

**8/5/2010**

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## **House Passes "Spill Bill"**

**Staff Contact: Dan Naatz**

Last Friday, the U.S. House of Representatives passed its version of a "spill bill" that addresses more than just the Deepwater Horizon incident. While IPAA worked with many members to strike several harmful provisions and gain the opposition of many Democrats to the legislation, it still contains language that is extremely detrimental to America's oil and natural gas producers.

The House passed the bill (HR 3534, also known as the CLEAR Act) by a vote of 209-193 as its last order of business for July, and then adjourned for the next six weeks for its summer break.

Throughout the committee process and the weeks leading up to the House vote, IPAA maintained staunch opposition to a large part of the proposed text. Portions approved by committees and opposed by IPAA included: designating EPA as a lead agency for authority of the bill; covering all onshore and offshore wells, by way of the proposed definition; removing States' regulatory authority over onshore and state water drilling; calling for chemical disclosure related to hydraulic fracturing on federal lands; imposing a conservation fee of \$2 per barrel of oil and 20 cents per BTU of gas from all new and existing federal onshore and offshore wells; and directing that financial responsibility levels for offshore operations be raised to \$1.5 billion.

The IPAA Government Relations team worked with other allied trade associations to reach out to committee staff, moderate Democrat Blue Dog members, and leadership on both the Democratic and Republican sides.

This was a widespread, coordinated effort that ultimately resulted in the removal of the overwhelming majority of these negative provisions, including the removal of the hydraulic fracturing language and the removal of the draconian increase on financial responsibility.

Meanwhile, our communications efforts resulted in some important articles stating IPAA's opposition, such as in the *Wall Street Journal* and *San Francisco Chronicle*.

IPAA's opposition to these provisions and the overall bill did not fall on deaf ears, as reflected in the final vote that saw 39 Democrats vote in opposition of the final package. And while industry certainly is not satisfied with this latest result, it is clear that progress continues to be made in the House.

## Senate Punts Action on Energy Legislation to the Fall

*Staff Contact: Dan Naatz*

Senate Majority Leader Harry Reid (D-NV) announced on Tuesday that the Senate will delay a vote on energy legislation until after lawmakers return in September from their August break.

IPAA considers this to be a positive and important development -- the delay gives the oil and gas industry and its allies more time to fight contentious proposals and also halts the hastened anti-industry momentum sweeping through Washington since the Gulf of Mexico accident. Last week, the House passed a negative "spill bill" by a vote of 209-193 (see story above).

IPAA is opposed to the current Senate bill (S. 3663, The Clean Energy Jobs and Oil Company Accountability Act of 2010"). Among the provisions IPAA opposes:

- **Section 4301**-Requires full chemical disclosure of hydraulic fracturing ingredients by producers. This section would undermine existing and effective state regulatory efforts as well as place an onerous and unreasonable burden on producers who may neither have the information required nor the legal authority to disclose that information publicly. Currently service companies provide full chemical disclosure to the appropriate state and federal authorities in accordance with existing statutes. The chemical information in question is available on request by the state. Chemical information is also available through Material Safety Data Sheets that are required by the Department of Transportation whenever chemicals are transported.
- **Section 102**-Removes all liability caps for offshore production. Passage of this measure would effectively eliminate independent producers from operating offshore if they cannot obtain insurance. According to a recent IHS study, independent producers account for more than half of offshore jobs. Removing these caps puts those jobs and a considerable amount of offshore energy production at risk. Passage of this section would ultimately result in only super majors and national oil companies producing America's offshore resources.
- **Section 304**-Amends the National Policy for the Outer Continental Shelf with language that is vague and open to broad interpretation. These statutes present opportunities to challenge virtually any administrative decision and opens them to endless litigation and appeal.
- **Section 306**-Denies leases to certain companies based on safety and environmental records while relying on arbitrary and vague requirements that are open to broad interpretation and legal challenges. This could bring the leasing process to a halt while constant challenges are brought under the language of this section.
- **Section 306**-Eliminates current 30-day approval requirement for exploration plans, increasing it to a 90-day limit which can be increased an additional 180 days at the Secretary's discretion. This creates considerable uncertainty for producers for almost a year while exploration plans are reviewed.

IPAA would like to acknowledge that the delay in Senate action could not have been accomplished without the support of IPAA's grassroots members who have sent thousands of letters to Capitol offices. IPAA also encourages its members to now turn their attention to their home districts and during the August congressional break, to please contact senators' and representatives' state/district offices in opposition to the proposed Senate bill.

## **EPA Releases Proposed Compliance Deadline Requirements**

**Staff Contact: Lee Fuller**

On July 28, the Environmental Protection Agency (EPA) proposed to extend the compliance date for certain facilities subject to the Spill Prevention Control and Countermeasure (SPCC) rule as part of EPA's multi-phased strategy to address concerns with the current SPCC regulation. This proposed SPCC rule amendment extends the dates by which the owners or operators of certain SPCC regulated facilities must prepare or amend and implement an SPCC Plan, and reconciles the proposed compliance dates for new production facilities.

EPA had finalized requirements for oil production SPCC plans in November 2009 with a rule that became effective in January 2010; however, at that time it indicated its intent to extend the November 2010 compliance date. This proposal addresses the compliance dates.

The proposal would create two different compliance dates for oil production facilities. EPA is proposing to maintain the current November 10, 2010 compliance date for drilling, production and workover facilities that are offshore or that have an offshore component, or for onshore facilities required to have and submit Facility Response Plans (FRPs). Other production facilities would have a November 10, 2011 compliance date.

The public has the opportunity to comment on this proposed rule during a 15-day period following its publication in the Federal Register.

These amendments do not remove any regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to maintain and continue implementing an SPCC Plan in accordance with the SPCC regulations then in effect. Such facilities continue to be required to maintain Plans during the interim until the applicable compliance date for amending and implementing the amended Plans.

## **FERC Further Asserts Jurisdiction over Intrastate Pipelines with Prohibition on Buy/Sells for Sec. 311 Transportation**

**Independent Petroleum Association of America**

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**Staff Contact: Susan Ginsberg**

FERC issued an Order Denying Request for Clarification and Granting Limited Waiver on July 23, 2010 (Docket No. RP10-45). The order denied the petition by Arizona Public Service Company (APS) and Sequent Energy Management, L.P. that a proposed agreement is not a prohibited buy/sell transaction, given that it would occur on intrastate facilities that are not subject to FERC's capacity release regulations. Rather, FERC granted a limited waiver to the petitioners to allow for the proposed gas management service that will allow APS to meet its power generation needs.

Traditionally, a prohibited buy/sell transaction is a commercial arrangement whereby a shipper holding interstate pipeline capacity buys gas at the direction of, on behalf of, or directly from another entity, ships that gas through its interstate pipeline capacity, and then resells an equivalent quantity of gas to the downstream entity at the delivery point. FERC prohibits buy-sell transactions as a circumvention of FERC's capacity release and shipper-must-have-title policies. The petition raised the new issue of whether the prohibition on buy/sell transactions applies to interstate open-access transportation services provided by (1) intrastate pipelines pursuant to Sec. 311 of the Natural Gas Policy Act of 1978 and (2) Hinshaw pipelines pursuant to blanket certificates issued under Sec. 284.224 of FERC's regulations. FERC contends that granting a blanket authorization permitting shippers on Sec. 311 and Hinshaw pipelines to engage in buy/sell transactions would undermine the Commission's over-arching rule that all open-access pipelines "must provide such service without undue discrimination, or preference." FERC stated its willingness "to consider [case-by-case] requests for waiver of the buy/sell prohibition, where it can be shown that a particular buy/sell transaction provides benefits to the market."

The order took most industry observers by surprise, as it is a new policy, articulated in an individual proceeding, with broad implications for the natural gas industry. IPAA will be filing a motion to intervene out-of-time and will seek rehearing by August 23.

## **Last Day to Pre Register for Summer NAPE®**

**August 6 is the last day to register for Summer NAPE® 2010!**

To register, and for more information, please visit NAPE® online.

## **IPAA Wildcatter Fund Candidate Profile - Rep. Doc Hastings (R-WA)**

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**Staff Contact: Brent Golleher**

Rep. Doc Hastings (R-WA) is the eight-term Representative from the 4th District of Washington. Hastings was born in Spokane, Washington and attended Central Washington State College. He also served in the United States Army Reserve. Before his time in Congress, Hastings was President of Columbia Basin Paper and Supply and a member of the Board of Directors of Yakima Savings and Loan. He served in the Washington State House of Representatives for eight years. Hastings has been in the U.S. House since his election in 1994.

As the Ranking Republican on the House Natural Resources Committee, Hastings is a strong voice for the oil and gas industry. He has led the Republican effort on a number of fronts including: fighting cap and trade, increasing federal land access, and fighting burdensome regulations and costs.

## EPA Hydraulic Fracturing Study Meetings Continue

**Staff Contact: Jeff Eshelman**

The Environmental Protection Agency has concluded three of its four public informational meetings to seek stakeholder input into developing its proposed plan to study the relationship between hydraulic fracturing and drinking water. Earlier this month, a meeting in Fort Worth attracted more than 600 participants, including a vocal amount of anti-fracturing forces, as well as industry and pro-energy representatives. And more than 300 people attended the EPA meeting in Denver, where pro-energy voices outnumbered anti-energy activists by 2-1, according to reports. Thanks to all of the state and regional cooperating associations, companies and our allied groups for attending.

It is crucial to have industry's voice represented. IPAA is encouraging its members to attend and participate at these events. Anti-industry groups will be mobilizing at all of these meetings. The final meeting details are listed below.

Stakeholders are requested to pre-register for the meetings at least 72 hours before the meeting at the following website: <http://hfmeeting.cadmusweb.com>. Stakeholders may also register using the toll-free number 1-866-477-3635.

<u>DATE</u>	<u>LOCATION</u>	<u>TIME</u>
August 12, 2010	Binghamton University, Anderson Center for the Performing Arts Osterhout Concert Theater Binghamton, NY 13902	8:00 am – 12:00 pm * 1:00 – 5:00 pm * 6:00 – 10:00 pm *

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\*local time

## **How to Provide EPA with Comments on the Hydraulic Fracturing Study**

Persons wishing to contribute comments to EPA regarding the proposed Hydraulic Fracturing Research Study may (1) present oral comments at the informational meetings; (2) submit written comments at the informational meeting; (3) submit electronic comments to EPA at [hydraulic.fracturing@epa.gov](mailto:hydraulic.fracturing@epa.gov); or (4) send written comments to EPA at the following address: Jill Dean, 1200 Pennsylvania Ave. NW, Mailcode 4606M, Washington, DC 20460.

## **Make Plans to Attend IPAA's Upcoming Meetings/Events**

*Staff Contact: Nikki McDermott*

### **Summer NAPE®**

August 18-20, 2010

George R. Brown Convention Center  
Houston, Texas

### **OGIS San Francisco**

October 12-14, 2010

The Palace Hotel  
San Francisco, California

Please visit [www.ipaa.org/meetings](http://www.ipaa.org/meetings) for more information.

## **Passive Loss Exception for Working Interests – Information Needed**

*Staff Contact: Ryan Ullman*

The Obama Administration has proposed to repeal the passive loss exception for working interests in oil and natural gas properties. IPAA is opposing this repeal. In presenting arguments to Congress, members ask about the importance of the issue to operators in their states. IPAA would like to develop a list of companies that value the provision and their states of operation.

In this tax provision, Congress permitted taxpayers to deduct losses from oil and natural gas investments if the investments are made in the form of a working interest. That is, it is an interest that carries with it the obligation to share in the costs to develop the resources on the property. To qualify, the taxpayer must hold the working interest through an entity that does not limit liability with respect to the interest. Thus, a taxpayer who holds a working interest in this prescribed fashion and puts up capital to fund the drilling of oil and natural gas wells is entitled to deduct their share of tax losses resulting from the drilling expenditures. If the passive loss exception is repealed, working interest owners who are not the actual operator of a property- e.g., all other investors - would have to treat the property as a passive investment.

Please contact Ryan Ullman, [rullman@ipaa.org](mailto:rullman@ipaa.org), to provide information.

## Rig Count

Staff Contact: Fred Lawrence

	<u>7/30/10</u>	<u>7/23/10</u>	<u>Year Ago</u>
<b>Land</b>	1556	1557	904
<b>Inland Waters</b>	14	14	8
<b>Offshore</b>	16	14	36
<b>U.S. Total</b>	1586	1585	948
<b>Gulf of Mexico</b>	16	14	35
<b>Oil</b>	603	591	261
<b>Gas</b>	972	982	675
<b>Miscellaneous</b>	11	12	10

Source: Baker Hughes