

GOVERNMENTAL AFFAIRS REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

S. 4049 – Oversight to Lower Oil Prices Act.

On April 7, Sen. Maggie Hassan (D-NH) introduced [S. 4049](#), known as the *Oversight to Lower Oil Prices Act*. The bill would require “the Federal Trade Commission (FTC) to investigate whether companies are manipulating prices on oil and gas and driving up costs for consumers. The bill requires the FTC to report back to Congress with their findings.” According to Sen. Hassan, “The administration must take action to investigate whether Big Oil is artificially raising prices and illegally manipulating the market for their own gain.” [Read more.](#)

S. 3989 – Landowner Easement Rights Act. On April 4, Sen. Kevin Cramer (R-ND) introduced S. 3989, known as the *Landowner Easement Rights Act*.

The bill “prohibits the Department of the Interior from entering into a conservation easement with a term of more than 50 years. The bill sets forth requirements for the renegotiation of a conservation easement at the request of an owner of land that is subject to a conservation easement that (1) has been in effect for longer than 50 years, or (2) was put into effect before 1977 without the creation of an official corresponding map. Interior shall notify such an owner of the owner's right to submit a request.” [Read more.](#)

FEDERAL – Regulatory

BLM Lease Sales. After nearly 18 months without holding a federal onshore oil and gas lease sale, the Interior Department has announced it is finally resuming lease sales. The Interior Department also announced it is increasing the royalty rate from 12.5 percent to 18.75 percent for the first time ever. [Read more.](#) To that end, on April 18, the Bureau of Land Management (BLM) issued official lease notices for

sales covering Colorado, Montana/Dakotas, Nevada, New Mexico, Utah, and Wyoming. The Colorado sale will be “offering nine parcels totaling 5,275.82 acres in Jackson, Moffat, Rio Blanco and Weld counties. The parcels will be offered at the online oil and gas lease sale scheduled for June 16.” [Read more.](#) The Montana/Dakotas sale will be “offering 23 parcels totaling 3,405.8 acres in Fallon, Powder River, Richland and Roosevelt Counties in Montana, and McKenzie, Mountrail, and Williams Counties in North Dakota, on public lands managed by the Miles City Field Office and North Dakota Field Office. The parcels will be offered at the online oil and gas lease sale scheduled for June 28.” [Read more.](#) The Nevada sale will be “offering 5 parcels totaling 2,560 acres in Nye County on public lands managed by the Battle Mountain District Office. The parcels will be offered at the online oil and gas lease sale scheduled for June 14.” [Read more.](#) The New Mexico sale will be “offering six parcels totaling 535.72 acres in Chaves and Lea counties in New Mexico and Dewey County in Oklahoma. The parcels will be offered at the online oil and gas lease sale scheduled for June 16.” [Read more.](#) The Utah sale will be “offering one parcel totaling 160 acres in Uintah County on public lands managed by the Vernal Field Office. The parcel will be offered at the online oil and gas lease sale scheduled for June 28.” [Read more.](#) The Wyoming sale will be “offering 129 parcels containing about 131,771 acres of public minerals. The parcels will be offered at the online oil and gas lease sale scheduled for June 21-22.” [Read more.](#) All BLM lease sale notices open up a 30-day public protest period ending May 18, 2022. [Read more.](#)

Interior Department Renewable Energy Projects.

The Interior Department [has issued a new report](#) showing approval of more than 120 renewable energy projects with combined generating capacity of 12,000

megawatts. This is part of “a series of steps taken to advance the Biden-Harris administration’s goal to permit 25 gigawatts of renewable power on public lands by 2025.” The report focuses on forecasted additional renewable energy activity, identified improvements to energy corridors in the West, a renewed and updated policy that will enable staff to better screen and prioritize solar and wind energy projects on public lands, and touts that advanced renewable energy projects will help to create jobs. [Read more.](#)

Office of Natural Resources Revenue. On April 13, the Interior Department’s Office of Natural Resources Revenue (ONRR) published a final rule, “Mailing and Email Address Amendments” (87 Fed. Reg. 21743). For those conducting business with the ONRR the final rule serves “to update room number, mailstop, and other information for filing certain forms by mail, courier, or overnight delivery. It also provides email addresses for filing certain forms electronically.” The rule is effective May 13, 2022. [Read more.](#)

National Environmental Policy Act Revisions. (*Update to 10/25/21 Weekly Report*) On April 19, the White House Council on Environmental Quality (CEQ) issued a final rule to amend certain provisions of its regulations for implementing the National Environmental Policy Act (NEPA), “National Environmental Policy Act Implementing Regulations Revisions” (87 Fed. Reg. 23453) and which could negatively impact domestic energy projects. AAPL has been reporting on this issue since 2020, and providing members with multiple opportunities for public comment, since the Trump administration relaxed certain NEPA regulations that were more favorable to industries subject to environmental regulations. The Biden administration has been working to rescind those regulations since 2021. [Read more.](#) In short, “The latest rule from CEQ will restore a requirement that agencies issue separate evaluations of direct, indirect, and cumulative effects of a proposed project. The Trump changes directed agencies to evaluate all effects together rather than in separate buckets, so long as the effects are ‘reasonably foreseeable.’” According to the *Oil & Gas Journal*, representatives for

oil and gas companies, with experience in lengthy NEPA permitting processes and legal disputes, “said the Biden CEQ changes mean more uncertainty and conflict, not less.” Frank Macchiarola, an American Petroleum Institute senior vice-president, “issued a statement saying the NEPA rewrite adds more red tape to the permitting process, not only for oil and gas projects but for wind farms, solar farms, hydrogen development, and carbon capture, use, and storage.” Macchiarola added, “We urge the administration to change course and establish a timely and efficient permitting process that supports the energy security needs of the US and our allies overseas.” For background, on October 7, 2021, the Biden administration began the rollback of the Trump-era NEPA policies as the CEQ issued a Phase One Notice of Proposed Rulemaking, “National Environmental Policy Act Implementing Regulations Revisions” (86 Fed. Reg. 55757), which would revise regulations implementing NEPA, and which apply to oil and gas development projects. For example, the group Project NEPA reported that “Before an oil or gas company can conduct exploration or begin production activities, NEPA requires the completion of an environmental assessment to determine if a project is likely to have significant impacts on the environment. If the agency finds there will be a significant impact, it is then required to conduct the more stringent environmental impact statement (EIS) in order to meet the proper consideration and opportunity for public comment requirements.” [Read more.](#) The Biden administration rulemaking takes a more stringent approach to that process than those finalized under the Trump administration. According to the CEQ, the rulemaking would “generally restore regulatory provisions that were in effect for decades before being modified in 2020. CEQ proposes these changes in order to better align the provisions with CEQ’s extensive experience implementing NEPA, in particular its perspective on how NEPA can best inform agency decision making, as well as longstanding Federal agency experience and practice, NEPA’s statutory text and purpose, including making decisions informed by science, and case law interpreting NEPA’s requirements.” The 2020 Trump rulemaking streamlined the NEPA review process and also limited the scope of environmental

reviews. Specifically, it removed requirements to consider climate change before proceeding on a project and allowed for greater industry involvement in reviewing the environmental effects of their projects. The Trump administration argued the NEPA changes were necessary to “modernize” a law that can delay projects with environmental reviews that can last as long as four years. The final rule is effective May 20, 2022. [Read more.](#)

SEC Climate Disclosure Rulemaking. On April 11, the U.S. Securities and Exchange Commission (SEC) formally published proposed rulemaking that would mandate corporate reporting of climate risks and greenhouse gas (GHG) emissions. [See SEC Press Release here.](#) The proposal already attracted industry attention when first released as a draft at the end of March. *Bloomberg News* called this “a major shift in how corporations must show they are dealing with climate change.” Further, “For the first time ever, the agency plans to require businesses to outline the risks a warming planet poses to their operations when they file registration statements, annual reports or other documents. Some large companies will have to provide information on emissions they don’t make themselves but come from other firms in their supply chain.” As reported by the *Oil & Gas Journal*, [the proposed rule](#), entitled “The Enhancement and Standardization of Climate-Related Disclosures for Investors” ([87 Fed. Reg. 21334](#)), “would require disclosures of information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition. The SEC suggested its plan would require commonly used metrics that would make it easier for investors to assess the relative risk profiles of different companies. The risks cited by the SEC proposal include not only what the public might imagine — changes in weather, for example — but regulatory, technological, and market risks driven by a transition to a lower-GHG intensive economy. The proposed rule would require a company to disclose information about the company’s governance or high-level oversight and management policies for climate-related risks. Such disclosures would be part of the environmental, social, and governance reporting that many people have begun demanding from

businesses.” [Read more.](#) “Companies will be required to calculate these potential costs from data they already compile for regular disclosures to investors.” [Read more.](#) You may also access a detailed [AAPL Governmental Affairs Fact Sheet here.](#)

FEDERAL – Judicial

Leasing – West Virginia. On January 27, in *Benson v. High Road Operating, LLC* (Case No. 5:20-CV-00229), the U.S. District Court for the Northern District of West Virginia addressed a leasing dispute involving a Paid-Up Oil and Gas Lease, (2) Addendum to the Lease, (3) Order of Payment — Oil & Gas Lease Bonus, and (4) Memorandum of Lease. The dispute centered around the nonpayment of bonuses and the plaintiffs claimed the lease was breached by failing to tender the bonus payments. The defendant lessee, however, argued that (1) a valid and enforceable contract was never formed; (2) even if there was a contract, conditions precedent to performance were not satisfied; and (3) defendant’s obligation was discharged by a condition subsequent. Further, the defendant argued that the undisputed facts show that the defendant has in no way breached any obligation it had to tender bonus payments to the plaintiffs because its management did not approve the lease, which was an express condition precedent. Here, the Court held that the defendant was not obligated to tender bonus payments because the lease was never “fully executed and notarized,” as the defendant never signed or notarized it. In sum, the court held that the defendant did not breach its contractual duty because the condition precedent to defendant’s obligation to tender bonus payments was not satisfied.” [Read more.](#)

STATE – Legislative

National Petroleum Reserve – Alaska. (*Update to 2/28/22 Report*) On April 20, HJR 34 was enacted. Sponsored by Rep. Josiah Patkotak (I), this joint resolution expresses the legislature’s support of oil and gas leasing and development within the National Petroleum Reserve in Alaska but has no weight of law mandating any action. [Read more](#)

Orphaned Wells – Colorado. On April 7, Sen. Stephen Fenberg (D) introduced SB22-198. The bill creates the orphaned wells mitigation enterprise in the Department of Natural Resources for plugging, reclaiming, and remediating orphaned wells located in the state for which no owner or operator can be found or for which the owner or operator is unwilling or unable to pay the costs of plugging and abandoning the well; ensuring that the costs associated with the plugging, reclaiming, and remediating of orphaned wells are borne by operators in the form of mitigation fees; and determining the amounts of mitigation fees; and imposing and collecting mitigation fees.
[Read more.](#)

Oil and Gas Reporting – Colorado. On April 4, Rep. Andrew Boesenecker (D) introduced HB22-1361. The bill relates to oil and gas reporting and would require an oil and gas operator to conduct meter certification and calibration on an annual basis and submit an annual report to the Oil and Gas Conservation Commission that describes the results of that meter certification and calibration and also establishes a maximum penalty of \$1,000 per day per violation for oil and gas operators in relation to violations related to the filing of air pollution emission notices with the Division of Administration in the Department of Public Health and Environment. [Read more.](#)

Ad Valorem Credits; Severance Tax – Colorado. On April 19, Rep. Julie McCluskie (D) introduced HB22-1391. “The bill changes the calculation of the ad valorem credit allowed against the state severance tax on oil and gas. In tax years beginning on and after January 1, 2024, the credit for ad valorem taxes is calculated on a per-well basis for wells that are not exempt from taxation by applying the prior year’s mill levy to the current year’s gross income multiplied by an assessment rate of 87.5%, and taking 87.5% of that amount for the credit. This calculation is simplified to multiplying 76.56% of the gross income of the well by the mill levy fixed in the prior calendar year.
[Read more.](#)

Unauthorized Practice of Law – Kentucky. (*Update to 1/17/22 Report*) On April 8, Gov. Andy Beshear (D)

signed HB 256 into law. Sponsored by Rep. Daniel Elliott (R), the Act amends existing law “to increase the class of the crime of the unauthorized practice of law from a Class B misdemeanor for the first offense to a Class A misdemeanor, and establish each subsequent offense as a Class D felony.” The Act is effective 90 days following the end of session (March 30, 2022.)
[Read more.](#)

Orphan Wells – Kentucky. On April 8, Gov. Andy Beshear (D) signed SB 315 into law. Sponsored by Sen. Robby Mills (R), the Act amends the definition of “orphan wells” as well as providing for funds and grants related to remediation. The Act takes immediate effect. Companion bill, [HB 669](#), sponsored by Rep. D.J. Johnson (R), was also signed into law on April 8 and takes immediate effect. [Read more.](#)

Oil and Gas Incentive Rebates – Louisiana. On April 18, SB 390, sponsored by Sen. Mack Bodi White (R), was subject to a committee hearing. The bill would provide incentive rebates for oil and gas exploration and production. [Read more.](#)

Noncompete Agreements – Louisiana. On April 5, HB 1037 was introduced by Rep. Mandie Landry (D). The bill amends existing law regarding provisions related to noncompete contracts and agreements in employment arrangements. Specifically, among other provisions, the bill would repeal existing law that provides that an independent contractor, whose work is performed pursuant to a written contract, may enter into a noncompete agreement for a period not to exceed two years from the date of the last work performed under the written contract. [Read more.](#)

Remote Notarial Acts – Louisiana. On April 5, HB 903 was introduced by Rep. Greg Miller (R). The bill amends present notary law to provide that a remote online notarial act is deemed to be executed in any parish where the notary is physically located.
[Read more.](#)

Domestic Oil Production – Louisiana. On April 4, HCR 49 was introduced by Rep. Valarie Hodges (R). This resolution “Memorializes the U.S. Congress to

request the President of the U.S. to encourage increased domestic oil production.” [Read more.](#)

Will and Trust Instruments; Electronic Execution – Maryland. On April 21, Gov. Larry Hogan (R) signed [HB 576](#) and companion Senate bill [SB 36](#) into law. The bipartisan bills authorize “a person to execute an electronic will or remotely witnessed will without a notary public if the supervising attorney creates a certified will that contains a certain form attached or annexed to the will; prohibiting a supervising attorney from being a witness to an electronic will or remotely witnessed will if the will is executed without a notary public; and authorizing a notary public located in the State to perform a notarial act using communication technology for a remotely located individual for a trust instrument.” Both bills take immediate effect. [Read more.](#)

STATE – Regulatory

Hydrogen Hubs – New Mexico. On April 20, New Mexico Environment Department Secretary James Kenney appeared on the K&L Gates law firm’s podcast, *Hydrogen Rising*, to discuss how New Mexico “is one of the leading states in the country in its efforts to advance the hydrogen economy.” Kenney discussed “a number of those initiatives, including the State’s proposed financing of hydrogen development via public-private partnerships, its partnership with the U.S. Department of Energy’s Los Alamos and Sandia national laboratories on hydrogen best practices, and the Western Inter-State Hydrogen Hub (WISHH) alliance which the states of New Mexico, Colorado, Utah, and Wyoming entered into with the intention of bidding into the U.S. Department of Energy’s clean hydrogen hub \$8B funding opportunity.” [Read more and access the podcast recording here.](#)

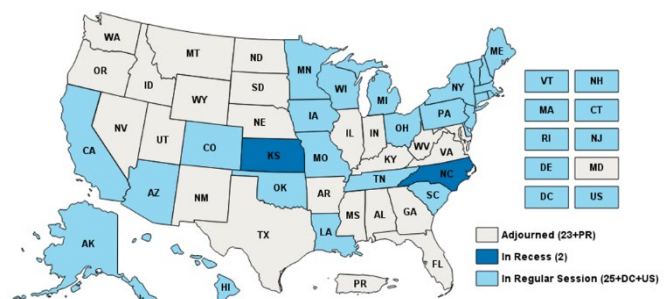
INDUSTRY NEWS FLASH

► **Permian drilling permits hit all-time monthly high.** According to Rystad Energy research data, “Horizontal drilling permits for new wells in the Permian basin hit an all-time high in March, with 904 total permit awards, driven by elevated oil prices and production demand. Weekly approved permits have hovered between 188 and 227 since Mar. 7, 2022, an unprecedented period of high activity that pushed the 4-week average to 210 for the week ending Apr. 3, a record for horizontal permit approvals in the US shale play over 4 weeks.” [Read more.](#)

► **Canada has shortage of oil and gas workers.** According to the Canadian Association of Energy Contractors (CAOEC), there is a shortage of oil and gas workers in Canada. “After years of sector instability and a recession, many workers pivoted to careers outside the oil and gas industry,” a CAOEC spokesperson told *Rigzone*. “Signals of long-term recovery and positive messaging from leaders would help potential workers understand the many options and career prospects available in Canada’s energy sector.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, and

Wisconsin are in regular session. The **U.S. Congress** is also in session.

Kansas recessed for a three-week-break on April 1, considered "first adjournment", as reported by the [Kansas Reflector](#). The legislature will reconvene on April 25 for a veto session where lawmakers can decide to override vetoes on proposals rejected by Democratic Gov. Laura Kelly.

North Carolina is in recess until May 4. The legislature will meet again from May 4-6 with the session limited to a specific itemized agenda outlined in [SJR 748](#). Most North Carolina leadership, however, does not anticipate any substantial action until the beginning of the Short Session on May 18.

The following states adjourned their 2022 legislative sessions on the dates provided: **Kentucky** (April 14) and **Nebraska** (April 20).

The following states are scheduled to adjourn their 2022 legislative sessions on the dates provided: **Maine** (April 25), **Connecticut** (May 4), **Hawaii** (May 5) and **Vermont** (May 6).

West Virginia Republican Gov. Jim Justice announced a special session for April 24 after vetoing [SB 729](#), which was intended to create a self-sustaining loan fund with the West Virginia Economic Development Authority, due to "several technical errors" in the bill's language, reports [WVNews](#). The special session intends to fix these technical errors and will coincide with legislative interim meetings to prevent incurring additional costs.

Signing Deadlines (by date): **Alabama** Republican Gov. Kay Ivey had until April 19 to act on legislation or it was pocket vetoed. **Georgia** Republican Gov. Brian Kemp has until May 14 to act on legislation or it becomes law without signature. **Maryland** Republican Gov. Larry Hogan has until May 31 to act on legislation or it becomes law without signature. **Illinois** Democratic Gov. J.B. Pritzker has until June 7 to act on legislation or it becomes law without signature. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment, Sundays excluded, to act on legislation

or it becomes law without signature. **Florida** Republican Gov. Ron DeSantis has 15 days from presentment to act on legislation or it becomes law without signature.

Kentucky Democratic Gov. Andy Beshear has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

Mississippi Republican Gov. Tate Reeves has 15 days from presentment to act on legislation or it becomes law without signature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Montana](#), [Nevada](#), [North Dakota](#) and [Wyoming](#). ■

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