



Next issue: With the holidays upon us, please note that the next report will be January 9, 2017. Wishing you all a happy, safe, and enjoyable holiday season, and all the best in 2017!

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Regulatory

- **BLM Land Use Planning.** (Update to 12/5/2016 Weekly Report) Members of Congress, industry groups, and local officials have raised concerns about the BLM's recently announced planned overhaul of oil and gas drilling on public lands. They say the [Planning 2.0](#) will elevate wildlife and environmental preservation above other uses such as energy development and shift decision-making from agency field offices to Washington, D.C. The timing of the new rule in the Obama administration's last days drew a rebuke from U.S. Senator John Barrasso (R-WY), who predicted it would take authority away from local land managers. Barrasso pledged to work to reverse the action once President-elect Donald Trump takes office. [Read more.](#)
- **BLM Lease Sale – Colorado.** On December 8, the BLM auctioned off more than 16,000 acres in Mesa and Garfield counties. The online sale generated nearly \$1.6 million in revenue, despite protests filed by three environmental groups, which failed to halt the sale. [Read more.](#)

FEDERAL – Judicial

- **Deed Restrictions – Ohio Federal Court.** On November 21, in [Harper v. Muskingum Watershed Conservancy Dist.](#) (Case No. 15-4406), the U.S. Court of Appeals for the Sixth Circuit dismissed a lawsuit, brought under the False Claims Act involving deeded property with a reversionary interest in the United States, alleging a violation of deed terms through oil and gas leasing on the property. The Court concluded, however, that the complaint failed to allege that defendants knowingly committed any of the alleged violations, which was required under the provisions of the Act. [Read more.](#)

STATE – Legislative

- **Oil and Gas Tax Reporting – Texas.** On December 8, HB 10 was pre-filed for the 2017 legislative session by the Joint Revenue Interim Committee. The bill amends current law to require certain submissions of statements by operators of a well or property subject to production as well as setting requirements for tax reporting and notifications by operators on producing wells or property. [Read more.](#)

STATE – Regulatory

- **Administrative Rule Changes – North Dakota.** (From Hogan Lovells US LLP) The North Dakota Industrial Commission (NDIC) recently approved widespread changes to its oil and gas administrative rules. The NDIC approved most of the revised rules in an [Order dated June 29, 2016](#), with those rules effective on October 1, 2016. However, the North Dakota Legislature’s Administrative Rules Committee (ARC) remanded six sections back to the NDIC for further clarification. The NDIC approved changes to those six sections in an [Order dated November 7, 2016](#), and the ARC unanimously approved the changes on December 5, 2016. The remaining six rules will become effective on January 1, 2017. [Read more.](#)
- **Railroad Commission – Texas.** Christi Craddick, who last Tuesday was elected as the new chairman of the Texas Railroad Commission, says she welcomes change under a Trump administration. “They at least get us, I hope, as an industry,” Craddick said of the incoming administration. Trump has promised to roll back federal regulations that under the Obama presidency have targeted the industry’s fossil fuel emissions, among other things. [Read more.](#)

STATE – Judicial

- **Oil and Gas Regulations – Pennsylvania.** (Update to 11/14/2016 Weekly Report) On December 6, in a notice of appeal in [Marcellus Shale Coalition v. Pa. Dep’t Env’tl. Protection, Pa. Commw. Ct.](#) (Case No. 573 MD 2016), the state sought review by the Pennsylvania Supreme Court of an order from a lower court that puts part of Pennsylvania’s new hydraulic fracturing regulations on hold. Pennsylvania’s Department of Environmental Protection and the Environmental Quality Board appealed the November 8 order from Judge Kevin Brobson saying the “commonsense regulations” were the result of five years of public participation and should not be put on hold. The appeal is part of a case that began in November, when the Marcellus Shale Coalition sued to stop seven specific provisions of the final Chapter 78a regulations—new revisions to Pennsylvania’s Oil and Gas drilling rules that specifically govern unconventional gas drilling. The regulations were to take effect on October 8, but Brobson temporarily stayed four portions of the new regulations that protect public resources like parks and playgrounds; establish construction standards for fluid pond impoundments; require developers to monitor and clean up inactive and abandoned wells near drilling sites; and set new requirements for site restoration. The stay was considered a victory for the oil and gas industry. [Read more.](#)

INDUSTRY NEWS FLASH: GOP Congressional Members Looking Forward on Reforming Federal Energy Policies. On December 8, Republican members of Congress met at the Texas Public Policy Foundation and Heritage Foundation conference to discuss steps for reversing a

slate of Obama administration energy policies, including the recent BLM methane emissions rule. [Read more.](#)

PRACTICE TIP: The law firm Bracewell LLP, in the latest issue of its *Energy Legal Blog*, offers readers a primer on the complexities of adverse possession in Texas, and details working interests, royalty interests, overriding royalty interests, and non-participating royalty interests, some of which can be adversely possessed. [Read more.](#)

State-by-State Legislative Session Overview

California convened its 2017 legislative session on December 5. [The Sacramento Bee](#) reports that the 2017-2018 legislative session will include many new legislators - nine of 40 Senators and 22 of 80 Assembly members took the oath of office for the first time. After the November elections, Democrats control 15 of 20 Senate seats and 55 of 80 seats in the Assembly, giving the party a two-thirds supermajority in both chambers of the legislature. Democratic Gov. Jerry Brown is up for re-election in 2018. With supermajority control comes the power to pass taxes, amend political spending laws, move constitutional amendments to the ballot or enact urgency legislation without Republican support. In 2012, when the Democrats last held a double supermajority trifecta, disagreements within the party prevented the advancement of major Democratic policy initiatives. The legislature is in recess until January 4.

Massachusetts, Michigan, New Jersey and **Ohio** are in regular session. The **District of Columbia** Council and the **United States** Congress are also in regular session.

California convened its 2017 legislative session on December 5 and is in recess until January 4. **Maine** convened on December 7 and is in recess until January 4.

Delaware Democratic Gov. Jack Markell and **New York** Democratic Gov. Andrew Cuomo have 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on legislation or it becomes law without signature.

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

The following states are currently posting bill draft requests/prefiles for the 2017 session: [Alabama House](#) and [Senate](#), [Arkansas](#), [Colorado](#), [Florida](#), [Georgia House](#) and [Senate](#), [Indiana](#), [Kentucky](#), [Maine](#), [Missouri](#), [Montana](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#) bill drafts and [prefiles](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Virginia](#), [Washington](#) and [Wyoming](#) (draft requests appear on individual committee pages).

Franchise Tax

Texas [HB 509](#) was pre-filed on December 6. This bill would allow a deduction on a company's franchise tax for certain contracts they hold with the federal government. If this bill becomes law, it will take effect on January 1, 2018.

This bill is sponsored by Rep. Angie Chen Button, R-Richardson.

Oil and Gas

General Oil and Gas

California [SB 44](#) was introduced on December 5. This bill would require the State Lands Commission in the Natural Resources Agency to administer a legacy oil and gas well removal and remediation program. Carrying out this program is contingent on appropriation of funds by the legislature.

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

Michigan [HB 6090](#) was introduced on December 1 and referred to the House Natural Resources Committee. This bill would prohibit the use of a vessel on the great lakes or connecting waterways to transport crude oil.

This bill is sponsored by Rep. Jeff Irwin, D-Ann Arbor.

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