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Subject: Obama's 11th-Hour Offshore Drilling Ban May Be Hard To Sink

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## PUBLIC POLICY

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Thursday, December 22, 2016

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### TOP NEWS

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#### Analysis

#### Obama's 11th-Hour Offshore Drilling Ban May Be Hard To Sink

President-elect Donald J. Trump would likely face an uphill battle trying to undo outgoing President Barack Obama's indefinite blockage of oil and gas drilling in large swaths of the Arctic and Atlantic Oceans, though the resulting legal fight could clarify the currently untested limits of presidential authority under U.S. offshore law, experts say.

#### US Will Lose Billions If Trump Ends DACA, Report Says

President-elect Donald Trump's promise to end the program that allows young unauthorized immigrants who were brought to the U.S. as children to apply for deferred deportation and receive work permits could cost the nation billions of dollars, according to a report by the Immigrant Legal Resource Center.

#### Trump Taps Calif. Academic To Head New Trade Panel

President-elect Donald Trump announced Wednesday that he will form a new trade advisory panel within the White House, selecting University of California-Irvine professor Peter Navarro to be the panel's leader and a top presidential trade adviser.

### BANKING & SECURITIES

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#### Trump Treasury Nominee Faces Questions On Dodd-Frank

The top Democrat on the Senate Banking Committee on Wednesday asked Steven Mnuchin, President-elect Donald Trump's pick to lead the Treasury Department, to provide more details on his plans to supervise regional banks, enforce fair lending standards and deal with other regulatory issues upon confirmation.

### ENERGY & ENVIRONMENTAL

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#### Analysis

#### The Biggest Environmental Law Rulings Of 2016

U.S. courts grabbed headlines in 2016 with rulings in several important environmental law cases, approving Volkswagen's \$14.7 billion settlement over its emissions cheating scandal, allowing the U.S. Environmental Protection Agency to revoke coal permits and blocking key federal rules backed by the Obama administration.

### LAW FIRMS

Addleshaw Goddard  
Akerman  
Arnold & Porter  
Baker Botts  
Balch & Bingham  
Bracewell  
Bush Ross  
Corrs Chambers  
Cravath Swaine  
Dechert  
Dickinson Wright  
Earthjustice  
Fisher Phillips  
Friedman Kaplan  
Gibson Dunn  
Greenberg Traurig  
Gupta Wessler  
Hobbs Straus  
Holland & Hart  
Hunton & Williams  
Jones Day  
Kanji & Katzen  
Kelly Rammel  
Mayer Brown  
Miller & Chevalier  
Morgan Lewis  
Paul Hastings  
Reed Smith  
Segal Roitman  
Shook Hardy  
Sidley Austin  
Squire Patton Boggs  
Steptoe & Johnson PLLC  
Stroock & Stroock

## High Court Must Settle CWA Jurisdiction Issue, NAM Says

The National Association of Manufacturers continued its push Tuesday to get the U.S. Supreme Court to review the Sixth Circuit's finding that it has jurisdiction to hear challenges to the U.S. Environmental Protection Agency and Army Corps of Engineers' controversial Clean Water Rule, saying the muddled jurisdiction question must be clarified.

## FWS Takes Humpback Whales Off Endangered Species List

The U.S. Fish and Wildlife Service formally updated its list of endangered and threatened species Wednesday, removing the species-level endangered listing for humpback whales, and delisting altogether nine of the whale's 14 distinct populations.

## EPA's New Plant Carbon Rules Get Support At DC Circ.

States, academics, environmental groups and power companies told the D.C. Circuit on Wednesday that the U.S. Environmental Protection Agency rightly concluded that carbon capture and storage technologies should be considered the "best system of emission reduction," urging the court to strike down challenges brought by a host of opposing states and industry players.

## Wyo. Urges 10th Circ. To Uphold 'Open Land' Suit Ruling

Wyoming's attorney general urged the Tenth Circuit to uphold a lower court's decision to toss a lawsuit filed by conservation groups that alleges the Legislature passed trespassing laws that improperly prevent citizens from entering "open land" to collect information about agricultural pollution.

## HEALTH & LIFE SCIENCES

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### 9th Circ. Can't Stall Suit Over Planned Parenthood Tape

A California federal judge said Wednesday he would not stay Planned Parenthood's suit against anti-abortion activists who lied about their identities then released videos purporting to show the improper sale of fetal tissue, saying he didn't want the case to languish until the Ninth Circuit decides the fate of some of its claims.

## TRANSPORTATION & INFRASTRUCTURE

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### Chao's Transpo Agenda Targets Safety, Red Tape

President-elect Donald Trump's transportation secretary pick, Elaine L. Chao, has told lawmakers that if the Senate confirms her, she will prioritize enforcing safety regulations effectively and expediting the approval processes for getting infrastructure projects off the ground.

### Feds Back Mass. In 1st Circ. Fight Over Paid Sick Time Law

The U.S. government told the First Circuit on Tuesday that federal law does not preempt Massachusetts' paid sick leave law and a lower court should not have barred the commonwealth from enforcing its law against railroads.

## EMPLOYMENT

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### Judge Says Treasury 'Miserably Failed' In Auto Pension Fight

The U.S. Department of Treasury will have to turn over evidence related to decisions it made in General Motors' 2009 bankruptcy for a related pension plan dispute after a Washington, D.C., judge found Tuesday the agency "miserably failed" to explain why the records are privileged.

Troutman Sanders

Wilson Elser

Zuckerman Law

## COMPANIES

AT&T Inc.

American Bar Association

American Petroleum Institute Inc

American Public Power Association

Anheuser-Busch Inbev SA/NV

Apple Inc.

Arch Coal Inc.

Audi AG

BP p.l.c.

Banco Santander SA

Bank of America Corporation

Business Intelligence Associate Inc.

CSX Corporation

CTIA

Calpine Corporation

Center for Biological Diversity Inc

Citigroup Inc.

Cray Inc

Dollar Tree Inc.

Environmental Defense Fund Inc

General Motors

Goldman Sachs Group Inc.

Goodyear Tire & Rubber Co.

Honda Motor Co. Ltd.

Immigrant Legal Resource Cen

International Brotherhood of Electrical Workers

International Business Machine Corporation

Johnson & Johnson

Lockheed Martin

Luminant Generation Co. LLC

Murray Energy Corp.

National Association of Manufacturers

National Grid PLC

Natural Resources Defense Council

Nintendo Co. Ltd.

OneWest Bank Group LLC

## Washington, DC, Adopts Expansive Paid Family Leave Plan

Washington, D.C., lawmakers on Tuesday passed one of the nation's most generous paid family leave proposals, which gives workers eight weeks paid leave to care for a new child as well as six weeks paid leave to help ailing family members.

## PRIVACY & CONSUMER PROTECTION

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### USTR Report Names New International Piracy Dangers

Stream-ripping sites and piracy apps are two growing dangers to international enforcement of intellectual property law, United States trade officials said in a report released Wednesday.

### House Group Warns Against Proposals To Weaken Encryption

A bipartisan House group tasked with tackling the thorny legal and policy issues surrounding encryption recommended on Tuesday that Congress refrain from taking steps to require service providers to help law enforcement bypass security measures, but instead explore alternatives such as encouraging increased collaboration between the public and private sectors.

## GOVERNMENT CONTRACTS

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### Probe Of United Launch Exec's Comments Finds No Bid Bias

The U.S. Department of Defense's internal watchdog has concluded that the agency did not show contracting favoritism to United Launch Alliance over competitors like SpaceX for military launches, saying a probe into controversial comments made by ULA's vice president uncovered no impropriety.

## INTERNATIONAL TRADE

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### EU Seeks Input On Global Investment Court Proposal

The European Commission on Wednesday requested input from the public on its efforts to set up an international court that will adjudicate all investor-state disputes as a replacement for the patchwork of investment treaties and arbitration systems currently in place.

### WTO Tweaks Policy Reviews Amid Rising Membership

The World Trade Organization Wednesday finalized some modest tweaks to the system it uses to review members' trade laws and policies to accommodate for the multilateral body's steadily growing ranks.

## TAX

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### Mich. Appeals Court Backs State Decision To Exit Tax Deal

The Michigan Court of Appeals on Tuesday kept in line with earlier court rulings in finding that a multistate tax compact was not a binding contract, rejecting Solo Cup Operating Corp.'s challenge to Michigan's decision to withdraw from the accord.

### EU Top Court Rules Against Tax Scheme On Foreign Holdings

The European Court of Justice on Wednesday set aside a lower court's decision on tax breaks granted to Spanish companies on their foreign holdings when it found that these tax breaks constituted illegal state aid.

## IMMIGRATION

PG&E Corporation

Planned Parenthood Federation

Sierra Club

Sinclair Broadcast Group, Inc.

Sonoco Products Co.

Space Exploration Technologies Corp.

T-Mobile USA Inc.

The Boeing Company

United Continental Holdings Inc

United Launch Alliance LLC

United States Telecom Association

UnitedLex Corp.

Verizon Communications

Volkswagen

Washington Post Co.

Xcel Energy Inc

## GOVERNMENT AGENCIES

Army Corps of Engineers

Bureau of Citizenship and Immigration Services

Bureau of Land Management

Central Intelligence Agency

Confederated Tribes of the Colville Reservation

Defense Intelligence Agency

European Commission

Executive Office of the President

Federal Bureau of Investigation

Federal Communications Commission

Federal Deposit Insurance Corp

Federal Energy Regulatory Commission

Federal Maritime Commission

Federal Trade Commission

Financial Crimes Enforcement Network

Financial Stability Oversight Council

Fish and Wildlife Service

Food and Drug Administration

Government Accountability Office

Houlton Band of Maliseet Indians

Maine Department of Environmental Protection

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## DHS Sends EB-5 Reform Plan To OMB For First Look

U.S. Citizenship and Immigration Services is taking steps toward reforming the EB-5 immigration investor program, with the agency asking the Office of Management and Budget on Tuesday to review a proposed rule-making to update the program's regulations.

## NATIVE AMERICAN

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### Tribe, Opposing Maine, Wants In On EPA Water Quality Suit

The Houlton Band of Maliseet Indians asked a Maine federal court Tuesday to let it intervene to oppose the state's suit challenging the U.S. Environmental Protection Agency's tightening of its water quality standards for tribal waters, saying the more restrictive rules ensure the tribe can continue its fishing traditions.

### Ruling Stands Allowing Seminoles To Continue Card Games

A federal judge Tuesday denied Florida's bid to alter his ruling that a state breach allows the Seminole Tribe of Florida to keep offering card games such as blackjack and baccarat for the remainder of their gaming agreement, saying the state's motion "simply reargues the merits."

## TELECOMMUNICATIONS

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### FCC Approves Wireless Industry Network Resiliency Plan

The Federal Communications Commission said Tuesday that it has agreed to an industry-developed framework for improving wireless resiliency and transparency during emergencies without adopting new regulations, saying the voluntary path is a "reasonable approach."

### Honda Seeks FCC Waiver On Entertainment System Access

Honda Motor Co. Ltd. asked the Federal Communications Commission on Tuesday for a limited-time waiver of accessibility rules for rear entertainment systems in several vehicles, saying it wasn't aware that the law applied to automakers but it intends to make changes and that stopping production could lead to employee layoffs or furloughs.

### FCC's Wheeler Defends ISP Privacy Rules To Sen. Flake

Outgoing Federal Communications Commission Chairman Tom Wheeler has fired back at Republican Sen. Jeff Flake of Arizona on privacy rules for broadband providers adopted in October, writing in a letter posted publicly Wednesday that the process before the vote was "commonplace" and the plan protects consumers.

### FCC Announces \$50M In New Subsidies For Rural Broadband

The Federal Communications Commission on Monday ordered an additional \$50 million annually in subsidies to build out broadband infrastructure in rural areas after interest in the program from local carriers exceeded the plan's initial \$150 million allocation.

### Sinclair Broadcast Slams Reports Of Slanted Trump Coverage

Sinclair Broadcast Group Inc. recently pushed back on reports it provided Donald Trump preferential coverage in exchange for access, saying that the TV broadcaster never promised positive coverage of the then-Republican nominee and that Hillary Clinton's campaign was given the same interview

National Aeronautics and Space Administration

National Economic Council

National Marine Fisheries Service

National Oceanic and Atmospheric Administration

National Railroad Passenger Corporation

National Security Agency

National Security Council

Office of the Comptroller of the Currency

Office of the Director of National Intelligence

Office of the U.S. Trade Representative

Peace Corps

Pension Benefit Guaranty Corp

Seminole Tribe of Florida

Social Security Administration

U.S. Air Force

U.S. Army

U.S. Department of Defense

U.S. Department of Homeland Security

U.S. Department of Housing and Urban Development

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Transportation

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. Supreme Court

Wyoming Attorney General's Office

offers as Trump's.

## EXPERT ANALYSIS

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### Boosting Contractor Employee Whistleblower Protections

Congress recently enacted S. 795, which permanently extends robust legal protections to employees of federal contractors, subcontractors and grantees who report waste, fraud or abuse. These new anti-retaliation provisions will be a powerful tool to combat waste, fraud and abuse in government contracts and grants, which total about half a trillion dollars annually, says Jason Zuckerman of Zuckerman Law.

### FERC Income Tax Changes Could Impact Entire Energy Sector

The Federal Energy Regulatory Commission recently issued a notice of inquiry concerning the treatment of income taxes for ratemaking and cost recovery purposes by pass-through entities. Tax changes in this area could have significant effects on entities in the oil, gas and electric sectors, and possibly chill investment in energy infrastructure, say attorneys with Morgan Lewis & Bockius LLP.

### The Future Of Legal Marijuana: Post-Election Outlook

Following the 2016 election, marijuana legalization is spreading across states and becoming less important at the federal level. While marijuana is not yet treated like tobacco and alcohol, the federal policy environment seems unlikely to impose significant restrictions on access in the near future, say Richard Spees and Joshua Mandell of Akerman LLP.

### Implied Preemption And Monograph Drugs: Part 1

Under 21 U.S.C. §379r, tort claims demanding that over-the-counter drugs carry warnings or other information that is "different from," "addition[al] to" or "otherwise not identical with" federal labeling requirements are preempted. But the savings clause exempts "product liability" claims from preemption. James Beck of Reed Smith LLP considers preemption of OTC drugs under the FDA's monograph system.

## LEGAL INDUSTRY

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### Fisher & Phillips Partner Charged For His Wife's Death

A Fisher & Phillips LLP employment partner has been charged with involuntary manslaughter for the shooting death of his wife, which occurred when he was handling a gun in a moving car, and warrants have been issued for his arrest, a police representative said on Wednesday.

### BigLaw Partners On Short List For NY High Court Vacancy

Partners from Gibson Dunn & Crutcher LLP, Cravath Swaine & Moore LLP and other firms were among candidates who received a stamp of approval from the New York City Bar Wednesday to fill a vacancy on New York's highest court created by Associate Judge Eugene F. Pigott's upcoming retirement.

### Legal Tech Download: Axiom Expansion And Robot Billing

The world of legal technology is quickly evolving as new products aimed at aiding lawyers are created and launched in rapid succession. Here, Law360 takes a look at seven of the biggest legal tech-related news developments over the past two weeks.

## Profit Margin Gap Widens Between Top And Mid-Tier UK Firms

Profit margins for the largest law firms in the U.K. are on the rise, while those in the mid-tier struggle to turn their revenue into positive gains, a new study by legal recruitment and consulting service Edward Drummond & Co. Ltd. has found.

### JOBS

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