

Please note: Due to out of office travel, the next Weekly Report will be distributed on August 28.

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **H.R. 3117 – Transparency and Honesty in Energy Regulations Act.** On July 27, congressional hearings were held on [H.R. 3117](#), the *Transparency and Honesty in Energy Regulations Act*, which was introduced by Rep. Evan Jenkins (R-WV) in late June. The bill would prohibit the Department of Energy, the Environmental Protection Agency (EPA), the Department of the Interior, and the Council on Environmental Quality from considering the social cost of carbon, methane, nitrous oxide, or greenhouse gas as part of any cost benefit analysis in the rulemaking process, unless a federal law is enacted authorizing such consideration. Additionally, the EPA must report on the number of proposed and final rulemakings, guidance documents, and agency actions since January 2009 that use those social costs, including as part of any cost benefit analysis. “The Transparency and Honesty in Energy Regulations Act is needed to ensure that strong regulatory analysis and fact-based scientific standards are applied to how energy regulations are created,” said Sen. James Lankford (R-OK), who sponsored the companion Senate version of the bill, [S. 1512](#). Lankford noted that these social costs of greenhouse gas metrics are theoretical measurements to try to put a price or economic impact on emissions and are often flawed. “Many recent significant regulatory actions regarding energy and environmental policy have been based, in part, on a ‘social cost’ calculation that lacked transparency and oversight,” [according to a statement](#) from Lankford. “[W]e must ensure that future administrations do not return to flawed metrics. Congressional action is needed to make these policies law, so that future rulemakings adhere to guidance and the Executive Branch does not reach beyond their authority, no matter who controls the White House,” added Lankford. [Read more.](#)
- **H.R. 3286 –Know Your Oil Act.** On July 18, Rep. Jared Huffman (D-CA) introduced [H.R. 3286](#), known as the *Know Your Oil Act*. The bill would require the Secretary of Energy to issue regulations that require oil and gas companies, from upstream to downstream, to disclose field-level data on greenhouse gas emissions generated by the entire supply chain, from extraction to point-of-sale. Given Republican control of the Congress, this bill is unlikely to move out of committee for consideration. [Read more.](#)

FEDERAL – Regulatory

- **BLM Oil and Gas Operator Event – Utah.** In keeping with the Trump administration’s goals of promoting domestic energy independence and improving BLM processes, the BLM Vernal Field Office will be holding an Oil and Gas Operator Outreach Event on August 8-9 at the Uintah Conference Center in Vernal, Utah. “As the BLM works towards streamlining the process for federal oil and gas leasing permits, we are committed to better informing our local and state communities, private industry, and the general public on federal policies and regulations that are in place, and to ensure responsible energy development on America’s public lands,” said BLM Utah State Director Ed Roberson. [Click here](#) for further information on this event. [Read more.](#)
- **Department of Energy Deputy Secretary Confirmed.** On August 3, the U.S. Senate confirmed Dan Brouillette as Deputy Secretary of the U.S. Department of Energy. Brouillette formerly served in the President George W. Bush administration as the Energy Department’s assistant secretary for congressional and intergovernmental affairs. He also served as a member of the Louisiana State Mineral and Energy Board from 2013 to 2016, and is a one-time chief of staff for the U.S. House of Representatives’ Energy and Commerce Committee. Brouillette, who will serve under Energy Secretary Rick Perry as second-in-command, is only the second Trump-appointed Energy official the Senate has confirmed this year. [Read more.](#)

FEDERAL – Judicial

- **Federal Lease Extensions – Interior Board of Land Appeals.** (Welborn Sullivan Meck & Tooley, P.C. law blog, 8/1/17) On July 25, in *Coastal Petroleum Company* ([190 IBLA 347](#)), the Department of Interior Board of Land Appeals, affirmed a decision of the Montana State Office (Great Falls) of the Bureau of Land Management (BLM) which held that a federal oil and gas lease expired because there was no well on the lease capable of producing in paying quantities. In that case, the BLM concluded that, without a flow test, the agency was unable to determine whether the amount of production would be of sufficient value to exceed operating costs, in other words, production in paying quantities. According to the Wellborn law blog, “[t]he *Coastal* case appears to be a situation that easily could have been avoided by timing the drilling, completing and testing operations on the well to continue at the expiration of the primary term and by payment of the 11th year rental.” [Read more.](#)
- **EPA Methane Rule – D.C. Circuit Court of Appeals.** (Update from 7/17/17 Weekly Report) Last Monday, a nine-judge panel of the U.S. Court of Appeals in the District of Columbia, in *Clean Air Council v. Pruitt* ([Case No. 17-1145](#)) ordered the Environmental Protection Agency (EPA) to enforce a methane emissions regulation imposed by former President Obama’s administration and challenged by President Trump. The ruling came after a three-judge panel of the Court originally ruled last month that the EPA unlawfully

delayed rule implementation. In its July ruling, the Court said the EPA broke the law when it attempted to stall enforcement of the Obama-era rule requiring limits on methane emissions in the oil and natural gas drilling industry -- and requirements that companies identify and repair methane leaks. Under the new administration, the EPA sought a two-year pause on the new rules to conduct further review. Government lawyers have not yet indicated when or whether they will appeal this latest decision to the full 11-judge panel. But industry groups and conservative states opposed to the regulation did ask for the full court to review the case, so the judges will consider their request in the coming weeks. For its part, the EPA is still accepting public comments until August 9 on its proposed rule issued June 16, *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements* ([82 Fed. Reg. 27645](#)) for possible repeal or revision, upon which this case is based. [Read more.](#)

STATE – Judicial

- **Retained Acreage; Leasing – Texas.** On July 25, in *Hardin-Simmons Univ. v. Hunt Cimarron Ltd. P'ship* (Case No. 07-15-00303-CV), the Seventh Court of Appeals of Texas was asked to construe certain provisions of an oil and gas lease in order to determine whether, and to what extent, it remained in effect after expiration of its primary term due to a lack of production in paying quantities. The Court concluded that a well operator only retained a 40-acre portion around each of several producing wells and disposal wells and lost the rest of the acreage for lack of producing wells, noting that the well operator never established that it engaged in any other activities on the leased premises to qualify as a substitute for actual production and that the retained acreage only saved small portions of the acreage around the producing wells. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Wyoming, Texas, and Pennsylvania rank as the top net energy suppliers among states.** (*PennEnergy*, 7/31/2017) The U.S. Energy Information Administration recently released its [State Energy Data System](#) estimates for net energy supply, which provide data on each state's total primary energy production and consumption. Wyoming, Texas, Pennsylvania, West Virginia, and North Dakota ranked as the top five net suppliers of energy in 2015, the most recent year for which data is available. They are among 12 states that produce more energy than they consume. [Read more.](#)

State-by-State Legislative Session Overview

Rhode Island [HB 5175](#), the fiscal year 2017 budget bill, was reconsidered and passed by the Senate and approved by Democratic Gov. Gina Raimondo on August 3, [The Sacramento Bee](#)

reports. A Senate press release can be found [here](#). The legislature is recessed to the call of the chair.

[The Hill](#) reports that recently-elected **West Virginia** Gov. Jim Justice announced on August 3 that he is leaving the Democratic Party and becoming a Republican, making him the 34th GOP Governor in the country and making West Virginia the 26th state where the GOP holds the governorship and both state legislative chambers. Democrats hold 15 governorships and overall government control in just six states. Governor Justice, a billionaire coal magnate, made the surprise announcement at a rally alongside President Trump.

Massachusetts, New Jersey, Ohio, and Wisconsin are in regular session. **Puerto Rico** is also in regular session.

Michigan is in recess until August 16. **California** is in recess until August 21. The **United States** Congress is in recess until September 5. The **District of Columbia** Council is in recess until September 19. **Pennsylvania** is recessed to the call of the chair.

Maine adjourned on August 2.

Texas convened a special session on July 18. Republican Gov. Greg Abbott has included a broad list of legislative topics in the special session agenda, which can be found [here](#). **Illinois** convened a special session related to education funding on July 27. The **Connecticut** Senate convened a special session related to budget issues on July 31, [The Connecticut Mirror](#) reports. **Wisconsin** convened a special session on August 2 to consider legislation that would create an information technology manufacturing zone. The session will run concurrently with the regular session.

Alaska adjourned its third special session on July 27. **North Carolina** adjourned a special session on August 3 and is expected to convene another special session on September 6 to redraw state legislative and congressional district maps.

Washington Democratic Gov. Jay Inslee has until August 9 to act on legislation from the special sessions or it becomes law. **Oregon** Democratic Gov. Kate Brown has until August 18 to act on legislation or it becomes law. **Alaska** Independent Gov. Bill Walker has 15 days, Sundays excepted, to act on legislation from the regular and special sessions or it becomes law.

Connecticut Democratic Gov. Dannel Malloy has 15 days from presentment to act on legislation or it becomes law. **Delaware** Democratic Gov. John Carney has 10 days, Sundays excepted, to act on legislation or it becomes law. **Maine** Republican Gov. Paul LePage has until three days after the next meeting of the legislature to act on legislation or it becomes law. **Missouri** Republican Gov. Eric Greitens has 45 days from presentment to act on legislation from the second special session or it becomes law. **New Hampshire** Republican Gov. Chris Sununu has five days, Sundays excepted, to act on legislation or it is pocket vetoed. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to act on legislation from the regular and special sessions or it becomes law. **Rhode Island** Democratic Gov. Gina Raimondo has six days, Sundays 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 regular session legislation presented after May 6 and special session legislation or it becomes law.

North Carolina Democratic Gov. Roy Cooper had a signing deadline for regular session legislation on July 30.

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

The following states are currently posting bill drafts, prefiles and interim studies for the 2018 session: [Alabama](#), [Arkansas](#), [Georgia](#), [Kentucky](#), [Maine](#), [Montana](#), [Nebraska](#), [North Dakota](#), [Oklahoma prefiles](#) and [House](#) and [Senate](#) interim studies, [Utah](#) and [Wyoming](#).

Franchise Tax

An interim study proposal in **Arkansas**, [HB 1822](#), proposes changes to the franchise tax rates in the state. The bill would require:

- Each company having an outstanding capital stock of \$500,000 or more to pay \$135 in franchise tax, a decrease from \$400.
- Each corporation having assets of more than \$100,000,000 or more to pay \$135 in franchise tax, a decrease from \$400.
- No corporation without authorized capital stock to pay \$100 in franchise tax, a decrease from \$300.
- No corporation to pay an annual franchise tax of less than \$50, a decrease from \$150.

If this bill becomes law, it would take effect on the tax years beginning on and after January 1, 2017. This bill is sponsored by Rep. Robin Lundstrum, R-Elm Spring.

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