

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

- **S. 1404 – Natural Gas Export Expansion Act.** On June 21, Senator Ted Cruz (R-TX) introduced [S. 1404](#), the *Natural Gas Export Expansion Act*, which has been referred to the Senate Committee on Energy and Natural Resources for further consideration. The bill would expedite the current review process for an application to export natural gas to increase exports. “While the new Administration has taken a number of positive steps to remove federal impediments to energy exploration, development, and trade, Congress must also do its part to continue advancing America’s energy renaissance,” said Senator Cruz. “Expedited LNG exports will strengthen our position against current and potential foes of America, and benefit our friends and allies around the world, while driving down energy costs at home.” According to energy industry analysts, the U.S. is already on track to become a net natural gas exporter by next year. [Read more.](#)

FEDERAL – Regulatory

- **BLM Lease Sales – Utah.** The Bureau of Land Management (BLM) Vernal and Price Field Offices are seeking public comments on two separate environmental assessments analyzing BLM proposals to offer parcels in northeastern Utah for competitive oil and gas leasing during the December 2017 lease sales. The [Vernal sale](#) analyzes 64 parcels comprising 66,626 acres within Duchesne and Uintah counties, including approximately 2,080 acres of split-estate land. The [Price sale](#) analyzes 15 parcels comprising 32,013 acres within Emery County, Utah, primarily southeast of town of Ferron, Utah. Both public comment periods are open until July 24. [Read more.](#)
- **EPA Methane Rule.** (Update to 7/10/17 Weekly Report) A week after a federal appellate court blocked the Trump administration from delaying a methane regulation opposed by the oil and gas industry (see [Clean Air Council v. Pruitt](#); Case No. 17-1145), the Environmental Protection Agency (EPA) is moving ahead on rewriting the rule. Officials from the agency took testimony from the public last Monday during a hearing in EPA’s Washington headquarters, “as they took their first steps in what is expected to be a pull back on the regulation signed by former president Barack Obama last year.” The methane regulation was scheduled to go into effect in June, but then EPA Administrator Scott Pruitt ordered a 90-day delay that he then attempted to extend two years before environmental groups sued to block him. Last week the Court of Appeals for the District of Columbia Circuit ruled Pruitt’s delay was “unreasonable,” “arbitrary” and “capricious,” forcing the agency “to begin enforcing the rule while it

goes through what is expected to be a lengthy bureaucratic process in rewriting the regulation.” [Read more.](#)

- **U.S. Department of Labor – Wage and Hour Opinion Letters.** In another win for employers, and those relying on independent contractor status, The U.S. Department of Labor (DOL) has announced that the agency will reinstate the issuance of Wage and Hour Division opinion letters, which ended nearly seven years ago under the Obama administration. The Wage and Hour Division enforces employee misclassification and overtime pay actions, so this is a welcome development for the landman industry. [“DOL opinion letters](#) allow either employers or employees to ask the DOL whether specific practices comply with laws under its jurisdiction,” according to Philip Eschels of the law firm Bingham Greenbaum Doll LLP. “The DOL may choose to respond with guidance, which can provide a useful defense for employers, both in court and in response to DOL investigations. In fact, the employer that received the opinion letter and any other employer who reasonably relied on an opinion letter’s guidance may use it as part of a good-faith defense to allegations of wage and hour law violations.” [Read more.](#)
- **U.S. Department of Labor – Overtime Pay Exemptions.** (*Akerman HR Defense, 7/7/17*) In another blow to the former Obama administration, the U.S. Department of Labor (DOL) is abandoning the new salary regulation that set a \$47,476 threshold salary for employees to be exempt from overtime and intends to go back to the drawing board. The regulation (*Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees; 81 Fed. Reg. 32391*), which more than doubled the current salary threshold, would have made an estimated four million more workers eligible for overtime. On November 22, 2016, in [State of Nevada, et al. v. United States Department of Labor, et al.](#) (Case No. 4:16-cv-00731), Judge Mazzant of the U.S. District Court for the Eastern District of Texas issued a nationwide injunction against the DOL and blocked its Final Overtime Rule, which was set to go into effect on December 1, 2016. In a brief filed on June 30, 2017 in a [pending appeal](#) (Case No. 16-41606) of the above case, the DOL asked the appellate court not to address the validity of the specific salary level set by the 2016 final rule since it plans to scrap the rule anyway under the Trump administration. For now, the Obama-era regulation is on hold and not in effect, and employers must wait to see whether the appellate court will find that DOL has the authority set a minimum salary threshold and if it does, what that new threshold will be. [Read more.](#)

FEDERAL – Judicial

- **BLM Methane Rule – California Federal Court.** On July 10, multiple environmental groups filed a lawsuit against the BLM in California federal district court seeking to block Interior Secretary Ryan Zinke from halting enforcement of a rule limiting the venting and flaring of gas on federal lands. In *Sierra Club v. Zinke* (Case No. 3:17-cv-03885), the plaintiffs claim

that the agency's decision to stay compliance deadlines (*see Waste Prevention, Production Subject to Royalties, and Resource Conservation; Postponement of Certain Compliance Dates*; [82 Fed. Reg. 27430](#)) for certain provisions of the *Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule* ([81 Fed. Reg. 83008](#)) finalized in the waning days of the Obama administration violates the Administrative Procedure Act by making an arbitrary and capricious decision to postpone an effective date of a rule that had already taken effect. In addition, the suit claims that other "members of the public are harmed by reducing royalty payments and allowing waste of public natural gas resources and excessive air pollution that would otherwise be controlled under the rule". [Read more.](#)

- **Greater Sage-Grouse – Multiple Federal Courts.** Three court battles over protections for the greater sage-grouse were halted as the Interior Department reconsiders its strategy for protecting the birds under the new administration. Lawsuits by oil and gas associations, a mining association, and the state of Idaho were put on hold July 6 (*Am. Exploration & Mining Ass'n v. Interior* (Case No. 1:16-cv-00737); *Western Energy Alliance v. Interior* (Case No. 1-16-cv-11); *Otter v. Zinke* (Case No. 17-5050)) as President Trump's administration has announced plans to address the issue. The motions to halt legal proceedings came as Interior Secretary Ryan Zinke issued his [Secretarial Order No. 3353](#) (*Greater Sage-Grouse Conservation and Cooperation with Western States*) on June 7 to review the sage-grouse protections and work closely with states. Additional support for the joint motions to halt the litigation came from U.S. Forest Service Chief Tom Tidwell in the form of a [June 14 letter](#) saying the service would work closely with the Interior Department and state agencies on the sage-grouse. "We thought it was worthwhile to stay the litigation and see what kind of changes are going to be recommended," said Laura Skaer, executive director of the American Exploration & Mining Association, one of the plaintiffs who joined in a motion to stay the court proceedings. [Read more.](#)

STATE – Legislative

- **Title Curative; Recordation – North Carolina.** On July 12, Gov. Roy Cooper (D) signed HB 584 into law. The Act clarifies the process for correcting nonmaterial errors in recorded title instruments and creates a curative procedure for certain "obvious" description errors in title documents. The Act also creates a seven-year curative provision for certain defects in recorded title instruments. [Read more.](#)
- **Severance Tax – Pennsylvania.** On July 11, bill sponsors made a motion to discharge HB 113 from the House Environmental Resources and Energy Committee, where it has languished since January when it was first introduced by Rep. Kate Harper (R). Such a motion, if passed, will allow the bill to move out of the committee for further House consideration. This bill would impose a severance tax of 3.5 percent on the gross value of units severed at the wellhead, and also preserves the state impact fee, leaving it unchanged. [Read more.](#)

INDUSTRY NEWS FLASH:

♦ **U.S. to become top-ten oil exporter by 2020.** (*CNN Money*, 7/11/17) A new forecast by the consultancy PIRA Energy Group estimates that American crude oil exports will grow to 2.25 million barrels a day by 2020, a four-fold increase from 2016. The boom would put the U.S. in roughly the same league as major oil exporters including the United Arab Emirates and Kuwait. “In the years ahead, these developments position the U.S. to potentially be one of the 10 largest exporters of crude oil in the world,” according to PIRA analyst Jenna Delaney. [Read more.](#)

State-by-State Legislative Session Overview

According to [NASBO](#), as of July 11, 44 states have enacted budgets for fiscal year 2018. In **Massachusetts**, **Michigan** and **Oregon** the budget bill is pending action by the governor. In **Connecticut**, **Rhode Island** and **Wisconsin**, a budget has not yet been finalized. At least 10 states have met, or are currently meeting, in special sessions to resolve budget differences.

California, **Maine**, **Massachusetts**, **Michigan**, **New Jersey**, **Ohio** and **Wisconsin** are in regular session. The **District of Columbia** Council, **United States** Congress and **Puerto Rico** are also in regular session.

Pennsylvania is recessed to the call of the chair, [WSKG](#) reports.

Missouri convened a special session set to focus on abortion related issues on June 12, reports [U.S. News and World Report](#). **Alaska** convened its second special session on June 16, immediately following the adjournment of its first special session. A press release from the office of Independent Gov. Bill Walker about the special session can be found [here](#). Governor Walker’s proclamation authorizing the special session can be found [here](#) and a supplemental proclamation expanding the list of bills to be considered can be found [here](#). **Washington** convened its third special session on June 21 immediately following the adjournment of its second special session.

New York adjourned its regular session on June 21 and convened a special session on June 28. **Delaware** adjourned on June 30 and adjourned a special session related to budget issues to the call of the chair on July 3. **New Hampshire** adjourned on June 30 and **Rhode Island** adjourned to the call of the chair the same day. **North Carolina** also adjourned on June 30 and will reconvene on August 3 for a veto session. **Oregon** adjourned on July 7.

Illinois adjourned a special session to the call of the chair on July 6.

Texas is expected to convene a special session on July 18. **North Carolina** is expected to convene a special session on September 6 to redraw state legislative and congressional district maps.

Maine did not adjourn as expected on July 12 after having previously extended their legislative session to deal with budget issues.

North Carolina Democratic Gov. Roy Cooper has until July 30 to act on legislation or it becomes law. **Oregon** Democratic Gov. Kate Brown has until August 21 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 session 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. **Missouri** Republican Gov. Eric Greitins has 45 days from presentment to act on legislation from the regular 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.

Kansas Republican Gov. Sam Brownback and **Louisiana** Democratic Gov. John Bel Edwards had acted on all legislation as of June 30. **Hawaii** Democratic Gov. David Ige had a signing deadline on July 3. **Florida** Republican Gov. Rick Scott, **Minnesota** Democratic Gov. Mark Dayton, **Mississippi** Republican Gov. Phil Bryant, **Montana** Democratic Gov. Steve Bullock and **Tennessee** Republican Gov. Bill Haslam had acted on all legislation as of July 10.

Lands

Public Lands

California [AB 1472](#) was enrolled on July 10 and delivered to Democratic Gov. Jerry Brown. He has until July 24 to sign the bill or it becomes law. Existing law gives the State Lands Commission control over certain public lands. With respect to oil, gas, and mineral leases, the assignment, transfer or sublet of public lands to another person is subjected to approval by the commission and certain provisions apply. In considering the approval of a transfer of assignment on public lands, this bill would authorize the commission to consider whether the proposed assignee is likely to comply with all provisions of the lease for the duration of the lease term.

Oil and Gas

Oil and Gas General

California [SB 44](#) passed Assembly Natural Resources Committee on July 10 and was referred to the Assembly Appropriations Committee. This bill would require the State Lands Commission in the Natural Resources Agency to administer a legacy oil and gas well removal, plugging and

remediation program. Carrying out this program is contingent on appropriation of funds by the legislature.

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

California [SB 809](#) passed the Assembly Natural Resources Committee on July 10 and was referred to the Assembly Appropriations Committee. Existing law requires the State Oil and Gas Supervisor to appoint a chief deputy and at least one district deputy for each district and to prescribe their duties. This bill instead would require the director to fix the number and boundaries of the districts, and would authorize the director and supervisor to redefine the districts as needed to ensure the efficient administration of provisions regulating oil and gas. The bill would require the director and supervisor to solicit public input before revising the districts. The bill would narrow the definitions of “idle well” and “long-term idle well” by excluding active observation wells from those definitions.

This bill is sponsored by Sen. Robert Hertzberg, D-Van Nuys.

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