



**Texas
Independent
Producers and
Royalty Owners
Association**

DONALD TRUMP TAKES OFFICE AS 45TH PRESIDENT OF THE UNITED STATES, TAKES EXECUTIVE ACTION TO BOOST AMERICAN ENERGY SECTOR

After taking the oath of office to serve as the 45th President of the United States of America, on Friday, January 20, 2017, Donald J. Trump assumed control of the U.S. government. In his inaugural address as America's new Commander in Chief, Trump emphasized his vision of putting "America first" and promised to stop the so-called "American carnage" plaguing the nation.

Shortly after the inauguration of President Trump, the White House announced several initiatives of the new administration, including "An America First Energy Plan" outlined via the White House website. Specifically, the plan promotes the Trump Administration's commitment to overhauling policies in support of domestic energy development. "For too long, we've been held back by burdensome regulations on our energy industry. President Trump is committed to eliminating harmful and unnecessary policies such as the Climate Action Plan and the Waters of the U.S. rule. Lifting these restrictions will greatly help American workers, increasing wages by more than \$30 billion over the next 7 years," reads the official White House website. "Sound energy policy begins with the recognition that we have vast untapped domestic energy reserves right here in America. The Trump Administration will embrace the shale oil and gas revolution to bring jobs and prosperity to millions of Americans. We must take advantage of the estimated \$50 trillion in untapped shale, oil, and natural gas reserves, especially those on federal lands that the American people own."

Mere days into his presidency, Trump already has taken executive action on several promises made during his campaign for office. Amongst several directives issued in the past two weeks, President Trump has signed a series of Executive Orders aimed at reducing the burden of government regulations and expediting high priority energy and infrastructure projects that will create jobs and increase national security.

Read more about Executive Orders issued by President Trump on Page 4...

TIPRO LAUNCHES STUDENT PROGRAM TO CONNECT WITH FUTURE PETROLEUM PROFESSIONALS

In an effort to support the next generation of Texas energy professionals, the Texas Independent Producers & Royalty Owners Association is proud to announce the launch of a new TIPRO initiative called the "Young Leaders in Energy" (YLE) Student Program. Through the YLE program, TIPRO will open membership to students who are currently enrolled in qualifying undergraduate and graduate studies, including Petroleum Engineering, Geosciences, Land Management and Petroleum Technologies.

As the oil and gas industry welcomes new faces from universities across the country, and these petroleum professionals step into positions of leadership, it is our goal that these individuals have an established connection with TIPRO that they continue throughout their career.

TIPRO's YLE program is one way to begin cultivating life-long business relationships with future leaders of our industry. It will be these people who continue to carry out the mission of TIPRO to preserve the ability to explore for and produce oil and natural gas.

YLE includes a number of benefits exclusive to students, including regular updates on pertinent policy proceedings, a complimentary invitation to attend a TIPRO conference, and access to posting a listing in the new resume database on TIPRO's website. It is the association's hope that this resource helps facilitate job prospects between students and potential employers.

Student membership is complimentary and application form can be found at the following link: www.tipro.org/about-us/tipro-young-leaders-student-program/.

For more details on the association's new YLE Student Program, please contact TIPRO at (512) 477-4452.



CHAIRMAN'S MESSAGE

TIPRO Members,

One of the most effective weapons for those that want to kneecap the oil and gas industry is the idea that carbon dioxide is a poison gas that should rightly be regulated. As humans, we breathe in 400 parts per million and we breathe out 45,000 parts per million. Talk about original sin!

Don't worry. I am not going to be your drunk crusty uncle holding forth at Thanksgiving on global warming. We have ALL had too much of that. Rather I want to present the decision tree one needs to make to arrive at some conclusion to this issue.

The popular conclusion, the one ratified in Paris, all wrapped up in a bow, is that we should spend trillions of dollars from taxing carbon dioxide emissions, and transfer that wealth to various governments, coordinated by the United Nations, for a result that even its proponents admit, at most, might represent a fraction of a degree Celsius difference by the turn of the 21st Century. In other words, we should reorder the global economy and adopt a crushingly expensive solution that has no real climate impact. What could possibly go wrong?

Arriving at this conclusion, a myriad of smart people, including Bill Nye "the Science Guy," inconvenient Al Gore, and admittedly cool Neil Degrasse Tyson, and a whole slew of others had to have gone through the following process:

Question 1: Are we warming or are we NOT warming? If no, stop here. If yes, on to the next question.

Question 2: Is continued warming a problem overall? If no, stop here. If yes, on to the next question.

Question 3: Is human activity the major contributor to warming? If no, stop here. If yes, on to the next question.

Question 4: Can we stop or reverse warming by cutting that activity? If no, stop here. If yes, on to the next question.

Question 5: Can you realistically stop the activity that causes warming? If no, stop here. If yes, on to the next question.

Question 6: Is there a better way to stop warming? If no, then I guess bureaucratic control of the world energy economy administered by the United Nations is a really wonderful idea.

I am clearly missing a step somewhere. All of this came to mind because, while driving between Houston and Austin, I chanced upon an interview with President Trump's EPA transition chair, Myron Ebell, the director of Global Warming and International Environmental Policy at the Competitive Enterprise Institute, by a very hostile British press who implied he represented evil oil interests. He responded, very politely, that the power and corruption lay within the climate industrial complex... where "grant-grubbing" scientists, "regulation-hungry, rent-seeking businesses" and government bureaucrats hungry for more control scratch each other's back and create a self-sustaining vortex of corruption. Wow.

When a reporter asked Ebell about Elon Musk and the wonderful batteries he says he will build, Ebell responded with: "I wonder how the largest recipient of federal taxpayer subsidies in the history of the world could be represented as any kind of role model."

On the Endangered Species Act (a real favorite of our great industry), the reporter actually gasped in shock and disgust when Ebell stated that he wasn't worried about it... that he'd been trying to reform it for years, because it didn't do much for endangered species, but really and truly damaged private property and land use rights.

I can confidently say until that interview that I never gave the remotest possibility that I could develop a man-crush on a Cambridge-educated middle aged balding guy named Myron. I literally can't believe there is someone with real influence in our federal government that clearly understands how important our economic engine really is. I cannot remember a time in my life when I really felt like those we elect to lead actually understand or give a damn about those of us that pull real freight. I worry that I am going to wake up, ala Bobby Ewing, and find out it was merely a dream.

As I write this, our former Governor Rick Perry's road to become our next Secretary of Energy was passed to the full Senate from the Senate Natural Resources and Energy Committee on a powerful 16-7 vote, including four Democratic senators. Former Oklahoma Attorney General Scott Pruitt, who joins TIPRO membership in the "Who's Who of folks that have sued the EPA," has had his scheduled vote delayed within the Senate Environment and Public Works Committee chaired by Wyoming Republican John Barrasso. The committee contains 11 Republicans and 10 Democrats.

Additionally, U.S. House Republicans are soon going to introduce legislation to overturn the Obama Executive Order limiting the amount of methane that can be flared or vented from drill sites, and revive the Clinton-era Congressional Review Act, passed in the 1990s to address this very thing... an outgoing president signing lots of little carpet bomb orders that were way to virulent for their own administration to cause problems with the new incoming president, such as Bill Clinton's last second regulation to lower acceptable arsenic levels in drinking water from 50 parts per billion to 10 parts per billion, relying on the press and environmental groups to portray the new administration as "pro-arsenic" in drinking water.

All in all, this is an unexpected, pretty upbeat time. Now watch how the Sierra Club and its ilk try to drown this public good with lawsuits. That said, there hasn't been a more important time to be great corporate citizens. Our industry shouldn't take its focus on being excellent environmental stewards and exhibit the responsible behavior we are known for to the state regulators where we produce. We will be scrutinized during "our time" like no other.

Let's show the world how good we really are.

Allen Gilmer



Allen Gilmer

TIPRO LEGISLATIVE UPDATE

With the legislature rounding out its third week of session, TIPRO's government affairs team continues to actively track new bills being filed in the Texas House and Senate. In recent weeks, new pieces of legislation filed on importance to members of TIPRO include:

- Senate Bill 26 – Relating to the Texas Emissions Reduction Plan (TERP) and other related programs and measures to reduce emissions. This legislation would establish a grant program geared at replacing state fleets with more alternative fuel vehicles, and would create an option for local municipalities to do the same, subject to the availability of funds. The legislation would also extend the life of all TERP programs until such time as the state's ozone non-attainment zones are deemed in attainment. Further, Senate Bill 26 would eliminate the Clean Transportation Triangle program and replace it with a "Clean Transportation Zone." Under the bill, new technology projects also would be eligible for the New Technology Grant Program, including technologies that help reduce emissions from upstream and midstream oil and gas operations through engines or flaring.
- Senate Bill 568 – Relating to the posting by the Railroad Commission of Texas on its Internet website of certain enforcement information. Specifically, the bill would allow public access to information online on the Railroad Commission's enforcement of rules, orders, licenses, permits and certificates, including information on complaints filed at the agency, inspections conducted, violations found to have occurred, and enforcement actions taken by the commission, including penalties assessed and collected. Under the bill, the Railroad Commission would be required to offer the information online in a searchable format, downloadable in bulk, with data organized by operator and by well.
- Senate Bill 611 – Relating to appointments by certain state officials to a legislative agency or an advisory committee. Senate Bill 611 specifies that a person appointed by the Lieutenant Governor or Speaker of the House serves at the pleasure of the appointing officer and may be removed or replaced by the appointing officers or their successor. The bill applies to the governing body of a legislative agency or committee, a council, commission, task force, or other public entity with multiple members that does not control or supervise public business or policy and has its primary function advising a branch of state government.
- Senate Bill 635 – Relating to the award of court costs and attorney's fees in certain actions challenging an order, ordinance, or similar measure of a political subdivision or the failure of an officer of a political subdivision to perform.
- House Bill 1290 – Relating to the required repeal of a state agency rule before adoption of a new state agency rule. This bill would prohibit a state agency from adopting a proposed rule unless on or before the effective date of the proposed rule the agency has repealed at least one agency rule. The requirements under this bill would not extend to rules specifically required by the legislature or those necessary to protect the health and safety of residents of the state under the Health and Safety Code.

The filing deadline for legislative proposals is on Friday, March 10, 2017.

TEXAS GOVERNOR HIGHLIGHTS LEGISLATIVE PRIORITIES DURING 'STATE OF THE STATE' ADDRESS

Proclaiming the status of Texas as "exceptional," this week Texas Governor Greg Abbott delivered his 'State of the State' address before members of the Texas Legislature on Tuesday, January 31, outlining his top priorities for the state's 2017 Legislative Session. During his address, Governor Abbott expressed his optimism for future economic prosperity in the Lone Star State in the days to come, noting the fact that Texas would have the 10th largest economy in the world if it were its own country. And while Texas has had to deal with a downturn in the oil patch the last couple years, Governor Abbott was proud to update legislators on the job growth occurring in the state, with Texas still adding more than 200,000 new jobs last year even as oil hit bottom.

On Tuesday, the governor directed lawmakers to prioritize four emergency issues this session, prompting legislators to immediately begin work on: reform of Child Protective Services (CPS), banning sanctuary cities in Texas, implementing meaningful ethics reform, and passing a resolution calling for a Convention of States. The governor also expressed hope the state legislature will explore reducing the business franchise tax this legislative session, as well as adopt reforms to property taxes in Texas.

Coinciding with his "State of the State" speech, Governor Abbott also released his budget proposal for the state's 2018-19 biennium. "This upcoming biennium will be a time for addressing essential needs and eliminating the non-essential wants," said Governor Abbott. "That is why my budget proposal ensures that state government lives within its means while maintaining funding for important, but limited priorities. Fostering a climate of fiscal responsibility, low taxes, reasonable regulation, and limited government will enable Texas to remain the envy of the nation and encourage private sector investment, expansion, and innovation." Included in the budget proposal set forth by Governor Abbott would be \$5 billion in funding for additional road construction across the state without new taxes, fees, debt, or tolls.

IMMEDIATE HIRING FREEZE IMPOSED ON STATE AGENCIES BY GOVERNOR OF TEXAS

An immediate hiring freeze for state agencies in Texas has been instated by Texas Governor Greg Abbott, in efforts to cut state spending. The governor made the announcement on Tuesday, January 31st as part of his 'State of the State' address before members of the Texas 85th Legislature.

"We must cut spending in our current biennium to ensure we live within our budget," Governor Abbott said. "To accomplish that, I am today directing state agencies to impose an immediate hiring freeze through the end of August. This should free up about \$200 million in our current budget. And in the next biennium, I am confident that we can balance the budget without looting the Rainy Day Fund."

AS ENERGY SECTOR SEES SIGNS OF RECOVERY, RRC PREPARES FOR EXPANDING REGULATORY NEEDS



While the Texas Railroad Commission works on its budget for the next biennium, this week Chairman Christi Craddick met with top economists at the Federal Reserve Bank of Dallas (Dallas Fed) to discuss this year's outlook for the Texas oil and gas industry and gather insight on what the state's oil and gas regulatory agency can expect with regards to drilling activity in Texas for the year to come. According to the Dallas Fed, E&P activities in Texas are projected to increase throughout the year. "Oil and gas production today makes up more than 30 percent of our state's overall economy," Chairman Craddick said. "It is critical for the industry's continued success and for the public's safety that the Railroad Commission has as much information as possible about the industry's near-term future as we determine strategic plans for the agency."

With the legislative session now underway, the Railroad Commission is currently in the process of presenting its 2018-19 biennium budget request to legislators. And with hopes of a rebound for the Texas energy sector this year, the Railroad Commission is making preparations for expanding needs of regulatory oversight. "We know from previous downturns that when the oil and gas industry ramps up, it ramps up quickly. We must be fully staffed and prepared for an uptick in industry activity," said Chairman Craddick. "I am optimistic about oil and gas production growth in Texas this year, but look forward to seeing a continued rise in permitting and new drilling reports before we expect a significant shift within the industry. Until then, we will continue to move resources planned for permitting to other areas of the agency as needed."

TEXAS JOINS COALITION ASKING TRUMP TO REPEAL USFWS, NMFS POLICY

In a letter sent January 19th to U.S. President Donald J. Trump, 14 state attorneys general, including Texas Attorney General Ken Paxton, asked the new administration to immediately repeal two new federal rules that broadly expanded the definition of critical habitat for endangered species, promulgated last year by the U.S. Fish & Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS).

The coalition of state attorneys argue in the letter to the new U.S. president that the new rules pushed by the federal agencies "unlawfully and vastly expand the authority of the Services to designate areas as critical habitats." Furthermore, according to the attorneys general, the rules "violate the [Endangered Species Act] because they expand the regulatory definition of a critical habitat beyond its narrow statutory definition." The attorneys general also noted that the rules expand the definition of "adverse modification" of critical habitat beyond what is legally permitted.

DAYS INTO TAKING OFFICE, PRESIDENT TRUMP TAKES EXECUTIVE ACTION TO EASE REGULATION

During the first two weeks of his presidency, Donald Trump took swift action to pare regulatory work by the federal government. In late January, the president issued several directives establishing immediate limitations for federal regulatory agencies, including:

- **Implementation of Regulatory Freeze:** Leaders of executive departments and U.S. agencies were ordered by the White House to temporarily postpone the effective dates of certain regulations that had been published in the Federal Register but had not yet taken effect, delaying the federal rules from taking effect until March 21, 2017. The freeze was established to allow new incoming officials serving under the Trump administration to have adequate time to review policies and consider questions surrounding the regulations prior to implementation.
- **Executive Order to Reduce Regulation and Control Regulatory Costs:** As mandated by President Trump, for every one new regulation issued, federal agencies will now have to identify for elimination at least two prior government regulations. Moreover, regulatory entities will face a budget cap through the remainder of Fiscal Year 2017.
- **Freeze on the hiring of federal employees:** The president has instated a freeze on the hiring of federal civilian employees, to be applied across the board in the executive branch. As part of the hiring freeze, no vacant positions existing as of noon on January 22, 2017, may be filled and no new positions may be created, except in limited circumstances. This order does not include or apply to military personnel. President Trump also has directed the director of the Office of Management and Budget (OMB), in consultation with the director of Office of Personnel Management, to recommend within 90 days a long-term plan to reduce the overall size of the federal government's workforce through attrition.

TIPRO'S 71ST ANNUAL CONVENTION JUST WEEKS AWAY!

Members who have not yet signed up for TIPRO's 2017 Annual Convention are encouraged to register to attend the association's upcoming meeting in Austin. TIPRO's annual meeting will take place February 27-28 at the Sheraton Austin Hotel by the Capitol -- see the event agenda and registration form on the pages that follow. Online registration is also available through TIPRO's website at www.tipro.org.

Still need a hotel room for the TIPRO Convention? Please contact Joanne Reynolds in the TIPRO office at (512) 477-4452.



AGENDA

TIPRO's 71st Annual Convention Austin, Texas

Monday, February 27th	1:00 P.M.	Welcome Address TIPRO Chairman Allen Gilmer
	1:30 P.M.	Texas Railroad Commissioner Wayne Christian
	2:15 P.M.	Energy Market Update Vikas Dwivedi, Economist for Macquarie Capital (USA)
	3:00 P.M.	Break
	3:15 P.M.	Executive Panel: "Strategies & Opportunities for Texas' Top Shale Plays" T.M. "Mitch" Little, EVP of Operations for Marathon Oil -- Eagle Ford Shale Thomas Meneley, CEO & Chairman of Plantation Petroleum -- Permian Basin Jud Walker, President & CEO of EnerVest Operating Company -- Barnett Shale/Austin Chalk/Anadarko Basin
	4:15 P.M.	Keynote Presentation Former United States Vice President Dick Cheney
	5:30 P.M.	TIPRO Legislative Reception
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Tuesday, February 28th	8:00 A.M.	Membership Breakfast Kimberly Corley, Railroad Commission Executive Director
	9:00 A.M.	Oil & Gas Regulatory Update Suzanne Murray, Partner of Haynes and Boone, LLP
	10:00 A.M.	Texas Political Outlook Panel Harvey Kronberg, <i>Quorum Report</i> Scott Braddock, <i>Quorum Report</i>
	10:45 A.M.	Break
	11:00 A.M.	Information Session on TIPRO Capitol Call-Up Meetings
	Noon	BBQ Luncheon at Saengerrunde Hall
	2:00 P.M.	TIPRO Capitol Call-Up Meetings
	6:00 P.M.	Chairman's Reception & Dinner Presentation of 'Tip of the Hat' Award to former Railroad Commissioner David Porter
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Wednesday, March 1st	9:00 A.M.	TIPRO Audit Committee Meeting
	10:00 A.M.	TIPRO Board Meeting



TIPRO'S 71ST ANNUAL CONVENTION

REGISTRATION FORM

MEMBER REGISTRATION FEES:

INCLUDES ALL AGENDA EVENTS & MEALS

MEMBER - FULL REGISTRATION: \$495

SPOUSE - FULL REGISTRATION: \$325

EVENT-SPECIFIC TICKETS:

TUESDAY-ONLY BADGE: \$395

NON-MEMBER REGISTRATION FEES:

INCLUDES ALL AGENDA EVENTS & MEALS

NON-MEMBER - FULL REGISTRATION: \$695
(REGISTRATION INCLUDES 1 YEAR REGULAR TIPRO MEMBERSHIP)

NON-MEMBER SPOUSE - FULL REGISTRATION: \$475

EVENT-SPECIFIC, NON-MEMBER TICKETS:

TUESDAY-ONLY BADGE: \$595



Have special dietary needs or other considerations?
Please contact TIPRO staff at (512) 477-4452.

ATTENDEE INFORMATION

Name of Attendee: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Phone: _____ Fax: _____

E-mail: _____

Registered Spouse: _____

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PAYMENT INFORMATION

Total: _____ Payment Method: VISA MASTERCARD AMEX CHECK NO: _____

Print Name: _____ Company: _____

Billing Address: _____

Credit Card No.: _____ Exp. Date: _____

Signature: _____ CID: _____

CANCELLATION POLICY

In order to receive a refund, TIPRO must be notified of your cancellation no later than
Friday, February 17, 2017.

Return registration form to TIPRO at: 919 Congress Avenue, Suite 1000, Austin, Texas 78701 or fax to (512) 476-8070.
Registration forms must be accompanied by payment.

SENATE CONFIRMATIONS OF TRUMP CABINET APPOINTEES SLOWLY ADVANCE

Confirmations of leaders nominated to serve in President Donald Trump's cabinet have been slow to progress in recent weeks in the U.S. Senate. The Senate Environment and Public Works Committee had scheduled to take a vote on Wednesday, February 1, over Scott Pruitt's nomination to become the next head regulator of the U.S. Environmental Protection Agency (EPA), but the committee's planned vote was derailed after Democrats serving on the committee decided to boycott the panel's meeting. When Democratic Senators boycotted the confirmation vote a second day in a row, the committee suspended formal rules on Thursday, February 2, and proceeded with approving Pruitt to be the next chief regulator of the EPA, without the Democratic senators present.

Pruitt has served as the attorney general of Oklahoma since 2011. During his tenure as Oklahoma's top attorney, established Oklahoma's first federalism unit to combat unwarranted regulation and overreach by the federal government and was a leading advocate against the EPA's regulatory agenda. U.S. Senator John Barrasso (R-Wyoming), who is chairman of the Senate Committee on Environment and Public Works, this week assured critics that Pruitt will be the strong leader the EPA needs. "The EPA has become a bloated regulatory behemoth that has lost sight of the needs of the American people and the environment. The agency's bureaucrats have been more preoccupied with pushing punishing new regulations. This red tape killed thousands of jobs in energy-producing and manufacturing states such as West Virginia, Pennsylvania, Kentucky, Indiana, North Dakota and my state of Wyoming... Oklahoma Attorney General Scott Pruitt, President Trump's nominee to lead the EPA, is committed to protecting the environment — ensuring clean air, water and land — while allowing the American economy to grow," said Senator Barrasso.

Meanwhile, on Tuesday, January 31, the Senate Committee on Energy and Natural Resources approved President Trump's nominees for U.S. Secretary of the Interior, U.S. Representative Ryan Zinke (R-Montana), as well as U.S. Secretary of Energy, former Texas Governor Rick Perry. Representative Zinke was reported favorably by a panel vote of 16 – 6, and Perry was reported favorably by a vote of 16 - 7.

Pruitt, Perry and Zinke's nominations now go to the full U.S. Senate for final approval. According to media reports, the full, Republican-controlled Senate is likely to approve the Trump cabinet nominees next week.

U.S. PRESIDENT ORDERS CONSTRUCTION OF KEYSTONE, DAKOTA ACCESS PIPELINES

In keeping with his promise to expedite high-priority energy and infrastructure projects, one of the first actions by President Trump upon taking office was to initiate the approval of the Keystone XL Pipeline. President Trump also directed the relevant federal agencies (including the Army Corps of Engineers) to expedite reviews and approvals for the remaining portions of the Dakota Access Pipeline, a controversial project that has seen months of protests by environmental activists hoping to prevent construction of the infrastructure. Trump's executive action reversed path on the multi-billion dollar infrastructure projects, after the Obama Administration had formerly shot down plans for the pipelines.

TransCanada announced only days later on January 26th that it has re-submitted a Presidential Permit application to the U.S. Department of State for approval of the Keystone XL Pipeline. Russ Girling, TransCanada's president and chief executive officer, said in a statement, "This privately funded infrastructure project will help meet America's growing energy needs as well as create tens of thousands of well-paying jobs and generate substantial economic benefit throughout the U.S. and Canada."

Meanwhile, following President Trump's Executive Order, the Dakota Access Pipeline is also now moving closer to construction, according to officials. After speaking with Vice President Mike Pence and Acting Secretary of the Army Robert Speer, U.S. Senator John Hoeven (R-North Dakota) announced on January 31st that the Army Corps has been ordered to approve company plans for the \$3.8 billion project. Senator Hoeven said in a statement: "The Acting Secretary of the Army Robert Speer informed us that he has directed the Army Corps of Engineers to proceed with the easement needed to complete the Dakota Access Pipeline. This will enable the company to complete the project, which can and will be built with the necessary safety features to protect the Standing Rock Sioux Tribe and others downstream. Building new energy infrastructure with the latest safeguards and technology is the safest and most environmentally sound way to move energy from where it is produced to where people need it... this has been a difficult issue for all involved, particularly those who live and work in the area of the protest site, and we need to bring it to a peaceful resolution."

With his Presidential Memorandum, President Trump also directed that pipeline infrastructure under development in the United States be constructed with American-made materials and supplies. The U.S. Secretary of Commerce, in consultation with all relevant executive departments and agencies, has been instructed to develop a plan under which all new pipelines, as well as retrofitted, repaired, or expanded pipelines, including portions of pipelines, use materials and equipment produced in the United States, to the maximum extent possible. The secretary is to submit the proposed plan to the president within 180 days.

TIPRO Calendar of Events

<p>FEBRUARY 8, 2017 HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.</p>	<p>FEBRUARY 15-17, 2017 HOUSTON — Annual NAPE Summit, George R. Brown Convention Center. For info, call: (817) 847-7700.</p>	<p>FEBRUARY 27-28, 2017 AUSTIN — TIPRO's 71st Annual Convention, Sheraton Hotel by the Capitol. For info, call: (512) 477-4452.</p>	<p>MARCH 15, 2017 HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.</p>
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EPA DELAYS 30 REGULATIONS FROM TAKING EFFECT

In accordance with a Presidential Directive issued on January 20, 2017, the U.S. Environmental Protection Agency (EPA) is temporarily delaying the effective date of 30 federal environmental regulations. The regulations, which had already been posted to the Federal Register for implementation by the EPA, now will not take effect until March 21, 2017.

A memorandum sent in late January from the assistant to the President and Chief of Staff Reince Priebus on behalf of President Trump, entitled “Regulatory Freeze Pending Review,” directed the heads of executive departments and U.S. agencies to temporarily postpone the effective dates of all regulations, which had been published in the Federal Register but had not yet taken effect, for 60 days from the date of the memorandum. The delay is intended to give incoming agency officials and new leadership under the Trump Administration the opportunity to further review and consider questions of fact, law, and policy that may be raised upon evaluation of the rules.

Amongst those EPA rules that have now been postponed, revisions will be delayed to the Texas State Implementation Plan (SIP) submitted by the state of Texas to the EPA pertaining to particulate matter and outdoor burning regulations. This would have taken effect on February 10, 2017.

CONGRESSIONAL REPUBLICANS SEEK TO OVERTURN BLM’S METHANE RULE ON FLARING

New legislation introduced in Congress this week looks to strike down industry regulations limiting the amount of methane that can be vented and flared from oil and gas drilling sites on federal lands. U.S. Senator John Barrasso (R-WY), chairman of the Senate Committee on Environment and Public Works, and U.S. Representative Rob Bishop (R-UT), chairman of the House Committee on Natural Resources, introduced S. J. Res 11 and H. J. Res. 36, formal disapproval of the Bureau of Land Management’s (BLM) final rule issued last year on methane emissions from oil and gas operations on federal and Indian land.

“This rule is one of the most egregious abuses of power from the Obama administration designed to shut down responsible energy development on our federal lands. When unelected bureaucrats and ideological aims supersede congressional intent and responsible regulation – as was the case with this rule – Congress has an obligation act,” Congressman Bishop stated. “This is the first of many steps we will take to cut red tape that is forcing job losses in communities across the country and undercutting our domestic energy resource potential.”

Citing a conflict with statutory authority, Senator Barrasso explained it is the job of the U.S. Environmental Protection Agency (EPA) and the states -- not the BLM -- to regulate air quality. “Instead of enforcing a duplicative regulation, BLM should use its limited resources to permit natural gas pipelines on federal lands in a timely manner. Pipelines will help producers capture additional gas and get that gas to market. These projects will also create jobs and provide energy for Americans,” said Senator Barrasso.

The resolution set forth by the Republican Congressmen invokes a law signed in the 1990s known as the Congressional Review Act, which authorizes Congress to overturn any regulation within 60 days of publication as a measure designed to keep any outgoing presidential administration’s from tacking on regulations on their way out of the White House.

U.S. HOUSE SCIENCE COMMITTEE TO HOST HEARING TO REVIEW ‘MAKING THE EPA GREAT AGAIN’

The full U.S. House Committee on Science, Space and Technology will meet next Tuesday, February 7, to examine the Environmental Protection Agency’s (EPA) process for evaluating and using science during its regulatory decision making activities. The hearing, titled “Making EPA Great Again” pulls on the famous tag line used by President Donald Trump during his campaign, “Make America Great Again.”

Witnesses at next Tuesday’s committee hearing will testify before the committee on ways the EPA can pursue environmental protection and protect public health by relying on sound science.

“LANDMEN AS INDEPENDENT CONTRACTORS: IS THE GOVERNMENT’S VOLUNTARY SETTLEMENT PROGRAM TOO GOOD TO PASS UP?”

BY MICHAEL KELSHEIMER AND CHARLES SARTAIN, GRAY REED & MCGRAW

The federal government has begun to view landmen working for brokerages as employees, rather than independent contractors.

Why should I care? Because the government cares. Independent contractors who do not report all of their income on their tax returns deprive the government of revenue from income, FICA and FUTA taxes. The Internal Revenue Service and Department of Labor (DOL) are looking to squeeze tax dollars from any place they can find money. To that end, they have focused on the “misclassification” of independent contractors.

New investigators have been hired. Fines are up. The IRS uses sophisticated software to search for misclassifications. Among other factors are businesses with numerous IRS Form 1099-type payments to individuals over threshold amounts. And government agencies have started sharing data on potential violators, making them easier to catch.

This means that the IRS is looking for firms that treat landmen as contractors when they should be employees. This means that landmen who should be treated as an employees may have a claim against the brokerage.

Continued on Page 9...

“LANDMEN AS INDEPENDENT CONTRACTORS” ...CONTINUED FROM PAGE 8

How bad could it be? In an audit, the employer could be assessed half of back payroll taxes, penalties, interest and possibly the “contractor’s” half of back payroll taxes, and the amount that “contractor” should have withheld for income tax purposes. In some cases, this number approaches 40 percent of the amount paid to each “contractor” over the last three years.

It probably won’t end with the IRS. Because the agencies are sharing information, the IRS may hand you off to the DOL. The DOL will then ask for the timesheets for those “contractors” who are now employees. Because you treated them as contractors, you won’t have any timesheets, so DOL will interview the landmen and ask how many hours of overtime they worked in the last three years. With a free pass to answer and no time records to dispute, the landmen can tell the DOL just about anything and the DOL, in turn, will assess you for that overtime.

But it doesn’t end there, the Texas Workforce Commission (TWC) may then audit for unemployment benefits for terminated “contractors” who should have been treated as employees. And, once bitten by the IRS and DOL themselves, your competitors could turn in everybody else using the same approach. For this, they will receive up to 15 percent of the recovery.

“What is the test to determine whether someone should be treated as an employee?” The answer is complicated. The agencies each have their own test. Thankfully, the general ideas are similar. The following questions should tell you whether this could be a problem for you:

1. Do you provide training?
2. Are there set working hours?
3. Do they work in your offices?
4. Have you eliminated per diem payments?
5. Do you provide office supplies and/or computers?
6. Do you provide access to title information through a company system?
7. Do you pay based on hours worked or a rate per day?
8. Do you not charge back if your client rejects the work or requires it to be redone?
9. Do they get paid for all their time on a project rather than having to complete a project in a certain time for a certain price?
10. Do you not have a written contract describing out the relationship?
11. Do you not require landmen to work through an entity that they own?
12. Do they work for you over a long period of time, or for years?
13. They do not work for other companies or handle services for other clients?
14. Do you provide health insurance or other benefits?

If you answered “yes” or “correct” to any of these questions, you could be a candidate for investigation. No certain number of positive answers creates risk, but the more “yesses,” the more risk of an audit and reclassification.

If you answered “yes” enough to become concerned, **what should you do?** You have two options: (1) reduce or eliminate the “yes” answers and hold on to the Section 530 Safe Harbor defense; and (2) take advantage of the favorable settlement program now offered by the government to reduce your liability and re-characterize the contractors as employees.

How the factors are minimized will be different for every business, but start with these thoughts:

1. Have a written contract that maximizes support for independent contractor status.
2. Require landmen to form entities that then contract with your business.
3. Provide no training.
4. Switch to a project- and invoice-based pay schedule.
5. Create risk of loss for the landmen in each project. .
6. Make them responsible for their own place to work and their own supplies.

It makes sense and might save money to work with employment law counsel to help with this process to ensure less risk moving forward.

What is the Section 530 Safe Harbor defense? Some firms are holding on to the idea that they can defeat the IRS misclassification argument using the defense based on Section 530 of the Revenue Act of 1978. The idea is that if everyone is doing the same thing, the IRS cannot declare a misclassification. While this may be true, it only has the potential to be successful. Claiming Section 530 before the DOL or the TWC will fall on deaf ears because they are not subject to it.

What is the settlement program and why is it such a good deal? Even with more investigators, the government can’t catch all the violators. With that in mind, the IRS has offered a settlement to bring violators into the fold so that the government gets that tax revenue going forward.

To qualify, an employer must:

- agree to treat contractors as employees going forward;
- have timely filed all 1099s in years past;
- be in compliance with all past audits; and
- not be under audit presently.

We do not know how long this program will be offered. It could be withdrawn without warning, so there is risk associated with waiting to enter the program.

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