

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

- **Onshore Revenue-sharing – Washington, D.C.** Senate leaders indicate they'll support a vote later this year on legislation supported by industry groups changing how states share revenue from oil and gas produced on federal land. The measure covers onshore and offshore production of oil and natural gas as well as renewable energy. For onshore production on federal land the bill restores 50 percent in revenue-sharing. According to the bill draft, "a 2013 law (P.L. 113-67) allocated 2 percent of the state share of revenue to the Dept. of Interior for administrative overhead costs. Restoring the 2 percent will amount to an additional \$38 million annually for onshore state revenue sharing." [Read more.](#)

**FEDERAL – Regulatory**

- **Royalty Valuations – Washington, D.C.** On July 1, the Department of Interior's Office of Natural Resources Revenue (ONRR) published its final rule ([81 Fed. Reg. 43337](#)). The rule amends regulations governing valuation, for royalty purposes, of oil and gas produced from Federal onshore (and offshore leases and coal) produced from Federal and Indian leases. This rule also consolidates definitions for oil and gas product valuation into one subpart that is applicable to the Federal oil and gas subparts, and is effective January 1, 2017. This final rule implements a proposed rule noticed and published by ONRR in January 2015. [Read more.](#)
- **Sage Grouse – Washington, D.C.** On June 28, the Senate Energy and Natural Resources Subcommittee on Public Lands, Forests and Mining held an oversight hearing on the federal sage grouse plans and their impact on successful ongoing state management of the species. Officials from the Department of Interior and the U.S. Forest Service faced criticism from Republicans over how the federal government plans to rebuild the population. At the hearing, Senator John Barrasso (R-WY) said the new program unnecessarily interfered with conservation efforts already underway at the state level and threatened energy production across the Western United States. [Read more.](#)
- **BLM; Roan Plateau – Colorado.** The BLM has taken another step toward protecting most of western Colorado's Roan Plateau from natural gas drilling, releasing a revised [resource management plan](#) that puts many areas off-limits. The plan implements the provisions of a 2014 compromise among conservation groups and natural gas producer, Bill Barrett Corp., which refunded lease payments in exchange for the withdrawal of

roughly 56 square miles leased from the federal government. The public has until August 1, 2016 to comment on the plan. [Read more.](#)

- **BLM Lease Sale – New Mexico.** The BLM has changed the location for the upcoming New Mexico lease sale. The sale location has been changed from The Courtyard Marriott, 3347 Cerrillos Road, Santa Fe, NM to Roswell Convention and Civic Center located at 912 N. Main Street, Roswell, NM 88201. [Read more.](#)

### **FEDERAL – Judicial**

- **BLM; Regulatory Authority – Wyoming.** On June 24, the Department of the Interior appealed the June 21 decision by a Wyoming federal judge to set aside the BLM’s Final Rule implementing its regulations that sought to impose new standards and obligations on hydraulic fracturing on federal and Indian lands. The appeal comes just three days after U.S. District Judge Scott Skavdahl found that BLM lacked the statutory authority to promulgate the Rule, handing a significant victory to energy industry groups, states, and an Indian tribe opposed to the regulations. [Read more.](#)

### **STATE – Legislative**

- **Drilling Units – Louisiana.** On June 23, the Senate introduced and adopted SR 31, which requests that the Louisiana State Law Institute study the implications of the Louisiana Risk Fee Act. The Act, which seeks to allocate, in the absence of a contract, the risk of drilling certain unit wells between “drilling” owners and “non-drilling” owners, has led to uncertainty in relation to the rights and obligations of the parties to a drilling unit since its passage in 2012. This Senate Resolution, in addressing concerns, requires that the Louisiana State Law Institute provide a report of its findings to the legislature by February 1, 2017. [Read more.](#)
- **Recording Fees – North Carolina.** On June 27, SB 19, a bill that languished in the North Carolina legislature since 2015 passed and was sent to Governor Pat McCrory for signature. The Act would change the fee for Deeds of Trust filed with Register of Deeds offices from \$56 for the first 15 pages and \$4/page thereafter, to \$64 for the first 35 pages and \$4/page thereafter. [Read more.](#)
- **Unauthorized Practice of Law – North Carolina.** On June 30, Governor Pat McCrory signed HB 436 into law. The Act amends the Unauthorized Practice of Law statute to exempt certain real estate transactions from the definition of “practice law” including preparation for any third person of any contract or deed conveying any interest in real property, or to abstract or pass upon title to any real property, which is located in the state. [Read more.](#)
- **Public Records – Ohio.** On June 23, SB 321 was sent to Governor John Kasich for

signature. The Act would create a procedure within the Court of Claims to hear complaints alleging a denial of access to public records, to modify the circumstances under which a person who files a mandamus action seeking the release of public records may be awarded court costs and attorney's fees, and to expand the infrastructure record exemption under the Public Records law. Under Ohio law, if the governor takes no action within 10 days of receiving the Act, it becomes law without his signature. [Read more.](#)

- **Royalties – Pennsylvania.** (See also State-by-State Legislative Overview below) On June 27, HB 1391, a lease royalty bill that languished in the Pennsylvania House since 2015, was recommitted for consideration by the Environmental Resources and Energy Committee. The bill would amend the state's Oil and Gas Lease Act to protect royalty payments for natural gas drilling lease owners by guaranteeing that even when post-production costs are applied, a minimum royalty for unconventional gas well production would not be less than 12.5 percent. [Read more.](#)

### **STATE – Judicial**

- **Rule Against Perpetuities – Oklahoma.** On June 14, the Oklahoma Supreme Court, in [American Natural Resources, LLC v. Eagle Rock Energy Partners, L.P.](#), declared void a party's contractual option to participate in the future drilling of wells in an "area of mutual interest" agreement, based upon the rule against perpetuities. Oklahoma still adheres to the common law rule against perpetuities. Under the common law rule, a future interest must be certain either to vest or fail within twenty-one years after some life in being at the time of creation of the future interest. According to the court, this agreement did not fall within the future mineral interest exception, and the future participation provision was thus void under the rule against perpetuities. [Read more.](#)

### **INDUSTRY NEWS FLASH:**

- Oil and gas companies in Texas, southern New Mexico, and northern Louisiana reported improved business activity for the second quarter of this year, and thus a more positive outlook for the rest of the year onward, according to executives responding to a quarterly [Dallas Federal Reserve energy survey](#). Of the 152 regional energy firms surveyed, 67 of the respondents were exploration and production companies. [Read more.](#)

**PRACTICE TIP: Employee Misclassification in New Mexico.** For those conducting business operations in New Mexico, the latest Employment Law Alert from the law firm, Modrall Spering, may prove instructive in understanding the current landscape when working with, and operating as, an independent contractor in the state. [Read more.](#)

## State-by-State Legislative Session Overview

**Mississippi** completed a two-day special session on budget issues on June 29, [WJTV](#) reports. Specifically, the scope of the special session was limited to authorizing the executive to use funds from the working cash-stabilization reserve, commonly referred to as the rainy-day fund, to balance the budget. Republican Gov. Phil Bryant's proclamation summoning legislators into special session can be found [here](#). On June 28, the Senate passed [SB 2001](#), which would allow for a transfer from the rainy-day fund of an amount greater than \$50 million for fiscal year 2016. The bill was passed by the House on June 29 and was presented to Republican Gov. Phil Bryant, who has until July 16 to act on the bill or it becomes law. According to House Appropriations Committee Chairman Herb Frierson, R-Poplarville, the state currently faces a budget shortfall of \$60 million. The special session cost an estimated \$75,000.

**California, Illinois, Massachusetts, New Hampshire, New Jersey, North Carolina, Ohio and Pennsylvania** are in regular session. The **District of Columbia** Council and the **U.S. Congress** are also in regular session.

**Delaware** adjourned its legislative session on July 1.

**Michigan** is in recess until July 13.

**Kansas** adjourned a special session related to education funding on June 24. **Mississippi** adjourned a special session related to budget issues on June 29.

**Alaska** is expected to convene a special session on budget issues on July 11.

**New Hampshire** is expected to adjourn on July 1. **North Carolina** is expected to adjourn on July 15.

**Missouri** Democratic Gov. Jay Nixon has until July 9 to act on legislation or it becomes law without signature. **Hawaii** Democratic Gov. David Ige has until July 11 to act on legislation presented after April 21 or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has until July 18 to act on legislation or it is pocket vetoed. **Delaware** Democratic Gov. Jack Markell has until July 31 to act on legislation or it is pocket vetoed. **Alaska** Independent Gov. Bill Walker has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on legislation from the regular session and the second special session or it becomes law without signature. **Minnesota** Democratic Gov. Mark Dayton has 14 days from presentment to act on legislation or it is pocket vetoed. **Rhode Island** Democratic Gov. Gina Raimondo has 10 days from presentment to act on legislation or it becomes law without signature. **South Carolina** Republican Gov. Nikki Haley has until two days after the legislature's next meeting to act on legislation presented after June 10 or it becomes law without signature. **Vermont** Democratic Gov. Peter Shumlin has five days from presentment, Sundays excepted, to act on legislation or it is pocket vetoed.

**West Virginia** Democratic Gov. Earl Ray Tomblin has until July 2 to act on legislation passed during the second special session or it becomes law without signature. **Kansas** Republican Gov. Sam Brownback has 10 days from presentment to act on legislation from the first special session or it becomes law without signature. **Alaska** Independent Gov. Bill Walker has 20 days from presentment, Sundays excepted, to act on legislation passed during the fourth special session or it becomes law without signature.

The following states are currently holding interim committee hearings: [Alabama](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Idaho](#), [Indiana](#), [Iowa](#), [Louisiana](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New York](#), [North Dakota](#), [Oregon](#), [South Carolina](#), [Tennessee](#), the [Texas House](#), [Senate](#) and [Joint](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#) and [Wyoming](#).

The following states are currently posting bill draft requests/prefiles for the 2017 session: [Alabama House](#) and [Senate](#), [Colorado](#), [Kentucky](#), [Montana](#), [North Dakota](#), [Oklahoma](#), [Utah](#) and [Wyoming](#) (draft requests appear on individual committee pages).

## Endangered Species

A June 27 hearing for **California** [AB 2549](#) in the Senate Appropriations Committee was rescheduled to August 1. This bill would remove the sunset provision on the public hearing process of the California Endangered Species Act. The act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species. This bill would allow anyone to continue to petition the commission past January 1, 2017 to add a species to, or remove a species from the list of endangered or threatened species.

## Oil and Gas

### General Oil and Gas

**California** [AB 2756](#) passed the Senate Judiciary Committee on June 29 and was referred to the Assembly Appropriations Committee. The bill would give the Oil and Gas Supervisor the authorization to treat each day a violation is not cured as a separate violation, and would set the penalty at no less than \$10,000 and no greater than \$25,000 per violation. The bill would also authorize the supervisor to allow for a supplemental environmental project in lieu of a portion of the penalty, but not to exceed 50 percent of the amount of the fee. It would change the penalty limit to allow for an appeal from \$10,000 to \$25,000. As amended, the bill would also give the division the ability to manage the Oil and Gas Environment Remediation Account in which money can be used to remediate wells, and other areas that may pose a danger to health, water quality, wildlife or natural resources.

### Mineral Rights

**California** [AB 2729](#) passed the Senate Natural Resources and Water Committee on June 28 and was referred to the Senate Appropriations Committee. This bill would make changes to the

definitions of active observation well, idle well and long-term idle well. An idle well would be defined as a well that had six months of not producing or being used for injection. An idle well would continue to be an idle well until the well has been properly abandoned in accordance with existing law. For active observation wells, the bill would require the user to report their data once every month, instead of every three years. The bill would define a long-term idle well as a well that has been idle for five or more years. The bill would provide that the abandoned underground personal property, including a well, of an operator becomes the property of the mineral interested owner when the operator loses the right to remove it under common law or lease or any other agreement that initially gave the operator the right to conduct activity on the well. The bill would require that the division review, evaluate, and update all regulations pertaining to idle wells until January 1, 2020 unless additional statutes are enacted to delete or extend that date.

Current law requires operators to file a specified annual fee or plan for elimination of all long-term idle wells by January 1, 1999. The most recent amendments would remove the current requirement that plans must be filed by January 1, 1999 until January 1, 2018 and require the plan cover a period of no more than one year, revise the requirements and remove the exemption from increased well bond or fee requirements for operators who comply with the plan.

If enacted, this bill would take effect on January 1, 2018.

## **Royalty Payments**

**Pennsylvania [HB 1391](#)** passed the House Environmental Resources and Energy Committee on June 27 and was referred to the House Rules Committee. The bill would require the minimum royalty payment to a lessor for unconventional gas well production to not be less than one-eighth of the lessor's percentage ownership in the production from the production, calculated on the total price received by the operator for the production in an arm's-length transaction. No deductions of any costs could result in a royalty payment less than the one-eighth requirement. This requirement would apply to all leases for unconventional gas well production existing on or after the effective date of the bill. The bill would further provide for legal remedies and penalties, up to treble damages, for failure to pay the minimum royalty. If enacted, the bill would take effect 60 days after passage.

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