Bears Ears national monument areas will remain in the U.S. District Court for the District of Columbia and not be moved to Utah as requested by the government. In the first order (which consolidated two cases), [The Wilderness Society v. Trump](#) (Case No. 17-cv-2587) and [Grand Staircase Escalante Partners v. Trump](#) (Case No. 17-cv-2591), the court directs that the Interior Department must provide the plaintiffs with “48 hours’ notice prior to any ground-disturbing activities within Grand Staircase-Escalante National Monument’s original boundaries.” In the second order (which consolidated three cases), [Hopi Tribe v. Trump](#) (Case No. 17-cv-2590), [Utah Diné Bikéyah v. Trump](#) (Case No. 17-cv-2605) and [Natural Resources Defense Council, Inc. v. Trump](#) (Case No. 17-cv-2606), the judge imposed the same

notice requirements regarding “Bears Ears National Monument’s original boundaries.” Access all [five original lawsuits here](#). The consolidated cases and challenges by the Trump administration are expected to continue through 2018. [Read more](#).

STATE – Legislative

- **Severance Tax – Pennsylvania.** Once again, House Democrats are pushing for a severance tax. On September 26, Rep. Maureen Madden (D) introduced [HB 2673](#), which would “amend Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes to levy a severance tax rate of 8 cents (\$0.08) per unit severed at the wellhead. The severance tax would be allocated to the homestead/farmstead property exclusions under the Taxpayer Relief Act.” [Read more](#).
- **Independent Contractor Classification – Pennsylvania.** *(Update to 10/1/18 Weekly Report)* On October 1, after being reported as amended (see [amended version](#)), [HB 1781](#) was “laid on the table,” suspending bill consideration and effectively killing its passage this legislative term. This bill would have allowed independent contractors and businesses to voluntarily register independent contractor status with the Department of Labor and Industry if a person is considered an independent contractor in federal tax filings. The individual would have signed an affidavit certifying that they know they will not be considered an employee with regards to workers’ compensation. The independent contractor would also have been able to withdraw their affidavit at any time. The bill would only have applied to those who use the registration process and would not change anything for businesses and independent contractors who chose not use the process. [Read more](#).

State-by-State Legislative Session Overview

New Jersey and **Pennsylvania** are in regular session. **Ohio** is in skeleton session. The **United States Congress**, **District of Columbia** and **Puerto Rico** are in regular session.

Illinois, **Massachusetts**, **New York**, **Rhode Island** and **Wisconsin** are in recess to the call of the chair.

Michigan is in recess until October 17.

West Virginia Republican Gov. Jim Justice issued a [proclamation](#) calling for a special session to begin June 26 to address possible removal of one or more Justices of the Supreme Court of Appeals. The Senate was in recess until October 1 but returned to continue impeachment proceedings. According to the [Jurist](#), the Senate voted to allow Supreme Court of Appeals Justice Beth Walker to remain on the bench. The Senate is now in recess until October 15.

South Carolina lawmakers conducted a two-day special session beginning on October 3. Legislators voted to reject millions of dollars in federal money for health care services in an effort to defund Planned Parenthood health centers in the state, reports the [Greenville News](#).

North Carolina's legislature met on October 2 for a special session to discuss hurricane Florence recovery. They are currently in recess and will return on October 15.

Virginia's legislature will return on October 21 for their special session to continue discussion on redistricting maps. According to [WRIC](#), if lawmakers cannot agree on a map by October 30, the court could appoint an independent party to make one.

Wisconsin Republican Gov. Scott Walker issued a statement on October 2 calling for an extraordinary session to begin on November 12 to allow the Senate to take up [AB 963](#). The Assembly passed a tax incentive package aimed at keeping two paper mill facilities of Kimberly-Clark from closing their doors in central Wisconsin, reports [The Journal Times](#).

Alaska Independent Gov. Bill Walker has 20 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on all legislation passed during the veto session or it becomes law. **Maine** Republican Gov. Paul LePage has three days after the next meeting of the legislature to act on special session legislation or it becomes law without signature. **Minnesota** Democratic Gov. Mark Dayton has 14 days from presentment to act on legislation presented on or after May 17 or it is pocket vetoed. **Mississippi** Republican Gov. Phil Bryant has 15 days from presentment to act on special session legislation or it becomes law. **Missouri** Republican Gov. Mike Parson has 45 days from presentment to act on legislation or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to sign or veto legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on special session legislation or it becomes law without signature. **Rhode Island** Democratic Gov. Gina Raimondo has six days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **West Virginia** Republican Gov. Jim Justice has 15 days from adjournment of the special session, Sundays excepted, to act on legislation or it becomes law without signature.

California Democratic Gov. Jerry Brown had a signing deadline on September 30.

The following states are currently holding 2019 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California Assembly](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Florida House](#), [Hawaii](#), [Idaho](#), [Illinois Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#) and [Senate](#), [North Carolina](#), [North Dakota](#), [Oklahoma House](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2019 bill drafts, profiles and interim studies: **Florida Senate**, [Iowa](#), [Kentucky](#), [Montana](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), **Oklahoma House** and **Senate**, [Utah](#) and [Virginia](#).

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