SERVICE STATION DEALERS OF AMERICA AND ALLIED TRADES

SSDA News

Service Station Dealers of America and Allied Trades

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LEGISLATIVE UPDATE

By Roy Littlefield, IV

A thank you to everyone who attended the SSDA-AT meeting in March at Sal's location - NJGCA - in New Jersey. The meeting was very productive and the different associations were able to compare notes and discuss issues. We will look at holding another meeting at the end of July!

Although not particularly productive, Washington has certainly been anything but quiet in recent weeks. Tensions surrounding the elections, and now the Supreme Court, continue to color everything this is happening on the Hill.

WHAT WE'VE BEEN UP TO

Last week, SSDA-AT led the discussion at the SBA Office of Advocacy, Pension Roundtable on the IRS's new proposed rule on cross-testing retirement plans. This anti-small business proposed rule could dramatically increase the costs of this popular plan design. SSDA-AT also met with top officials at the Treasury and IRS to explain the problems with this proposed rule a few weeks ago.

On March 23rd, SSDA-AT participated in a coalition opposing legislation to repeal LIFO.

On March, 22nd, SSDA-AT participated in a Family Business Estate Tax Coalition meeting. We also met with Senator Thune's staff on the issue. We continue to push members in the Senate to hold a full vote on Estate Tax repeal.

On March 18th, SSDA-AT participated in a small business labor safety (OSHA/MSHA) roundtable. SSDA-AT is concerned with increased fines being issues by OSHA later this year.

On March 17th, SSDA-AT joined over 100 organizations on a letter to the Senate Finance Committee and the House Ways and Means Committee urging Congress to restore rate parity between corporations and pass through entities.

On March 14th, SSDA-AT participated in a roundtable on the Department of Labor's proposed rules to implement the President's Executive Order on paid sick leave for government contractors hosted by the Small Business Administration with a number of representatives from the Department of Labor.

On March 7th, SSDA-AT attended a private dinner for the Maryland Federal delegation.

On March 4th, SSDA-AT participated in a strategy call with the growing coalition to support and promote hosting another White House council on small business.

On March 3rd, SSDA-AT attended CPAC (Conservative Political Action Conference) and spoke with 2016 Republican candidates.

On February 24th, SSDA-AT participated in the National Small Business

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Drilling Group Files Suit to Block New Rules for Traditional Oil and Gas Wells

A trade group that represents small and sometimes proudly old-fashioned Pennsylvania oil producers filed a lawsuit today challenging forthcoming state regulations designed to modernize environmental protections around conventional oil and gas operations.

The Bradford-based Pennsylvania Independent Petroleum Producers Association says the rules would be financially ruinous to the state's traditional drilling industry, which it says has been unfairly swept up in the state's push to strengthen regulations on sophisticated and deep-pocketed producers tapping the Marcellus and Utica shales.

The group, known as PIPP, views the lawsuit as its last chance to block the rules before April 21, when an independent state regulatory review board is scheduled to vote on the rules in a final step before the regulations can take effect.

Another effort to stop the rules failed yesterday when Gov. Tom Wolf vowed to veto budget-related amendments to the Fiscal Code, saying riders in the bill would have gutted environmental safeguards. One condition in the Fiscal Code would have thrown out the pending rules for conventional drillers and required state environmental regulators to restart the process of drafting the rules that they began five years ago.

Joe Thompson, a PIPP spokesman, said the timing of the lawsuit was not related to the governor's veto announcement, although he said the lawsuit would not have been necessary if the Fiscal Code amendments had become law.

A spokesman for the state Department of Environmental Protection declined to comment on the lawsuit.

In its complaint filed in the Commonwealth Court, PIPP argues that DEP violated a provision inserted into the 2014 Fiscal Code that required the agency to publish rules for conventional and shale gas drilling separately.

The state's environmental rule-making board, the Environmental Quality Board, voted to approve the two regulations together on Feb. 3, and "the vast majority of these rules are the same for both conventional and unconventional operators," according to PIPP's complaint.

The trade group says the commingling of the rules made it nearly impossible to stop them because public and political support for regulating the shale gas industry is strong.

DEP officials have argued that the two rules packages hold the two industries to different standards in many respects, and that the conventional industry's at-times poor compliance record justifies stricter rules for things like cleaning up spills and checking for underground hazards around well sites.

PIPP is asking the court to void the rules adopted by the EQB and to direct the rule-making board to begin the regulatory process anew if it wants to create new regulations for conventional wells.

The trade group also asked for an expedited review of its petition or for the court to stay the board meeting scheduled for April 21.

McGrath Sees 'Dire' Mississippi Funding Outlook; TRIP Highlights Investment Needs

As lawmakers consider whether to increase funding for the Mississippi Department of Transportation to put into infrastructure projects, MDOT Executive Director Melinda McGrath says her department faces "dire" investment choices and a national research group estimates state road congestion costs drivers more than $2 billion a year.

The state Senate recently passed a bill that would raise Mississippi's motor fuel tax, but that measure is reportedly viewed as a "placeholder" that is expected to be overhauled in the House amid efforts by some groups to kill any gas tax hike. That means legislators would need to negotiate an agreement quickly if they are to come up with a final funding plan before the April 24 end of the legislative session.

Responding to a critique by the conservative advocacy group Americans for Prosperity, which in a memo to the governor and lawmakers questioned the need for new funds, McGrath issued a rebuttal early this month.

"For the past four years, MDOT has been fighting to address the maintenance needs of existing roadways while putting almost all new construction on hold. The situation is dire," she wrote. "The fuel tax has no mechanism to account for inflation and has not been adjusted in almost 30 years (1987). Meanwhile, the cost of road construction has increased over 300 percent."

Meanwhile, the research group TRIP issued a report March 23 saying: "Roads and bridges that are deficient, congested or lack desirable safety features cost Mississippi motorists a total of $2.25 billion statewide annually," in higher vehicle operation and repair costs, traffic crashes and congestion-caused delays in getting to their destinations.

Increased levels of investment, TRIP said, "could relieve traffic congestion, improve road, bridge and transit conditions, boost safety, and support long-term economic growth in Mississippi."

TRIP calculated that road and bridge conditions impose an extra $1,879 in annual costs per driver in the capital area of Jackson, than if the infrastructure was put into significantly better shape.

Scott Waller, executive vice president of the Mississippi Economic Council, which is urging the Legislature to increase transportation funding by $375 million, said the TRIP report "provides additional details regarding the enormous costs Mississippians already face, and the consequences of failing to act. More importantly, it amplifies the safety issues that exist as a result of poor road and bridge conditions and the importance of protecting our citizens."

McGrath reportedly told lawmakers earlier this year that her department would need $526 million more a year. She said that over the next 10 to 15 years the funding would allow MDOT to replace all posted and deficient bridges, and restore paved surfaces to fair or good condition. Without that investment, she said, the cost of infrastructure repairs will only increase as long as the work is delayed.

OSHA to Drastically Raise Fines Later This Year

At a recent OSHA roundtable, SSDA-AT learned the details of the new OSHA fine structure. Fines will be raised by 80% later this year. In addition, they will be 6 months retroactive. Meaning all current cases left unresolved will be subject to the new fines.

OSHA fines will increase for the first time in a quarter century, under a provision in the recently signed congressional budget deal. The Federal Civil Penalties Inflation Adjustment Act of 1990 exempted OSHA from increasing its penalties to account for inflation. The new budget, signed into law on November 2 by President Barack Obama, contains an amendment that strikes the exemption.

Now, OSHA is directed to issue an interim final rule increasing its penalties to account for current inflation levels, which would raise proposed fines by about 80 percent. This would mean the maximum penalty for a willful violation would rise to about $127,000 from the current $70,000. The adjustment must occur before August 1, 2016. In subsequent years, OSHA also will be allowed – for the first time – to adjust its penalties levels based on inflation.

Last year, OSHA conducted over 40,000 inspections and are planning to break that number this year. A large percentage of the inspections were conducted on those in the tire/automotive repair industry and some dealers faced fines of tens of thousands of dollars for inconsequential violations. SSDA-AT recommends signing up for voluntary inspection programs in states where they are offered to avoid potential fines. These voluntary inspections allow for owners to be notified of violations, with a time table to fix them, before they are fined. Last year, 38% of businesses who reported an injury were inspected after. While 62% received a Rapid Report Investigation (RRI).

SSDA-AT remains concerned with overarching fines and increased regulation on the tire industry. We will continue to work with OSHA and protect our dealers.

States Consider Over 60 Bills Regulating Chemicals in 2016

Although legislation to overhaul the Toxic Substances Control Act (TSCA) is under near-final consideration, states continue to consider restrictions on chemicals. In the absence of TSCA reform, over 20 states are considering 60 different bills that would regulate the manufacture and sale of chemicals or restrict their use in products. Some bills would establish broad regulatory authority to regulate chemicals in products – akin to California's Safer Consumer Products regulations – whereas others would target specific chemicals of concern or narrow product types. Almost half of the state proposals would regulate the use of chemicals in children's products. Other areas of legislative activity include limitations on the use of flame retardants, mercury, and bisphenol A, or a focus on personal care products, cosmetics, and cleaning products. The bills range from notification or labeling requirements to blanket prohibitions on certain chemicals in defined products.

In particular, state legislation targeting flame retardants is heating up. Eleven U.S. states are considering bills seeking

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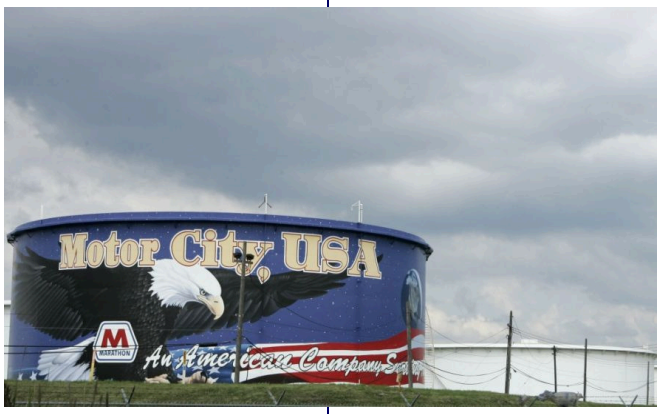
Marathon Says It Will Cut Emissions After Backlash

Marathon Petroleum Co. is retooling an emissions request for its southwest Detroit refinery, promising a lower level of pollutants and spending $10 million to achieve it, the city's administration says.

The company on Monday was preparing to submit its amended request to state environmental regulators after public meetings in which residents, civic leaders and activists lobbied against the refinery's attempt to gain approvals to release more sulfur dioxide and other pollutants into the air.



Dr. Abdul El-Sayed, executive director of the city's health department, said Monday he's proud of the company for working with the city and hearing out community concerns.

"This is an important step," said El-Sayed, who'd been an outspoken opponent of Marathon's request to increase emissions, which he argued would "set a dangerous precedent."

El-Sayed said with the amendments, Marathon will commit to a 20 percent reduction in its permitted emission levels of sulfur dioxide. Marathon's permitted sulfur dioxide emissions levels are just under 400 tons per year. With the 20 percent reduction, it would reduce that level to about 320 tons per year.

The refinery has emitted well under that cap in recent years. In 2015, it emitted 189 tons for the full year. In 2014, it emitted 211 tons and 265 tons in 2013, data show.

City health officials met informally last week with members of the community around the refinery. On Monday evening, officials convened a separate gathering with the community members most affected.

"This is a proposed plan. The mayor is ready to sign off when he sees this all in writing," El-Sayed said.

Jamal Kheiry, spokesman for Marathon, said Monday the company "heard very clearly" from civic leaders and the community that they wanted to see no increase in emissions.

He said Marathon has worked with the city to revise the permit request. He declined to provide specifics on the plan, stressing it hasn't yet been filed with the Department of Environmental Quality.

Company officials previously argued the permit was needed since they need to install new technology to meet new federal cleaner fuel standards. Release levels, they said, would have remained below what is permitted by law.

Feds: Risk of 2016 Quake Increases, Especially in Oklahoma

The ground east of the Rockies is far more likely to shake this year with damaging though not deadly earthquakes, federal seismologists report in a new risk map for 2016. Much of that is a man-made byproduct of drilling for energy.

Parts of Oklahoma now match northern California for the nation's most shake prone. One north-central Oklahoma region has a 1 in 8 chance of a damaging quake in 2016, with other parts closer to 1 in 20.

Overall, 7 million people live in areas where the risk has dramatically jumped for earthquakes caused by disposal of wastewater, a byproduct of drilling for oil and gas. That is mostly concentrated in Oklahoma, Texas, New Mexico, Kansas, Colorado and Arkansas.

Natural earthquake risk also increased around the New Madrid fault in Missouri, Tennessee, Kentucky, Arkansas and Illinois.

In a first-of-its-kind effort, the U.S. Geological Survey on Monday released a map for risks of damaging quakes in the current year. Past efforts looked at 50-year risks and didn't include man-made quakes. The new risks are mostly based on increases in quakes felt last year.

These are not massive quakes that kill hundreds or thousands of people and leave devastation in their wake. Instead, these smaller quakes happen more frequently, said Mark Petersen, chief of the National Seismic Hazard Mapping Project. They damage but don't topple buildings.

"There's no question that there's a lot of shaking going on in Oklahoma, Kansas and Texas," Petersen said in an interview after a press conference Monday. "These are much higher ground motions" than the last time he created the longer-term map, in 2014.

For example, on that map the risk was low in Dallas; now, after a tenfold increase in risk, Petersen said it compares to places in California. The Dallas-Fort Worth area risk is between 2 to 5 percent this year, he said.

"Oklahoma and Texas have the largest population exposed to induced quakes," Petersen said.

North-central Oklahoma was said to have a 12 percent risk, and it has already been hit: A 5.1 magnitude quake caused some damage around Fairview in February.

Seismologist Rowena Lohman of Cornell University, who wasn't part of the map team, said the increase around Oklahoma is easily noticeable and scientists are trying to determine whether these man-made smaller quakes lead to larger events.

Induced quakes are to blame for much of the problem. They result when wastewater is injected deep underground, said USGS seismologist Justin Rubinstein, the deputy chief of the mapping program. That injection is a byproduct of energy drilling, including hydraulic fracturing, a relatively new and controversial process to drill for oil and gas. But he said the fracking process itself mostly doesn't cause quakes strong enough to be damaging, while injecting fracking waste does.
Rubinstein said there is a scientific consensus "that wastewater disposal does cause earthquakes."

Arkansas, Kansas and Ohio saw dramatic reductions in man-made quakes when those states

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New Jersey - Park Survey for Pipeline Under Way

Pilgrim Pipeline's consultants will continue ecological surveys at Ramapo Valley Reservation over the next several weeks to determine if there are any endangered animal habitats that would affect the company's application to New Jersey environmental regulators, a company spokesman said.

The Connecticut-based Pilgrim proposes to build a two-way underground pipeline that would deliver crude oil 178 miles from Albany, N.Y., through some of New Jersey's most environmentally sensitive areas to the Bayway Refinery in Linden. It would send refined fuel, like gasoline and heating oil, back to New York.

The survey work comes as a group of residents and activists plan to deliver petitions and demonstrate today outside the county administration building in Hackensack, calling on County Executive James Tedesco to rescind the survey permits. The 4,000-acre Ramapo Valley Reservation is one of the last remaining tracts of wilderness in Bergen County and has already been cut through in recent years by another major pipeline project.

"The county executive's office has been completely non-transparent when it comes to this issue," said Matt Smith, an organizer with the advocacy group Food and Water Watch. "We've been met with resistance at every turn."

In a March 10 letter to pipeline opponents, County Administrator Dominic Novelli said denying Pilgrim the opportunity to survey could leave the county without any input on the path of the proposed pipeline.

Novelli said the state's open space program, Green Acres, would "assume control of the process due to non-compliance by the local governing body" if the county blocked Pilgrim.

But a spokesman for the state agency that oversees Green Acres said it was too soon to predict if the agency would get involved. "At this point, and as we have advised the county in the past, it is up to Bergen County to make their own best determination on whether or not to grant permission for access to their park lands," said Larry Hajna, a spokesman for the state Department of Environmental Protection.

Pilgrim has said its pipeline is a safer alternative to the millions of gallons of oil carried each week through North Jersey by train and barges along the Hudson River.

The company, a start-up run by four financial and energy executives, has yet to submit a permit application to the DEP detailing its route. In its application sent last year to New York regulators, the pipeline would enter New Jersey in Mahwah through the Highlands Preservation zone, an area close enough to drinking water sources that development there has been severely curbed under state law. Maps of the overall project show it going through northwest Bergen County, crossing the middle of Passaic County, and then going into Morris County and eventually east to Union

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NC Enacts Legislation to Bar Local Government Anti-Discrimination Protections Based on Gender Identity, and Regulation of Wages and Hours

North Carolina Governor Pat McCrory has signed legislation that will bar and negate any state or local law extending anti-discrimination protections in employment and public accommodations to transgender individuals. In particular, the measure rolls back a Charlotte ordinance, finalized by its city council on February 22, which extends anti-discrimination protections to LGBT individuals in the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations in a place of public accommodation to LGBT individuals. That ordinance permits use of public restrooms that are consistent with an individual's gender identity. The legislation also limits employment discrimination protections currently based on "sex" to expressly mean "biological sex."

The legislation also bans local government regulation of minimum wages, hours, benefits and other conditions of employment. The legislation preempts and supersedes any ordinance, regulation, resolution or policy adopted or imposed by any unit of local government that regulates or imposes any requirement on employers pertaining to compensation of employees, such as wage levels, hours of labor, payment of earned wages, benefits, leave, or well-being of minors in the workforce.

Human Resources Director Can Be Held Personally Liable Under FMLA

A federal appellate court has held that a Human Resources Director (HRD) can be held personally liable, under a broad reading of what constitutes "an employer" under the FMLA. Under the FMLA, an "employer" includes "any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer." The Court held that because the employer's HRD had: reviewed employee's FMLA paperwork; determined its inadequacy; controlled employee's ability to return to work and under what conditions; and had sent employee nearly all Company communications about employee's absence, including her termination letter, the HRD could be

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NC Enacts Legislation to Bar Local Government Anti-Discrimination Protections Based on Gender Identity, and Regulation of Wages and Hours

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found to be an "employer," and thus, could be liable.

The employee worked for employer for 5 years before she told her supervisor that she would need to leave work because her 17 year old son had been hospitalized as a result of previously undiagnosed Type I diabetes. Employee left work on June 6 and returned on June 18. Employee submitted a medical certification supporting her need for leave to care for her son on June 27, 9 days after she returned to work. That same day, her 12 year old son fractured his leg playing basketball and underwent surgery for the injury. Employee informed her supervisor that she would need leave to care for her younger son and that she expected to return the week of July 9, "at least part time." When July 9 arrived, the supervisor asked for an update on her status. Employee responded that she would need to work a reduced, three-day work week until mid-to-late August but could return to work on July 12 if that schedule were approved. Employee's supervisor then referred the matter to the Human Resources Director. What followed was a series of unanswered calls and e-mail exchanges about a medical certification, and a proposed meeting that never was scheduled. The Court characterized the Human Resources Director's requests for "paperwork" as "oblique." On September 11, after two months of miscommunications, employer terminated employee "for abandoning her position."

Here are some noteworthy points made by the Court:

(1) an employee is not required to provide a medical certification at the time of request for leave, and in fact does not need to provide one at all unless and until one is specifically requested by the employer; (2) at the time the employer requests certification, the employer must also advise an employee of the anticipated consequences of the employee's failure to provide adequate certification; (3) an employer's handbook stating that it requires medical certification to justify a leave does not meet the "specific request" requirement – an employer must give notice of the certification requirement each time leave is requested, or it waives the right to require one; (4) the employer should request the certification at the time the employee gives notice of the need for leave or within five business days thereafter; (5) an employee has fifteen days after the request for certification to provide it; (6) the employer must advise an employee whenever the employer finds a certification incomplete or insufficient, "and shall state in writing what additional information is necessary to make the certification complete and sufficient"; and (7) the employer is expected to responsibly answer questions from employees concerning their rights and responsibilities under the FMLA.

Appeals Court Upholds Ruling in 2014 Rochester Hills Oil Lease Lawsuit

The Michigan Court of Appeals has upheld an Oakland County Circuit Court Judge's previous ruling that officials in the City of Rochester Hills acted lawfully in leasing approximately 60 acres of city-owned property to a northern Michigan oil company.

The mid-2014 lawsuit was brought by a grassroots group of city residents called Don't Drill the Hills, whose future plans for the litigation were not immediately available.

The group has said officials violated the city's charter by agreeing to the contract with Jordan Development for the land's mineral rights without first putting the issue up for a public vote.

The three-member panel disagreed in their opinion issued Friday, March 25.

"We're pleased with the result," said Bloomfield Hills-based attorney John Staran, who represents the city. "It validates and reaffirms the city did act lawfully and in accordance with its charter and state law.

"We hope this will bring an end to the litigation and foster cooperation for the betterment of the community."

A representative from the group was not immediately available for comment.

The leases are secured by exploration companies prior to a permitting process by the state required of any drilling activity.

The company has publicly stated since the lawsuit was first launched it no longer intends to pursue any oil or natural gas drilling in the Rochester area following an unsuccessful test results in neighboring Shelby Township.

An Oakland County Circuit Court judge sided with the city in late-2014 and the appeal was introduced earlier this month.

The non-developmental lease, signed in 2013, expires in 2018, at which time Jordan Development has the option to renew for a one-year term.

U.S. Gasoline, Diesel Exports Continue to Rise

Demand abroad for U.S. diesel and gasoline continues to increase, the U.S. Energy Information Administration reported.

In 2015 U.S. refineries exported 4.3 million barrels a day of petroleum products, an 11 percent increase from the previous year.

Exports have been rising steadily over the past decade, as new drilling technology opened up shale fields across Texas and other oil-rich states and revived lagging domestic crude production.

With U.S. demand relatively flat, refineries along the Gulf Coast, as well as around New York and California, have been shipping increasing amounts of the fuels they produce abroad.

Their biggest customer remains Mexico, which on a daily basis imported 143,000 barrels of diesel and 307,000 barrels of gasoline last year.

High output from U.S. refineries, along with a mild winter, continue to push down diesel prices, EIA said.

That has been to the advantage of countries in Western Europe, which increased diesel imports almost 200,000 barrels a day in the last three months of 2015. To the point, diesel stockpiles in major hubs like Antwerp and Rotterdam are now far above normal levels, EIA said.

Schlumberger Chief: Oil Services Crisis Isn't Just Oil Prices

The oil service industry needs a fundamental shift in the way it approaches working with exploration and production companies if it's to thrive again, the CEO of Schlumberger warned.

Both services companies and their clients are being held back by an outdated business model that has disconnected service companies from their producer, stifled technological innovation and done little to hold down costs, said Paal Kibsgaard, who holds the top job at Schlumberger.

"Our industry has simply not progressed sufficiently in terms of total system performance to enable cost-effective development of increasingly complex hydrocarbon resources," Kibsgaard said. Kibsgaard spoke at the Scotia Howard Weil conference in New Orleans, and a transcript was provided to Fuelfix.com.

As an example, Kibsgaard pointed to an explosion in exploration and production funding — money invested in drilling quadrupled over the past decade — that only boosted global oil production by 15 percent.

The problem has been somewhat obscured by low oil prices and a sector-wide retreat from drilling, Kibsgaard said. But much of the savings that oil producers are seeing are due to increased competition rather than a fundamental change to drilling, he said, and they're likely to be temporary.

"The unsustainable financial situation of the service industry together with the massive capacity reductions mean that the cost savings from lower service pricing should largely be reversed when activity levels start picking up," Kibsgaard said.

The root cause of the problem comes from the distance between oil companies and their contractors while planning for new wells and operating existing ones, Kibsgaard said.

For roughly the past two decades, producers have drawn up master plans in house, then gone out and contract with dozens of suppliers separately for each piece of the larger project. The lack of coordination during the planning phase, as well as the lack of coordination between suppliers, has led to high costs poor financial results, Kibsgaard said.

"We believe that project performance can only be improved by finding ways of breaking with the past and replacing the existing model with a new approach based on collaboration and commercial alignment between operators and the largest service companies," he said.

Kibsgaard went on to outline a future for the services industry that moves more fluidly from well planning to operation, with a consolidated set of suppliers made more efficient by shared data another other high-tech improvements.

Such a consolidation could potentially benefit Schlumberger by giving it a larger share and more sway in today's fractured oilfield services industry. The international company, which has headquarters in Houston and in Europe, is already the largest oilfield services provider.

Others in the industry have already been pulled together. Most notably, rival oilfield services giant Halliburton Co. has been attempting to take over Baker Hughes Inc. since November, when it made a cash-and-stock offer then valued at roughly $35 billion. The deal is still being scrutinized by regulators.

FERC Denies DEC's Bid to Halt Algonquin Pipeline Project

The Federal Energy Regulatory Commission (FERC) denied the state's requests to reconsider its approval of the controversial Algonquin natural gas pipeline project.

The decision came after local residents and elected officials earlier this month made renewed pleas to the federal regulators to shut down construction of the project that traverses the region.

In late February, Gov. Andrew Cuomo also urged the federal government to halt the project, citing the potential dangers of its proximity to the Indian Point nuclear power plant in Buchanan.

Spectra Energy's Algonquin Incremental Market (AIM) Project, approved by FERC in March 2015, is underway in New York and three other states. The pipeline would carry more natural gas north from Pennsylvania's Marcellus Shale by replacing parts of the pipeline and running a new section through Stony Point, under the Hudson River and into Verplanck and Buchanan.

The state Department of Environmental Conservation on March 3 requested that

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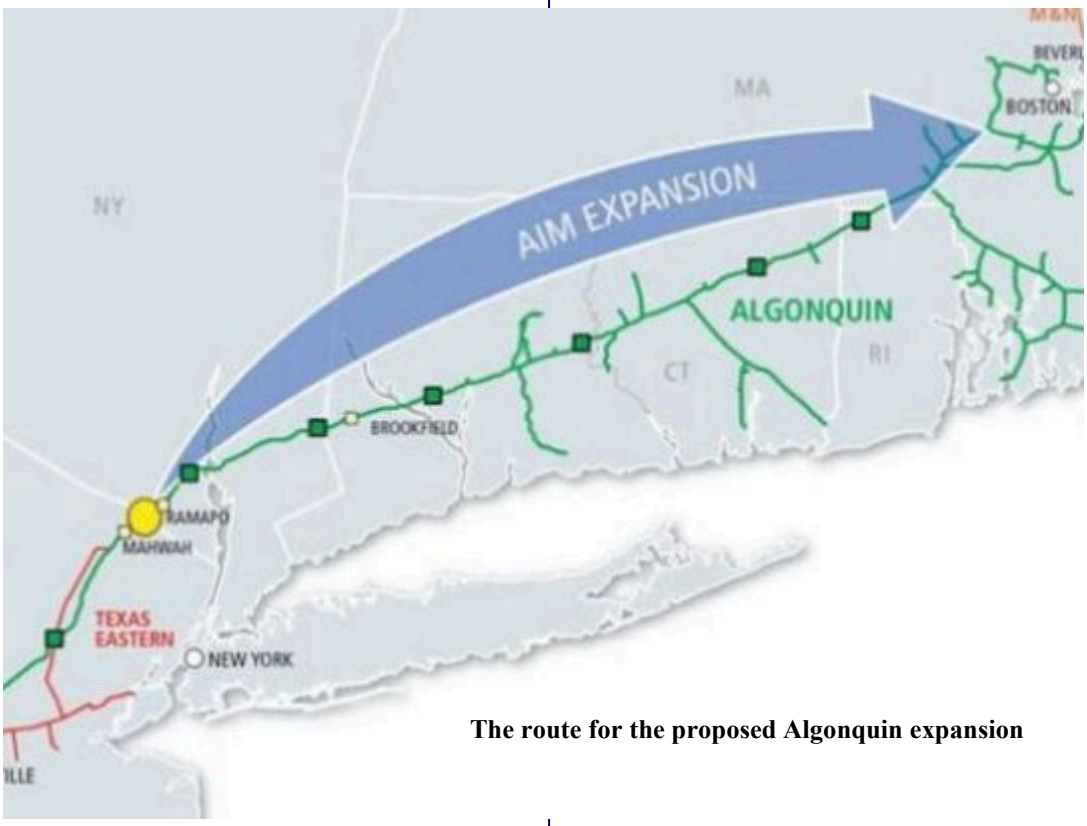

The route for the proposed Algonquin expansion

FERC Denies DEC's Bid to Halt Algonquin Pipeline Project

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FERC reconsider and stay its approval of the project, citing the state agencies' ongoing independent safety risk analysis of the pipeline. The state also argued that stay should be granted because of the project's potential impact on Indian Point, which recently experienced a series of safety issues, including a tritium leak to groundwater.

In denying that request, FERC again cited a safety analysis by the plant's owner Entergy and the Nuclear Regulatory Commission that concluded that the pipeline would not adversely affect Indian Point. FERC's order also noted that the recent incidents at Indian Point occurred within the plant, at least 2,370 feet away from the pipeline construction.

Spectra spokeswoman Marylee Hanley said the company was pleased with the order that "confirmed the validity of its certificate."

"Algonquin will continue with its construction, in accordance with the FERC certificate, to meet the project's critical construction timeframes and safely transport additional supplies of clean, reliable, domestic natural gas to heat the region's homes and businesses," she said.

Courtney Williams of Peekskill, vice president of Safe Energy Rights Group, said she was not surprised by FERC's refusal to revisit its approval.

"Basically, FERC is saying unless New York State can prove beyond a shadow of a doubt that people will definitely be irreparably injured, it's OK to proceed with this project," Williams said. She called on New York's U.S. senators, Kirsten Gillibrand and Charles Schumer, to join the opponents to fight against the pipeline.

State officials could not be reached Friday afternoon for comment on FERC's action.

Hillary, Bernie, Hydraulic Fracturing And The Future Of US Oil And Gas Production

The dramatic increase in domestic oil and gas production since 2008 – the so-called "shale revolution" – has been a boon to the US economy and the Obama administration, not to mention the international and geopolitical benefits. In fact, growth in US oil production alone offset the losses in production from countries beset by sanctions, civil strife and/or sector mismanagement. This, in turn, has impacted US foreign policy as domestic oil and gas have become credible threats to perceived hegemonic intent by countries such as Russia and Venezuela.

At the core of this evolution is hydraulic fracturing. When the US economy needed a boost after the 2008 global recession, the shale revolution delivered by providing job growth and economic stimulus. President Obama nurtured the boom by avoiding restrictive policies, even as the EPA scrutinized the environmental impact.

Enter the two candidates vying for the Democratic nomination. On energy policy, they appear to have either forgotten the last 8-10 years or they are so philosophically opposed to domestic production that it just does not matter. Regardless, the two candidates appear to have little in common in this regard with the sitting president.

Bernie Sanders has called for a full nationwide ban on hydraulic fracturing. Hillary Clinton promises tough restrictions, so great in fact that, as she stated, "By the time we get through all of my conditions, I do not think there will be many places in America where fracking will continue to take place."

Putting aside the practicalities of actually implementing these policies, it is important to ask, "What would happen if hydraulic fracturing were banned in America?"

Long before the proposals of Sanders and Clinton had been announced, in February 2015 the Center for Energy Studies at the Baker Institute for Public Policy at Rice University published a study (authored by Ken Medlock and Peter Hartley and funded by the Alfred P. Sloan Foundation) that looked at consequences of a federal ban on fracking (as well as a wide range of other local, state and federal shale gas policies). Thus, the study is well-positioned to shed light on how a ban would impact US natural gas production, natural gas prices, international trade in natural gas, and the potential geopolitical consequences.

Shale gas production in the US grew more than sevenfold from 2 trillion cubic feet in 2008 to 15 trillion cubic feet in 2015). During that period the price dropped more than three-fold, as the Henry Hub spot price averaged almost $9/mcf the year prior to President Obama's inauguration and averaged $2.62/mcf in 2015. This has carried significant, far-reaching impacts. For one, inexpensive natural gas has been the major factor in leading America away from coal in power generation, which has contributed to a significant reduction in US carbon dioxide emissions over the past decade.

Low-price natural gas has also revitalized the industrial base in the United States, with ongoing and planned $100+ billion in expansions in the petrochemical and manufacturing sectors, a source of real macroeconomic benefit and rebuilding of the high-wage, skilled manufacturing workforce. It has also stimulated significant investment in the midstream sector, from pipes to LNG export terminals, which also carry substantial benefits for the labor force and the macroeconomy more generally. Moreover, the leverage that US natural gas introduces with regard to Russian dominance in Europe and the potential environmental impact it has in meeting growing Asian demands cannot be overstated.

The short answer to what a federal ban on shale

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Hillary, Bernie, Hydraulic Fracturing And The Future Of US Oil And Gas Production

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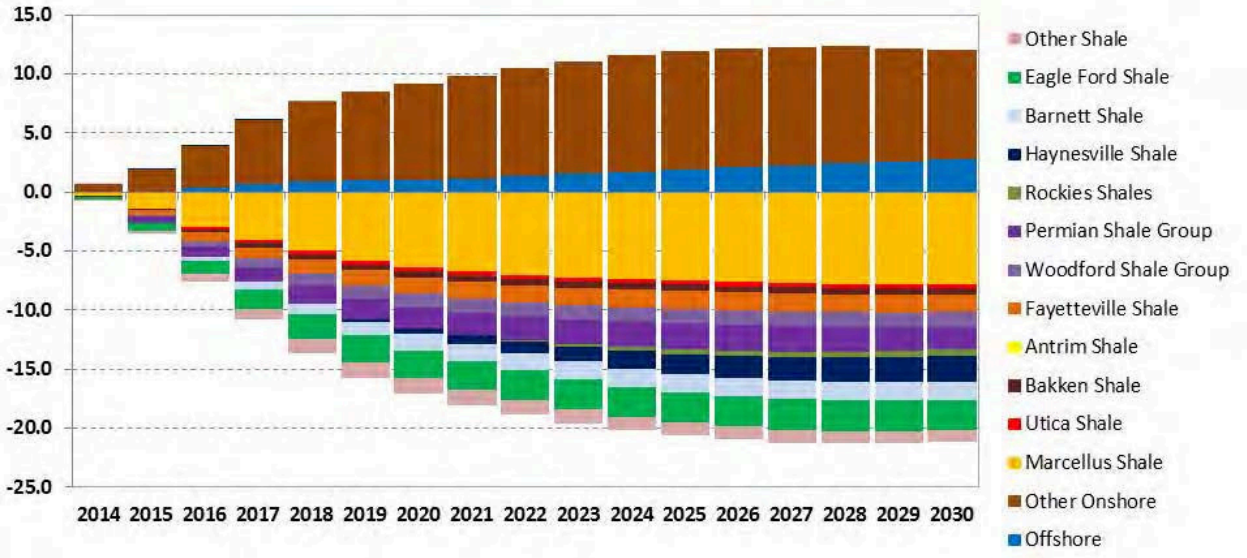
development would mean is that natural gas would get a lot more expensive.

According to the analysis by Medlock and Hartley, a full ban on fracking would reduce US domestic gas production by more by 30% or just over 9 tcf by 2030 compared to the no ban reference case. The resulting higher natural gas prices would encourage some offsetting conventional and offshore natural gas production of around 12 tcf so that the decline in total production would be less than the decline in unconventional gas production of over 20 tcf (Figure 1).

Figure 1. Change in US Supply by Resource and Play Relative to the Status Quo



But, the drop in US shale gas production would shift US prices into parity with European prices while in the no ban case, the Henry Hub price would be $4/mcf or so lower than Europe. In fact, the price at Henry Hub would rise by almost $4/mcf in 2020 and would be $6/mcf higher in 2030 compared to a case where current policies are kept in place. Under a fracking ban, U.S. consumers in 2030 would pay around $100 billion more annually for natural gas by 2030. Of course this assumes supply responsiveness is possible from other types of natural gas opportunities, Senator Sanders' proposal to end offshore development would exacerbate these trends.

The longer term implications are significant. Revival in US manufacturing, especially in the chemical sector, would be cut short, due to a more than doubling in price of one of its key inputs. Families relying on electricity and gas for home and water heating would also be hard hit.

Globally, a US shale gas ban has a smaller effect as production in various regions outside of the US can at least partially offset the US decline. However, coal use would be stimulated – both in the U.S. and abroad – relative to the case where no such ban was instituted. In turn, environmental aspirations – would take a big hit, thereby challenging a gas-driven low cost net reduction in CO2 emissions globally.

In addition, by altering US production, a ban on

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hydraulic fracturing can shift the US position from one of being an exporter to the global market in the coming years to one of importer, effectively cementing the fate that many though would come to pass in the late-1990s/early-2000s – namely, the US as a large importer of LNG. More generally, if US supplies to the global market are impeded, the impact the US has on global landscape is diminished. This will result in reduced liquidity and slow ongoing transitions in the global LNG market. In addition, any geopolitical leverage associated with a greater US supply presence in both Asia and Europe would be foregone. Instead, two of the key beneficiaries of the ban and decreased US supply would be Russia and Iran, the top two holders of natural gas reserves.

All of this being said, institutional limitations to federal and presidential prerogatives seem to make an outright federal ban on fracking, as proposed by Bernie Sanders, rather unlikely. Somewhat more possible is the proposal by Hillary Clinton where various legislative actions could make hydraulic fracturing difficult and expensive enough to effectively stop future development. At the very least new federal legislation relating to issues like water or fugitive methane would have to be far more restrictive than what has been proposed to date under existing regulatory authority and confirmed by both the House and Senate.

However, even this would be difficult regardless of who holds majority in the House and Senate given that many Republican and Democrats alike have seen positive economic impact of shale development for their states and constituencies. Indeed, President Obama in his 2015 State of the Union Address specifically mentioned the positive impact of rising US natural gas production on the US economy and energy security. And the analysis above only provides an indication of the costs of a ban on shale gas development; the impact on unconventional oil from a fracking ban would also yield significant economic and security costs for the U.S.

Thus, while electoral rhetoric can be myopic and extreme, it is important to inject rationality into the discussion. Fortunately, the implications of a ban on hydraulic fracturing have been studied, and the consequences of such a policy intervention are not only dramatic, they bear significant costs that should ultimately check any effort to institute such a policy.

Feds: Risk of 2016 Quake Increases

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tighten restrictions on wastewater injections, Rubinstein said.

In Oklahoma, "the longer we go, the more we pump down there, the more likelihood we have that we're going to have larger quakes," Petersen said.

Oklahoma Gov. Mary Fallin said the research justifies action taken by Oklahoma earlier this year to cut back on injections.

"Recent declines in produced wastewater disposal in Oklahoma are not reflected in the USGS map," Fallin said. "This gives us even a stronger base in going forward and gives state regulators further justification for what they are doing."

Rubinstein said it's too early to see any results from Oklahoma's new efforts.

The increase in the natural quakes in the New Madrid area remains a mystery, Petersen said, but "it's higher than it's been in several years."

New Jersey- Park Survey for Pipeline Under Way

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County.

Court battle possible

Even though the Bergen County freeholder board voted 5-1 last year to oppose the pipeline, administration officials said at the time that denying Pilgrim would likely lead to a court battle that the county would lose. Novelli reiterated in his letter that granting the survey work does not mean the Tedesco administration approves of the project.

Some Mahwah residents say Tedesco's position reminds them of the county's approval in 2012 of a $700,000 deal that allowed the Tennessee Gas pipeline to be built through the same park.

"We have a raw taste in our mouth from Tennessee," said Jonathan Marcus, vice chairman of the Mahwah Environmental Commission. "There's a large distrust among a lot of residents here. People are just like, 'Not again.' "

About three dozen New Jersey towns, five county freeholder boards and the state Senate and Assembly have formally opposed the project. Some towns like Mahwah and Oakland have taken it a step further and passed ordinances to ban "unregulated interstate oil pipelines" from going through their communities. There are questions about whether those ordinances would stand up to a court challenge since they could possibly preempt state regulations.

States Consider Over 60 Bills Regulating Chemicals in 2016

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to curb the use of flame retardants in products ranging from upholstered furniture to children's products. Additionally, District of Columbia Mayor Muriel Bowser signed into law on March 17, 2016, a bill that will restrict the use of listed flame retardants in most consumer products by January 1, 2019. Most of the other bills addressing flame retardants are narrower in scope, but would still impact a broad array of products. In addition to material restrictions, many of the bills also contain provisions barring manufacturers from replacing restricted flame retardants with other hazardous chemicals classified as carcinogens, mutagens, reproductive toxicants, or endocrine disruptors, among other hazard traits. If the bills are enacted, these jurisdictions would join the growing number of states that have adopted similar restrictions on flame retardants over the past few years.

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Forum with key members of IRS leadership.

BUDGET

On February 9, 2016, President Obama sent his final budget proposal (for fiscal year 2017) to the Hill. Since then, the drama has continued to unfold as Republican leadership in both the House and Senate grapple with how to address the issue of the budget.

As previously reported, the budget debate is a bit different this year because of the fact that a top-line spending number for FY17 was already set by the Bipartisan Budget Act of last year, making the passage of a budget by the House or Senate not technically necessary. That said, the budget can play a role in the allocation of the funding and, particularly, in an election year, can be a useful advocacy tool, particularly for the majority party in both chambers.

On March 16, 2015, the House Budget Committee voted (20 to 16) to bring the budget resolution back by the Republican House Leadership to the House floor. While it was originally expected that the House might vote on this budget this week, leadership decided to delay the vote until the House returns from a two week recess on April 12 (just three days before the statutory deadline for a budget to be passed).

The leadership's decision to delay the vote on the budget appears to be largely based on concerns over a lack of support of the budget within the Republican caucus. In particular, the budget that was reported out of the Budget Committee maintains the top line $1.07 trillion spending number that was set by the Bipartisan Budget Act.

The intent of leadership was that this would allow the House to work with the Senate to pass twelve individual appropriations bills, particularly in light of the fact that Senate Majority Leader Mitch McConnell (R-KY) informed Republican House leadership that he believed he would have trouble passing any appropriations bills in the Senate if they didn't conform to the top-line numbers.

The House leadership has assured members that they would still have an opportunity to vote on cuts to certain mandatory entitlement programs. Specifically, the budget resolution would instruct five committees to present a standalone package of mandatory spending cuts (being referred to as the "budget sidecar"), which would be voted on separately from the resolution itself. Despite this, many of the most conservative members of the party, in particular the Freedom Caucus, have opposed this approach, and the budget resolution, based on their interest in capping discretionary spending below the level agreed to in the Bipartisan Budget Act and their belief that the Senate will not take up the "budget sidecar."

The Republican Study Committee, which is comprised of approximately 170 members of the House, has also released a proposed budget. This budget would cut the discretionary spending level agreed to in the Bipartisan Budget Act by $30 billion. While apparently still considering how to address the alternative budget, House leaders have suggested allowing members to vote on both budgets and encouraging members to pass both budgets.

Additionally, in recent days, House leadership and members of the Freedom Caucus and their

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allies have been discussing the possibility of permitting the inclusion of mandatory cuts in the bill setting forth appropriations for Labor and Health and Human Services (HHS). The idea would be that this would allow the most conservative members of the House to vote on mandatory cuts, including those targeting Planned Parenthood funding, within the primary budget process rather than a budget sidecar while allowing the other eleven appropriations bill to move without controversy to the Senate. This would mean that the Labor-HHS appropriations bill would be the primary area of controversy with the Senate, instead of all twelve of the appropriations bills as likely would be the case if the cuts were spread more widely. Discussions on this issue are ongoing and whether Republican Leadership and the Freedom Caucus will both agree to this approach remains to be seen.

On the other side of the aisle, war funding continues to remain a sticking point with the Democrats as the budget reported out of the Budget Committee would allow $23 billion in war funding to be redirected for general defense spending.

In the Senate, things appear to be moving a bit more slowly than in the House. Although Majority Leader McConnell previously pledged that he would move forward with bringing twelve individual appropriations bills to the floor this summer, there are concerns that bringing such bills to the floor, where they would be subject to amendments, could force a number of Republicans facing tight reelection races to make votes that could hurt them.

In the end, we think the dynamic surrounding the upcoming elections makes it very likely that we will see short term patches with no broader appropriations bills being passed until after November.

TAX REFORM

Although the likelihood of achieving comprehensive tax reform this year is extremely low, the House Ways and Means Committee in particular, as well as the Senate Finance Committee to a lesser extent, have continued to focus on, and be vocal about, international tax reform.

Ways and Means Committee Chairman Kevin Brady (R-TX) has made it clear that this is a priority for the committee and that he believes it will support House Speaker Paul Ryan's pro-growth agenda and perhaps even lay the foundation for broader tax reform in the years to come.

Congressman Charles Boustany (R-LA), who chairs of the Ways and Means Committee Tax Policy Subcommittee has taken the lead in drafting international tax reform legislation which is expected to be released as early as late March.

In general, the Senate Finance Committee appears to be letting the House take the public lead on these tax reforms efforts, though the Finance Committee staff continues to work on these issues.

Beyond international tax reform, the House Ways and Means Committee has also continued to maintain discussions of comprehensive tax reform principles, presumably in preparation for a time after the election when broader reform may be more feasible. On Tuesday,

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March 22, the Tax and Policy Subcommittee held a member hearing on "Fundamental Tax Reform Proposals." In the hearing Congressmen Devin Nunes (R-CA), Michael Burgess (R-TX), and Rob Woodall (R-GA), each presented, and fielded questions from committee members, on their three different tax reform proposals.

Congressman Nunes presented his American Businesses Competitiveness Act (H.R. 4377) which would, in short, set a maximum tax rate of 25% for all business income (including pass through entities), allow full expensing in any taxable year, eliminate business credits and deductions, and convert to a territorial system of taxing international income. Congressman Burgess discussed his Flat Tax Act (H.R. 1040) which woud create a system under which individuals could make in irrevocable election to be subject to a flat tax rate of 19% in the first two years and 17% in every year thereafter, while also retaining the current tax system. Finally, Congressman Woodall presented his Fair Tax Act (H.R. 25) which would do away with the income, payroll, estate and gift taxes (i.e. a huge portion of the current tax code) and instead implement a consumption tax system. These proposals were met with varying levels of support and scrutiny by the six members of the sub-committee in attendance. What was clear during the hearing is that, as has been consistently seen throughout the Congress, there is widespread agreement on the need for tax reform, but significantly less consensus on how to approach it. In one particularly interesting moment of the hearing, the Ranking Member of the Subcommittee, Congressman Richard Neal (D-MA), criticized his Republican colleagues for their immediate rejection of their own former Ways and Means Committee Chair David Camp's 2014 tax reform proposal, suggesting that this intra-party response had since quashed members' interest in seeking out creative or bipartisan solutions.

Finally, on the tax reform front, earlier this month the House tax reform task force, led by Chairman Brady issued its policy goals (but no specific recommendations) which include simplifying the tax code and closing loopholes, making the tax code competitive for businesses of all sizes and international tax reform. As we've said before, it's hard to find anybody who is against the goal of tax reform, particularly simplifying the tax code and reducing tax rates. But, as we have seen over the years, the devil is in the details. What is seen as a "loophole" by one person is seen as an essential or desirable inducement to certain behavior (i.e., the deduction for charitable contributions or the deduction for health insurance premiums paid by a company) by another. Pass-through entities do not want to be hit with higher tax rates than C corps and thus you can't reform just the corporate tax system - the individual tax system has to also be reformed. Not an easy task.

DOT OVERTIME RULE

As previously reported, in July 2015, the Department of Labor issued a Proposed Rule and Request for Comment that included proposals to significantly change some of the most commonly relied upon exemptions from the Fair Labor Standards Act (FLSA) overtime pay requirements. SSDA-AT submitted written comments to the proposed rules in September 2015.

The DOL reported that it received 270,000 comments in response to the proposed rules. Despite this, the DOL is moving faster than expected and already sent the final rule to the White House Office of Management and Budget (OMB) for review on March 14, 2016.

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OMB can, but is not required to, take up to 90 days to review a final rule. This means that the final rule, which was originally expected to come out late this summer, will be out by June, if not sooner.

While the contents of the final rule remains to be seen, the rule, once effective, is sure to have an impact on businesses of all sizes. In the Proposed Rule, the DOL proposed to raise the amount of salary that a salaried employee needs to be paid to qualify as an exempt white collar employee from $455 per week ($23,660 per year) to an amount equivalent to the 40th percentile of weekly earnings for full-time salaried workers as calculated by the Bureau of Labor Statistics (BLS), which, as of the time of the proposed rule was $921 per week ($47,892 per year). The proposed rule would also increase the salary threshold for the highly-compensated exemption from $100,000 a year to the 90th percentile of earnings for full-time salaried workers as calculated by BLS, which was $122,148 at the time of the proposed rule. The DOL asked for comments about whether to also change the duties required for employees to qualify for these exemptions, but has made no indication as to whether it the final rule will include any such changes. In its comments, SSDA-AT, among other things, emphasized that the proposed salary increases would be unsustainable for many small businesses, urged the DOL to phase in any increase over at least five years, and advocated strongly against changing any of the duties requirements.

On March 17, 2016, presumably in response to the announcement that the rule had been sent on to OMB, Republicans in both the House and Senate introduced the Protecting Workplace Advancement Opportunities Act (H.R. 4773/S. 2707). The Protecting Workplace Advancement Opportunities Act would nullify the proposed overtime rule and prevent the rule from being finalized. The Bill would require that before promulgating any other substantially similar rule the DOL must conduct a "full and complete economic analysis with improved economic data" including economic data on the impact on small businesses. The Bill would also prohibit the DOL from implementing a rule that includes automatic increases to the salary thresholds or from making changes to the duties test without the specific changes first being subject to notice and comment.

Although the proposed rules drew a great deal of ire, particularly from the business community, the chances of the Protecting Workplace Advancement Opportunities Act gaining enough votes not only to pass but to override an almost guaranteed veto are very slim. Republicans have also threatened to use policy riders in the funding bills to undermine the overtime rule, but have not yet taken steps to do so.

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