

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **S. 209 - Indian Tribal Energy Development and Self-Determination Act Amendments of 2015.** On December 10, the U.S. Senate passed legislation to streamline the regulatory process for energy development on tribal lands. The bi-partisan bill, sponsored by Sen. John Barrasso (R-WY), will overhaul the Bureau of Indian Affairs' energy leasing process and will give Native American tribes more tools to develop their energy resources and to remove unnecessary barriers to economic development on their lands. [Read more.](#)

FEDERAL – Regulatory

- **Public Lands; Leasing – Arkansas; Michigan.** UPDATE: As with last month's oil and gas lease sale in Utah, the BLM has now postponed its December 10th oil and gas lease sale of nine parcels in Arkansas and Michigan. Although the BLM gave no reason for the postponement, environmental activists had announced that they were planning to challenge the oil and gas lease sale in an effort "to keep fossil fuels in the ground." [Read more.](#)
- **Public Lands; Leasing – Utah.** UPDATE: On December 8, the BLM announced that its Utah oil and gas lease sale—originally scheduled in November but postponed amid protests from environmental activists—has been rescheduled for February 16. The planned auction involves more than 37,000 acres of federal land in the northeastern part of the state, primarily around Price and Vernal. [Read more.](#)
- **Refuge Areas; Non-Federal Leasing.** On December 10, the U.S. Fish and Wildlife Service announced a proposed rule (80 FR 77199; Management of Non-Federal Oil and Gas Rights) and draft environmental impact statement to update 50 year-old regulations governing the management of non-federal oil and gas development on National Wildlife Refuge System lands. The proposed revisions continue to allow for the extraction of oil and gas, but will require closer adherence to "industry best management practices" especially with respect to abandoned infrastructure and debris. Of particular interest is the proposed rule's suggestion that the Service has the authority to regulate private easements in these areas. With more than 100 refuges having oil and gas operations, including almost 1,700 actively producing oil and gas wells, this potential regulatory interpretation is raising concerns. [Read more.](#)

STATE – Regulatory

- **Oil and Gas – Texas.** In a surprise move last Thursday, Texas Railroad Commission Chairman, David Porter, announced that he will not campaign for re-election to the commission, leaving his seat up for grabs in 2016. Porter, an accountant from Midland, was well known in the state for organizing the Eagle Ford Task Force, a group of community and business leaders, along with landowners, who met frequently to talk about the impact of the shale drilling boom in South Texas. Former Texas Land Commissioner Jerry Patterson and retiring state Rep. Jim Keffer, R-Eastland, have said they are considering running for the post. The Railroad Commission, through its Oil and Gas Division, regulates the exploration, production, and transportation of oil and natural gas in Texas. [Read more.](#)

STATE – Judicial

- **Royalty Payments; Lease Terms – Pennsylvania.** On December 9, Pennsylvania State Attorney General Kathleen Kane filed suit against Chesapeake Energy alleging unfair and deceptive business practices claiming that Chesapeake made improper deductions from royalty payments, used below-market gas prices, and misreported gas production data. The complaint alleges that Chesapeake’s landmen used high-pressure sales tactics, discouraged landowners from comparing terms with one another and from hiring lawyers, and made false statements about the leasing process to get unsuspecting, unsophisticated landowners to sign. Moreover, the suit alleges landowners were told certain lease provisions prevented them from incurring charges for the extraction and marketing of natural gas, but landowners said they were later told the leases permitted such charges. The suit could affect more than 4,000 Pennsylvania landowners who signed leases with the company. [Read more.](#)
- **Production Defined; Lease Terms – North Dakota.** Last week, the North Dakota Supreme Court rendered its decision in *Fleck v. Missouri River Royalty Corp.*, 2015 ND 287, by interpreting the habendum clause and a savings clause provision in an oil and gas lease as it applied to the definition of “production”. The court held that the lease’s use of the term “production” is “generally interpreted to mean production in paying quantities.” [Read more.](#)

INDUSTRY NEWS FLASH: An end to the ban on U.S. crude oil exports appears increasingly likely, as lawmakers look to end the decades-old prohibition as part of a sweeping year-end fiscal deal being negotiated this week in Congress. Lifting the export ban has been a top energy priority for Republicans for more than a year, and the GOP sees the must-pass government funding and tax policy bills as prime places to attach oil exports. Democrats, viewing the proposal as a valuable bargaining chip, are demanding an extension of renewable energy tax credits, among other concessions. [Read more.](#)

State-by-State Legislative Session Overview

Illinois, Massachusetts, Michigan, New Jersey, Ohio and Pennsylvania are in regular session. The **District of Columbia** Council and the **U.S. Congress** are also in regular session.

Wisconsin is currently in recess until January 12, when it is expected to reconvene.

California's special sessions on health and transportation have yet to adjourn, though the legislature has adjourned for the year and will not reconvene until January 4, the *Los Angeles Times* reports.

The following governors have bill signing deadlines on the dates provided: **South Carolina** Republican Gov. Nikki Haley has until January 14 to act on legislation or it becomes law without signature. **Maine** Republican Gov. Paul LePage has until January 16 to act on any bills sent to him on July 16. All other legislation has been acted on. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Ohio** Republican Gov. John Kasich has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

Alabama, Arizona, Florida, the **Georgia** House and Senate, **Indiana**, the **Kansas** House, **Kentucky**, the **Missouri** House and Senate, **Oklahoma, South Carolina**, the **Tennessee** House and Senate and **Virginia** and **Washington** are now pre-filing for the 2016 legislative session.

The following states are currently holding interim committee hearings: **Alabama, Alaska, Arizona, Arkansas**, the **California** Assembly and Senate, **Colorado, Connecticut**, the **Florida** House and Senate, the **Georgia** House and Senate, **Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota**, the **Mississippi** House and Senate, the **Missouri** House and Senate, **Montana, Nebraska, Nevada, New Hampshire** House and Senate, **New Mexico**, the **New York** Assembly, **North Dakota**, the **Oklahoma** House and Senate, **Rhode Island**, the **South Carolina** House and Senate, **South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia** and **Wyoming**.

Landmen

Wisconsin [AB 456](#)'s sponsor, Rep. Scott Allen, R-Waukesha, offered [Assembly Amendment 1](#) to the bill on December 8. The bill would generally amend current law regulating the practice and licensure of real estate brokers and real estate salesperson. Assembly Amendment 1 would exempt disciplinary actions initiated by the Real Estate Examining Board from the statute of limitations as well as make other minor changes. The bill would further create provisions addressing independent real estate practice by brokers, which is not addressed under current law. Under these provisions, a broker who is associated with a firm would also be authorized to engage in independent real estate practice, as specified. The bill would also define an "employee" for the purposes of these provisions to specify that a licensee would not be considered an employee of a firm if:

- A written agreement has been entered into with the firm that provides that the licensee may not be treated as an employee for federal and state tax purposes.
- 75 percent or more of the annual compensation related to sales or output paid by the firm to the licensee pursuant to the agreement is directly related to the brokerage services performed by the licensee on behalf of the firm.

The majority of the bill would take effect on July 1, 2016 or on the day after publication by the Legislative Reference Bureau, whichever is later.

Oil and Gas

General Oil and Gas

Ohio [SCR 6](#) was adopted by the House 67-24 on December 8. The concurrent resolution urges the U.S. Congress to lift the prohibition on the export of crude oil from the United States, which has been in place since 1975.

Pennsylvania [HB 1327](#), sponsored by Rep. Michael Peifer, R-Hawley, and others, was reported by the House Appropriations Committee as amended on December 9. The House passed the bill 48-2 on December 10. The bill, which would provide for the Environmental Stewardship Fund for oil and gas wells, would prohibit the Environmental Quality Board from adopting or promulgating any revision of current regulations relating to oil and gas wells or any regulations applicable to the operation of oil and gas wells that were formulated or proposed in any form before the effective date of this bill. The bill would take effect immediately upon enactment.

Pennsylvania [HB 1743](#), sponsored by Rep. James Santora, R-Upper Darby, and Rep. Margo Davidson, D-Upper Darby, was introduced and referred to the House Environmental Resources and Energy Committee on December 6. The bill would impose a severance tax on every producer of natural gas at a rate of four percent of the gross value of the units severed at the wellhead during each reporting period. This tax would be in addition to the current unconventional gas well fee. The funds raised from the severance tax would be deposited into the Severance Tax for Education Fund. If enacted, the bill would take effect immediately.