



Please Note: Weekly Reports will not be issued during the holidays and will resume with the January 7, 2019 issue. Wishing you a very merry holiday season.

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **H.R. 7231 – Methane Rule Relief Act of 2018.** On December 10, H.R. 7231, known as the *Methane Rule Relief Act of 2018*, was introduced by Rep. Glenn Thompson (R-PA). The bill would provide regulatory relief for conventional marginally producing oil and gas wells from the Environmental Protection Agency's "Methane Rule." Specifically, the bill would exempt the following from the Obama-era final rule titled "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources" ([81 Fed. Reg. 35824](#), June 3, 2016), and the document titled "Control Techniques Guidelines for the Oil and Natural Gas Industry" ([EPA-453/B-16-001](#), October 2016): "(1) any oil well that has a maximum daily average oil production, during any 12-month consecutive time period, that does not exceed 15 barrels of oil per day; (2) any natural gas well that has a maximum daily average gas production, during any 12-month consecutive time period, that does not exceed 90,000 cubic feet per day; or (3) any emissions source covered by the rule that is associated with an oil well described in paragraph (1) or a natural gas well described in paragraph (2)." [Read more.](#)
- **H.R. 6507 – Oil Region National Heritage Area Reauthorization Act.** On December 3, [H.R. 6507](#), sponsored by Rep. Glenn Thompson (R-PA), was placed on the House Union Calendar for floor consideration after being reported favorably out of the House Committee on Natural Resources last month. The bill would reauthorize the *Oil Region National Heritage Area Reauthorization Act*, which was set to expire in 2020. The reauthorization extends funding support and the sunset provision through September 30, 2026. The Oil Region National Heritage Area (ORNHA) was designated in 2004 and encompasses 34 municipalities in 708 square miles in northwestern Pennsylvania, including all of Venango County, Pennsylvania. The same acreage was designated as a Pennsylvania Heritage Area in 1994. The ORNHA includes oil artifacts, scenic communities and farmland, and industrial landscapes to teach visitors about the beginnings of the petroleum industry. According to the House Committee on Natural Resources bill markup memo, "The northwestern region of Pennsylvania is known as the birthplace of petroleum and as 'The Valley That Changed the World,' because it was the location of the world's first successful commercial oil well." [Read more.](#)

- H.R. 2606 – Stigler Act Amendments of 2018.** *(Update to 12/10/18 Weekly Report)*

On December 13, [H.R. 2606](#), known as the “Stigler Act Amendments of 2018,” passed the Senate with [Senate Amendment 4110](#) included, which on page 3, line 9 of the bill, strikes “,as of said date,” and inserts “,as of the date of enactment of the Stigler Act Amendments of 2018,” and adds at the end of the bill: “SEC. 5. RULE OF CONSTRUCTION PROVIDING FOR NO RETROACTIVITY. Nothing in this Act, or the amendments made by this Act, shall be construed to revise or extend the restricted status of any lands under the Act of August 4, 1947 (61 Stat. 731, chapter 458) that lost restricted status under such Act before the date of enactment of this Act.” The Republican-sponsored measure amends the 1947 Stigler Act to revise provisions regarding the restricted fee status of land in Oklahoma allotted to members of the Five Civilized Tribes (Five Tribes). According to bill sponsor, Rep. Markwayne Mullin (R-OK), “The legislation would allow land held by the Five Tribes—the Cherokee, Chickasaw, Choctaw, Muskogee (Creek), and Seminole Nations—to remain restricted, even if the heir to the land has less than ½ blood quantum.” [\(Read More\)](#) “When the Stigler Act of 1947 was passed over 60 years ago, the federal government mandated a ½ blood quantum requirement for restricted land owned by members of the Five Tribes,” said Mullin. “No other tribes in the United States faces this discriminatory measure. For Native Americans, our land is an important part of our heritage and updating the Stigler Act will allow the land allotted to our ancestors to keep its restricted status and remain in the bloodline. I am proud to be an original cosponsor of this legislation to let members of the Five Tribes keep the restricted status of their land within their families for generations to come.” According to Oklahoma law firm, Ball Morse Lowe, PLLC, “this change in the law would undoubtedly effect title opinions involving restricted property interests in Five Tribes allotments” and the sale or lease of restricted mineral interests. [\(Read more\)](#) The current Stigler Act provides that, upon probate, if the heirs and devisees of an original allottee from the Five Tribes have passed out of ½ degree Native American blood, the allotment loses its “restricted free” status. Restricted land is not subject to state taxation. [Read more.](#)

FEDERAL – Regulatory

- BLM Oil & Gas Lease Sale – Colorado; Utah.** On December 11, the Bureau of Land Management (BLM) held its largest Utah sale in more than decade, which also included parcels in Colorado. The BLM sold leases on 139,079 acres in southeastern Utah and western Colorado, or about 90 percent of the 154,213 acres offered, in the December sale conducted online which [netted more than \\$3 million](#). The sale included lands within 10 miles of Arches and Canyonlands National Parks, Bears Ears National Monument, and Glen Canyon National Recreation Area, in Utah and Hovenweep National Monument near the Utah border in Colorado. While these parcel offerings drew protests from various environmental activists, they did not halt the sale. “We will, of course, continue to carefully consider all nominated parcels to determine if they are appropriate for leasing,” said BLM spokesman Ryan Sutherland, “and continue to

conduct an environmental review before offering any leases for potential oil and gas development.” [Read more.](#)

- **BLM Greater Sage-Grouse Amendments.** *(Update to 12/10/18 Weekly Report)*
As an update to last week’s report, on December 10, the U.S. Interior Department published the individual Proposed Resource Management Plan Amendments and Final Environmental Impact Statements that will open up availability for resource development in Greater Sage-Grouse habitat areas. The federal notices for the applicable states are as follows: *Notice of Availability of the Northwest Colorado Proposed Resource Management Plan Amendment and Final Environmental Impact Statement* ([83 Fed. Reg. 63523](#)); *Notice of Availability of the Oregon Proposed Resource Management Plan Amendment and Final Environmental Impact Statement* ([83 Fed. Reg. 63524](#)); *Notice of Availability of the Wyoming Proposed Resource Management Plan Amendment and Final Environmental Impact Statement* ([83 Fed. Reg. 63525](#)); *Notice of Availability of the Utah Greater Sage-Grouse Proposed Resource Management Plan Amendment and Final Environmental Impact Statement, Utah* ([83 Fed. Reg. 63527](#)); *Notice of Availability of the Nevada and Northeastern California Greater Sage-Grouse Proposed Resource Management Plan Amendment and Final Environmental Impact Statement* ([83 Fed. Reg. 63528](#)); *Notice of Availability of the Idaho Proposed Resource Management Plan Amendment and Final Environmental Impact Statement* ([83 Fed. Reg. 63529](#)). The notices are part of the process towards policymaking rule changes that “will allow oil and gas firms more flexibility to drill in the bird’s habitat while aligning federal rules with state ones.” [Read more.](#)

STATE – Legislative

- **Taxation; Expenses Deductions – Michigan.** *(Update to 11/19/18 Weekly Report)*
On December 12, HB 6485 was reported favorably out of the Senate Finance Committee after having passed the House the previous week. The bill, sponsored by Rep. Triston Cole (R), would amend the state Income Tax Act to exclude certain costs and allowances related to oil and gas production from exemption from certain categories of taxable income and from the corporate income tax. The bill, which has also been publicly supported by the Michigan Oil and Gas Association, would expand the deduction related to oil and gas production that was eliminated in a [2011 revision](#) to the Income Tax Act. *(See further bill information below under State-by-State Legislative Session Overview)* [Read more.](#)
- **Production Tax Rates – Montana.** On December 7, Sen. Tom Richmond (R) introduced SB 28. The bill, which addresses tax rates on oil and gas production, reduced taxes, and exemptions, amends current law to apply to projects approved by the board of oil and gas conservation on or after the effective date of this bill’s enactment. *(See further bill information below under State-by-State Legislative Session Overview)* [Read more.](#)

STATE – Judicial

- **Mineral Deeds; Trusts – North Dakota.** On December 6, in *Dale Exploration, LLC v. Hiepler* (Case No. 20180065), the North Dakota Supreme Court addressed a case regarding the conveyance of real property and mineral estate held by a revocable trust in which a party is a settlor, trustee, and beneficiary. The court held that a mineral deed signed by the settlor, who in this case is also the trustee and beneficiary, is enforceable to convey property held by the trust itself and therefore requires a grant of specific performance, i.e., conveyance of the mineral rights, rather than money damages. [Read more.](#)
- **Purchase and Sale Agreement – Texas.** On November 29, in *Apache Corp. v. Wagner* (Case Nos. Nos. 2-18-132 and 2-18-135), the Texas Court Appeals, Second District (Fort Worth), enforced an arbitration provision in a Purchase and Sale Agreement (PSA) against an assignee of certain rights under the PSA. The court held that third parties may be bound by arbitration if the PSA intended that successors to the original contracting parties are also to be bound by its provisions and that claims fell within the scope of the arbitration provision. In so doing, the court noted that they “reach this conclusion not only by applying the plain language used in the PSA but also by taking a utilitarian view of the business activity sought to be served here.” [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Interior Secretary Zinke resigns.** In a letter dated, December 16, Ryan Zinke, the Secretary of the U.S. Interior Department, resigned saying that his last day will be January 2, 2019. In his resignation letter to President Trump, Zinke said “vicious and politically motivated attacks” against him had “created an unfortunate distraction” in fulfilling the agency’s mission. Zinke is credited with rolling back burdensome federal environmental regulations and promoting domestic energy development. Zinke will most likely be succeeded by Interior Deputy Secretary David Bernhardt, at least for the time being. [Read more.](#)

◆ **U.S. sees oil production continuing to grow despite lower prices.** According to the latest Outlook Report from the U.S. Energy Information Administration, the forecast for domestic crude production is left unchanged for 2019 even with prices averaging almost \$11 a barrel lower than its previous estimate. Oil producers are expected to pump an average 12.06 million barrels a day next year, up from 10.88 million in 2018. [Read more.](#)

State-by-State Legislative Session Overview

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

Maine is in recess until January 2. **California** is in recess until January 7. **Illinois**, **Massachusetts**, **New York** and **Rhode Island** are in recess to the call of the chair. **North Carolina** convened a special session on November 27 to vote on implementation legislation for voter identification requirements passed by constituents on November 6 during the midterm elections, according to the [North Carolina Legislative website](#).

Utah adjourned their one-day special session on December 3. Both the Senate and House voted by large margins to pass a sweeping medical marijuana bill, reports [Desert News](#).

Wisconsin adjourned their special session on December 4. Following overnight debate, lawmakers voted on Wednesday to restrict Democratic Gov.-elect Tony Evers from implementing certain policies that he campaigned on during the election, including removing his power to pull the state from a multistate lawsuit challenging the Affordable Care Act, reports [The Hill](#).

Maine Republican Gov. Paul LePage has until December 8 to act on special session legislation or it becomes law without signature. **California**'s Democratic Gov. Jerry Brown has 12 days from presentment to act on legislation or it becomes law without signature. **Illinois** Republican Gov. Bruce Rauner has 60 calendar days while the legislature is in session to act on legislation or it becomes law without signature. **Missouri** Republican Gov. Mike Parson has 45 days from presentment to act on legislation or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to sign or veto legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on special session legislation or it becomes law without signature. **Rhode Island** Democratic Gov. Gina Raimondo has six days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Wisconsin** Republican Gov. Scott Walker has six days, Sundays excepted, to act on legislation or it becomes law without signature.

The following states are currently holding 2019 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California Assembly](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Florida House](#) and [Senate](#), [Hawaii](#), [Idaho](#), [Illinois Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#) and [Senate](#), [North Carolina](#), [North Dakota](#), [Oklahoma House](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#).

The following states are currently posting 2019 bill drafts, profiles and interim studies: [Arkansas](#), [Florida House](#) and [Senate](#), [Georgia](#), [Indiana](#), [Iowa](#), [Kansas Senate](#), [Kentucky](#),

[Missouri House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#) and [Washington](#).

Hydraulic Fracturing

Ohio [HB 393](#), sponsored by Rep. Anthony Devitis, R-Green, passed the House on December 6 and is now awaiting committee referral in the Senate. The bill would establish a system by which a person could sell brine as a commodity if it does not come from a horizontal well and is processed or recycled to remove the following:

- Free oil.
- Dissolved volatile organic compounds.
- Other contaminants.

The processing or recycling of the brine must be conducted in accordance with a permit, order or approval issued by the Chief of the Division of Oil and Gas Resources management.

Oil and Gas

General

Michigan [HB 6485](#), sponsored by Rep. Triston Cole, R-Mancelona, passed the Senate Finance Committee on December 12 and is now pending in the Senate Committee of the Whole. The bill lists certain costs and allowances that would not be included as expenses of producing oil and gas for the purposes of calculating taxable income and the corporate income tax. The cost and allowances would not include any of the following:

- Costs incurred to purchase, lease or otherwise acquire an oil and gas property, whether proved or unproved.
- Cost incurred for the exploration of an oil and property, whether producing or non-producing.
- Costs incurred for processing, transportation or marketing of the oil and gas.
- Costs incurred for plugging and abandonment of an oil and gas property.
- Allowances for depletion that do not reduce the adjusted basis of the oil and gas property.

The bill would be retroactive for all tax years beginning after December 31, 2011.

Montana [SB 28](#), sponsored by Sen. Tom Richmond, R-Billings, was introduced on December 7 for the legislative session set to convene on January 7, 2019. The bill would remove the price trigger for new or expanded tertiary production.

Leasing

Montana SB 41, sponsored by Sen. Tom Richmond, R-Billings, was introduced on December 11 for the legislative session set to convene on January 7, 2019. The bill would eliminate the requirement that bids for oil and gas lease sales must be made orally.

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