

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

- **Regulatory Reform.** On May 17, [S. 951](#), the “Regulatory Accountability Act of 2017” was introduced in committee. The measure, sponsored by Sen. Rob Portman (R-OH), would revamp how agencies issue regulations. “The measure calls for agencies to develop the least costly version of rules, require early public meetings and input into potential regulations and mandate additional economic analyses.” The legislation, which is widely supported by industry groups such as the U.S. Oil & Gas Association, Association of Energy Service Companies, and regional oil and gas groups are eager to ease regulatory burdens. The House version of the bill, [H.R. 5](#), already passed that chamber in January. [Read more.](#)
- **Regulatory Restrictions.** On May 17, [S. 21](#), the “Regulations from the Executive in Need of Scrutiny Act of 2017”, or REINS Act, was reported favorably from Senate committee. The measure, first introduced in January by Sen. Rand Paul (R-KY), would require that Congress affirmatively approve every new “major rule” proposed by the Executive Branch before it can be enforced on the American people. A “major rule” is defined as any federal rule or regulation that may result in (1) an annual economic impact of \$100 million or more, (2) a major increase in costs or prices for American consumers, or (3) significant adverse effects on the economy. The House version of the measure, [H.R. 26](#), passed that chamber in January. [Read more.](#)
- **Regulatory Burdens.** On May 17, [S. 579](#), the “Early Participation in Regulations Act of 2017”, was reported favorably from Senate committee. The measure, first introduced by Sen. James Lankford (R-OK) in March, would require agencies to publish additional advanced notice of proposed rulemaking before moving forward. The bill applies to regulations that the White House Office of Information and Regulatory Affairs determines is likely to impose: (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with foreign-based enterprises. With an eye towards bringing greater industry input and transparency to the rulemaking process, the bill will also impose tighter controls on rulemaking by requiring an agency to justify the rulemaking, describe alternatives, and the significance of the problem to be addressed. This bill also has Democratic support, with Sen. Heidi Heitkamp (D-ND) also signing on as a co-sponsor. [Read more.](#)

## **FEDERAL – Regulatory**

- **BLM Resource Development – Alaska.** On May 12, the Alaska Natural Resources Commissioner, Andy Mack, announced that in the next few weeks the state will be submitting a specific proposal to the new Interior Secretary, Ryan Zinke, to revamp Obama-era rules restricting oil and gas development in the National Petroleum Reserve-Alaska (NPR-A). “We believe we can help BLM (Bureau of Land Management) in developing a new plan that is balanced,” between resource development and environmental protection, said Mack, who was officially confirmed to his position May 16. The state’s proposal will also require a revision of the environmental impact statement for the current NPR-A management plan. [Read more.](#)
- **BLM Applications.** A new report shows that more than 3,000 applications for drilling permits are backlogged at the BLM, awaiting review. While BLM Acting Director, Mike Nedd, has offered assurances that the agency is working on several strategies to speed the processing of applications, the delay is costing producers. “Every day that goes by while independent producers — companies with an average of 12 employees — wait for their permits to be approved means more money out of their own pockets,” says Neal Kirby, spokesman for the Independent Petroleum Association of America. [Read more.](#)

## **STATE – Legislative**

- **Franchise Taxes – Oklahoma.** On May 12, Gov. Mary Fallin (R) signed HB 2357 into law. The measure, first introduced by Rep. Leslie Osborn (R), increases from \$15 to \$150 the fee to reinstate suspended corporate instruments because of a corporation’s failure to file an annual franchise tax return and remit franchise taxes due to the Oklahoma Tax Commission. [Read more.](#)
- **Railroad Commission – Texas.** (Update to 2/27/17 Weekly Report) On May 11, [HB 1818](#) was sent to Gov. Greg Abbott (R) for signature after passing both legislative chambers. The bill authorizes the continuation of the Texas Railroad Commission through September 1, 2029. Additionally, the bill sets requirements for strategic planning, development of a policy to encourage the use of alternative dispute resolution, and sets requirements for reporting of oil and gas monitoring and enforcement activities, among other provisions. [Read more.](#)

## **STATE – Judicial**

- **State Regulations – Colorado.** (Update to 5/8/17 Weekly Report). Last Thursday, the Colorado Oil and Gas Conservation Commission (COGCC) asked the state Supreme Court to review an appeals court’s holding that the commission incorrectly concluded it could not adjust its permit process to dedicate more resources to studying the effects of hydraulic fracturing projects on public health and safety. Gov. John Hickenlooper (D)

said he does not want to appeal. “While we understand and respect the commission’s desire for further clarity from the Supreme Court, we believe the court of appeals’ decision does not represent a significant departure from the commission’s current approach,” said Hickenlooper. “The commission already elevates public health and environmental concerns when considering regulating oil and gas operations.” However, state Attorney General Cynthia Coffman (R) disagreed and informed the governor in a [May 18 letter](#) that she was filing the appeal anyway. “Today my office filed an appeal to the Martinez decision,” Coffman said in a statement. “The Colorado Oil & Gas Conservation Commission unanimously voted to defend its legal position in court, and I agree that the Colorado Supreme Court should review the case due to its legal significance. My office will continue to move forward with the case by seeking Supreme Court review.” The court isn’t expected to indicate whether it will accept the case for review for several months. In the case at issue, [Martinez v. Colo. Oil and Gas Conservation Cmm’n](#) (Case No. 2017COA37), plaintiffs wanted regulators to halt new drilling permits pending a safety review of hydraulic fracturing. The Colorado Court of Appeals ruled that the COGCC erred when it declined to hold a rulemaking hearing on a petition filed by the plaintiffs. That March 23 ruling was the first time a higher Colorado court has said the commission has the authority to promulgate and enforce rules prioritizing public health, safety and the environment over oil and gas development [Read more](#).

### **INDUSTRY NEWS FLASH:**

◆ **Thanks to Shale, OPEC No Longer Controls Oil Prices.** According to a report from the recent SALT economic conference, the emergence of U.S. shale as a key global player that can pump even during low oil prices means OPEC can no longer “manipulate prices”, says investment banker, Douglas Rachlin. “The shale revolution has changed a lot of things.” According to CNN Money, “[i]n a display of how much the pendulum has swung, OPEC sent a plea to the U.S. earlier this month to stop pumping so much oil. The plea came after a flood of supply from U.S. shale producers, especially in the Permian Basin of Texas and New Mexico, threw a wrench in OPEC’s ability to stabilize oil prices.” [Read more](#).

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

**South Carolina** adjourned its legislative session on May 11, [The Post and Courier](#) reports. Highlights of the session, which was truncated by three weeks by a vote at the end of last session, included the passage of [HB 3516](#), which contains a comprehensive transportation funding plan centered on a 12 cent per gallon gas tax increase to be phased in over a six year period. The gas tax proposal was approved on May 10 over the veto of Republican Gov. Henry McMaster. [Other legislation](#) passed includes [HB 3559](#), which creates an industrial hemp pilot program, and [HB 3726](#), which makes changes to the state employees’ retirement system. Legislators are expected to return on May 23 for a special session to address several outstanding

legislative issues, including an \$8 billion budget bill that must be passed by July 1 and the confirmation of nominees to the Ethics Commission.

**Alabama, California, Connecticut, Delaware, Illinois, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas and Wisconsin** are in regular session. The **District of Columbia** Council, **United States** Congress and **Puerto Rico** are also in regular session.

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

**Washington** convened a 30-day special session on April 24. [SCR 8404](#), adopted the same day, reintroduced and retained in present status all legislation that had been pending prior to adjournment of the regular session. A list of bills that passed both chambers prior to the end of the regular session can be found [here](#). **West Virginia** is in a special session related to budget issues.

**Alaska** adjourned its regular session on May 17 and convened a special session on May 18. A press release from the office of Independent Gov. Bill Walker about the special session can be found [here](#) and Governor Walker's proclamation authorizing the special session can be found [here](#). **South Carolina** adjourned on May 11 and is expected to convene a special session on May 23. **Vermont** adjourned on May 18, but is expected to convene a special session on June 21 to address budget issues.

**Missouri** is expected to convene a special session on May 22 to address legislation to re-open a steel plant, [The Kansas City Star](#) reports.

The following states are expected to adjourn their legislative sessions on the dates provided: **Alabama, Minnesota and Missouri** (May 22), **Oklahoma** (May 26), **Texas** (May 29) and **Nebraska** (June 2). **Kansas** did not adjourn as expected on May 11.

**Iowa** Republican Gov. Terry Branstad has until May 22 to act on legislation presented after April 19 or it is pocket vetoed. **Maryland** Republican Gov. Larry Hogan has until May 30 to act on legislation or it becomes law. **Colorado** Democratic Gov. John Hickenlooper has until June 9 to act on legislation or it becomes law. **Hawaii** Democratic Gov. David Ige has until July 3 to act on legislation presented after April 25 or it becomes law. **Alaska** Independent Gov. Bill Walker has 15 days, Sundays excepted, to act on legislation from the regular session or it becomes law. **Arizona** Republican Gov. Doug Ducey has 10 days from presentment, Sundays excepted, to act on legislation presented after May 5 or it becomes law. **Florida** Republican Gov. Rick Scott has 15 days from presentment to act on legislation presented after May 1 or it becomes law. **Mississippi** Republican Gov. Phil Bryant has 15 days from presentment, Sundays excepted, to act on legislation presented after March 24 or it becomes law. **Montana** Democratic Gov. Steve Bullock has 10 days after delivery to act on legislation or it becomes law. **North Dakota** Republican Gov. Doug Burgum has 15 days, weekends excepted, to act on legislation or it becomes law. **South Carolina** Republican Gov. Henry McMaster has until two days after the

next meeting of the legislature to act on legislation presented after May 6 or it becomes law. **Tennessee** Republican Gov. Bill Haslam has 10 days, starting the day after presentment, to act on legislation or it becomes law. **Vermont** Republican Gov. Phil Scott has five days from presentment, Sundays excepted, to act on legislation presented after May 15 or it is pocket vetoed, and legislation presented before May 15 would become law if not acted on within five days, Sundays excepted.

**Arkansas** Republican Gov. Asa Hutchinson had acted on all legislation from the first special session as of May 15. **Washington** Democratic Gov. Jay Inslee had a signing deadline on May 16 for legislation passed during the regular session.

## Franchise Tax

**California** [AB 1256](#) was read for a second time and amended on May 17 and was returned to the Assembly Appropriations Committee the following day and placed on the suspense file because the bill would have a fiscal impact of greater than \$150,000. AB 1256 can be voted off the suspense file at any time to continue the legislative process. 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. The amendment addresses when certain sections would become operative.

If this bill becomes law, it would take effect for taxable years beginning on or after January 1, 2018.

**Louisiana** [HB 80](#) was postponed and the bill is now scheduled to be debated on the floor on May 24. This bill, which is sponsored by Rep. Stephanie Hilferty, R-New Orleans, would reduce the franchise tax levied under current law by 10 percent each year beginning on January 1, 2018, until the franchise tax is eliminated. Under the bill, no corporate franchise tax would be assessed or paid on or after January 1, 2027.

This bill would take effect immediately if enacted.

A May 16 scheduled third reading for **Louisiana** [HB 355](#) was postponed and the bill is now scheduled to be debated on the floor on May 24. Existing law levies a franchise tax law on every domestic and foreign company doing business in the state at a rate of \$1.50 per \$1,000 of taxable capital up to \$300,000, and then \$3 per \$1,000 of taxable capital above \$300,001. HB 355 contains a provision that would repeal the franchise tax.

This bill is sponsored by Rep. Barry Ivey, R-Baton Rouge.

Third reading for **Louisiana** [HB 361](#) was postponed from May 16 to May 24. Sponsored by Rep. Barry Ivey, R-Baton Rouge, the bill would repeal the franchise tax on January 1, 2018.

## Landmen

### Independent Contactors

**New York** [SB 6355](#) was introduced on May 11 by Sen. Liz Krueger, D-New York City, and was referred to the Senate Labor Committee. This bill would create a task force on jobs and the new economy, which would be responsible for assessing state employment laws on employee status and determining whether workers are properly classified as employees or independent contractors.

If this bill becomes law it will take effect immediately.

## Lands

### Public Lands

**California** [AJR 15](#) was introduced on May 15 by Asm. Cecilia Aguiar-Curry, D-Winters, and is awaiting committee referral. This resolution would urge the U.S. President, the Secretary of the U.S. Department of the Interior, and the Secretary of the U.S. Department of Agriculture to protect federal public lands. It would also support the enactment and use of the [Antiquities Act of 1906](#) as a critical tool for protecting the public good by authorizing the designation of national monuments under the Antiquities Act and to honor and protect the integrity of all national monuments.

## Oil and Gas

### Leasing

**California** [SB 188](#) was amended on second reading and returned to the Senate Natural Resources Committee. Previously relating to the emergency response to disasters, this bill was amended and now would prohibit the State Lands Commission and local trustees of granted public trust lands to enter into any new lease or conveyance that authorizes the exploration or development and production of oil and natural gas on lands that are owned by the state because they were granted by a public trust. The bill would prohibit the commission and local trustees of the public trust lands to enter into any new leases as well as any renewal, expansion or modification that would authorize the lessee to engage in new or additional exploration, development or production of oil and natural gas.

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

## Oil and Gas General

**Ohio** [HB 225](#) was introduced on May 16 and is awaiting committee assignment. This bill would allow a landowner to report an idle and orphaned well and would require the Chief of the Division of Oil and Gas Resources Management to begin plugging the well after inspection and classification that it is indeed abandoned. This bill would allow for an income tax deduction for reimbursements paid by the state to the landlord to cover the cost of plugging the well.

This bill is sponsored by Rep. Any Thompson, R-Marietta, who serves as the chair of the Finance subcommittee of the House Agriculture Development and Natural Resources Committee.

## Royalty Payments

**Texas** [HB 129](#) passed the House Energy Resources Committee on May 19 and then rules were suspended and the bill passed the House on May 19 and sailed through the Senate the same day. The bill was engrossed and is awaiting delivery to Republican Gov. Greg Abbott. When submitting payment, this bill would allow a payer of royalty interest to provide required information in another form other than on the check stub, if the interest owner gives written permission. If this bill becomes law it will take effect on September 1, 2017.

This bill is sponsored by Rep. Tom Craddick, R-Midland.

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