

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

- **Congressional Summer Recess – Washington, D.C.** Congress is now in its summer recess and no legislative action will be taken during this period. Neither the House nor Senate will be in session again until after Labor Day in September. [Read more.](#)

**FEDERAL – Regulatory**

- **BLM Thompson Divide Leases – Colorado.** On July 29, the Bureau of Land Management (BLM) released its Final Environmental Impact Statement (EIS) analyzing 65 oil and gas leases that had been issued in the White River National Forest from 1995 to 2012. ([The BLM's final EIS available here](#)). The BLM's Preferred Alternative in the final EIS would cancel the 25 undeveloped leases within the area known as the Thompson Divide, apply new stipulations to the remaining leases that are not currently producing oil or gas, and make no or only minor adjustments for leases that are producing. [Read more.](#)
- **BLM, ONRR, Sage-Grouse and More – Wyoming.** Although AAPL has provided coverage of these various issues in many Weekly Reports throughout the year, Holland & Hart's August 1st issue of their *Public Land News* provides readers an informative primer on these multiple issues in one location. [Read more.](#)
- **EPA Methane Emissions Rule.** The Independent Petroleum Association of America (IPAA), along with 47 other U.S. oil and gas trade associations, urged the Environmental Protection Agency (EPA) to use its recent data collection request to learn more about the industry's concerns and challenges. Independent producers expressed particular concern in their [August 2nd comments](#) about EPA's recent final rule to limit methane emissions from new oil and gas wells, which include an expansion of regulation to marginal wells producing less than an average 2.5 b/d of crude oil or 22 Mcfd of natural gas. [Read more.](#) (See also related item below under "FEDERAL – Judicial").

**FEDERAL – Judicial**

- **EPA Methane Emissions Rule – Washington, DC.** The American Petroleum Institute has filed suit against the EPA, challenging the agency's final rule that imposes emissions limits for new, reconstructed, and modified oil and gas sources. The August 2 petition to the U.S. Appeals Court for the District of Columbia seeks a judicial review for regulations the agency issued on June 3, 2016, and alleges that the EPA failed to adhere

to specific Clean Air Act limitations on how the agency can develop regulations. As noted above (see “FEDERAL – Regulatory”) this lawsuit came the same day that IPAA and 47 other upstream independent groups recommended that EPA use its recent information collection request to learn more about the industry because of problems they saw in the agency’s recent emissions limits rule. [Read more.](#)

- **EPA Methane Emissions Rule – Texas.** (Update to 7/25/16 Weekly Report) Texas has joined several other oil and gas producing states in a lawsuit challenging the EPA’s final rule limiting methane emissions from new oil and gas wells and storage tanks, and from wells producing fewer than 15 b/d of oil. The office of Texas Attorney General Ken Paxton (R) filed [a petition](#) on July 28 to join the action with the U.S. Appeals Court for the District of Columbia. The filing was consolidated with other states “who object to EPA’s overreach, which North Dakota described as ‘arbitrary, capricious, an abuse of discretion, and not in accordance with the law.’” [Read more.](#)

### **STATE – Regulatory**

- **Well Operations Rulemaking – Montana.** On July 26, the Natural Resources Defense Council, along with other eco-activist groups, filed a legal petition ([access petition here](#)) against the Montana Board of Oil and Gas Conservation (BOGC) through environmental law firm, Earthjustice, pressing BOGC into rulemaking to amend existing regulations on the disclosure of chemicals used in hydraulic fracturing fluid. Opponents to amending the rules, and a bill seeking to do the same, which died in committee last legislative session, include the Montana Petroleum Association, which testified that existing rules and regulations provide the reasonable balance to accommodate the public’s right to know and the protection of proprietary information under Montana’s Uniform Trade Secrets Act. [Read more.](#)
- **Railroad Commission Review – Texas.** The Texas Railroad Commission, currently under review by the state’s Sunset Advisory Commission, which is tasked with monitoring state agency performance, will be making recommendations for the state’s oil and gas regulatory agency as part of a public hearing set for August 22, to take testimony on the Commission’s April 2016 report on the agency and its recommendations and impact on the oil and gas industry within the state. [Read more.](#)

### **STATE – Legislative**

- **Independent Contractors – Arizona.** While Arizona may not come to mind as one of the greater oil and gas producing states, a new state independent contractor law may help serve as guidance, and as a model, for the landman industry in other jurisdictions. Effective August 6, Arizona law on employment relationships has been amended under [Arizona Rev. Statute 23-902](#) to allow companies contracting with an independent contractor to prove the existence of such a relationship by having the independent contractor execute a written agreement with the hiring party. Most importantly, this

agreement will create a presumption that an independent contractor relationship exists and the burden will no longer be on hiring companies (such as brokers) or independents, but rather on government entities and other challenging authorities to prove that it does not. This Act truly provides a positive development in the independent contractor and employee misclassification arena, and we will be looking to it in our advocacy efforts to provide greater protection to our members in other states. [Read more.](#)

### **ELECTION ALERT:**

🗳️ While on the campaign trail in Colorado, Donald Trump took a position that left many Republicans “dismayed” according to a report by the Los Angeles Times. Speaking to a local Denver TV station, Trump said voters should have a voice in whether or not they want hydraulic fracturing banned. Colorado’s Republican Party Chairman, Steve House, told the newspaper that Trump’s comment showed a misunderstanding of the issue and said dozens of local Republicans have called to express concerns over Trump’s sentiments. [Read more.](#)

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

**Massachusetts** adjourned the formal legislative session for 2016 on July 31, [MassLive](#) reports. Informal sessions will continue through the end of 2016, but attendance is typically sparse and the agenda is expected to be limited mostly to noncontroversial legislation. Legislative staff report that pending legislation should be considered active until the sine die adjournment of the session on January 3.

**North Dakota** adjourned a three-day special session related to budget issues on August 4. The sole piece of legislation passed during the session, [SB 2379/Chapter 552](#), enacts several budget stabilization measures. Specifically, the act cuts the budget of various state departments and agencies by 6.55 percent and makes a transfer of \$572.5 million from the budget stabilization fund to the general fund. The act also mandates a transfer of \$100 million from the profits of the Bank of North Dakota to the general fund in the event that the general fund does not have a positive balance on June 30, 2017. The act took effect immediately.

**California, Massachusetts, Ohio** and the **New Jersey** Senate are in regular session.

The **U.S. Congress** and **Michigan** are in recess until September 6. **Pennsylvania** is in recess until September 19. The **District of Columbia** Council is in recess until September 20. **Illinois** is in recess until November 15 and is expected to convene a veto session on that day. The **New Jersey** Assembly is in summer recess and no legislative activity is currently scheduled.

**North Dakota** adjourned a special session related to budget issues on August 4.

**Alabama** is expected to convene a special session to address Republican Gov. Robert Bentley's proposal for a state lottery on August 15.

**Alaska** Independent Gov. Bill Walker has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Delaware** Democratic Gov. Jack Markell, **New York** Democratic Gov. Andrew Cuomo and **Rhode Island** Democratic Gov. Gina Raimondo have 10 days from presentment to act on legislation or it becomes law without signature.

**North Carolina** Republican Gov. Pat McCrory had a signing deadline on July 31.

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

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

## Endangered Species

**California** [AB 2549](#) was amended in the Senate Appropriations Committee, read for a second time on the Senate floor, and returned to the Senate Appropriations Committee. A second hearing for the bill was canceled at the request of the author. 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.

**California** [SB 1089](#) was read for a second time and amended on August 2. It was read a second time on August 3 and ordered to third reading. This bill would add two public members to the Wildlife Conservation Board. Each public appointee would be selected by the legislature, one by the Assembly Speaker and one by the Senate Rules Committee. The members would be voting members and would serve four year terms. The qualifications would be that each public member has a demonstrated interest and expertise in land acquisition for conservation purposes. If enacted, this bill would take effect 90 days past adjournment.

# Landmen

## Independent Contractors

**UPDATE to 8/1/16 Weekly Report:** After the Senate initially reported there would be no further action on Massachusetts [SB 2446](#), the Senate printed a new version, [SB 2477](#), that adopted the amendments. SB 2477 passed the Senate on July 30 and was read for the first time in the House on July 31 and referred to the House Ways and Means Committee. The bill would allow independent contractors to be eligible for temporary disability leave or family care leave if the individual has paid a premium for at least one quarter during the past 12 month base period prior to the claim. An independent contract would be eligible for a maximum of 16 weeks of family care leave in a benefit year. Under the amendment, independent contractors would be eligible for temporary disability leave for a maximum of 26 weeks of temporary disability leave in a benefit year.

## Oil and Gas

### General Oil and Gas

**California [AB 2756](#)** was read for a second time in the Senate and ordered to third reading. 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](#)** was read a second time in the Senate, amended, and returned 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.

As amended, this bill would require the supervisor to prepare and submit a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year.

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

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