

GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Regulatory

BLM Fluid Mineral Leases and Leasing Process

Final Rule. On April 23, the Bureau of Land Management (BLM) published a final rule, *Fluid Mineral Leases and Leasing Process* ([89 Fed. Reg. 30916](#)). The BLM states, “the final rule implements provisions of the Inflation Reduction Act (IRA) pertaining to royalty rates, rentals, and minimum bids; updates the bonding requirements for leasing, development, and production; and revises some operating requirements. The final rule will improve the BLM’s leasing process by ensuring proper stewardship of public lands and resources.”

This rule release follows our prior reporting during the proposed regulatory announcement period in July 2023 when we provided AAPL members with an opportunity to submit public comments and make their voices heard. According to the final rule, “Overall, this rule will enhance the BLM’s administration of oil and gas-related activities on America’s public lands and reflects Congress’s changes to the oil and gas program in the IRA.

Specifically, the rule will reflect requirements of the IRA by increasing royalty rates, rentals, and minimum bids for BLM-issued oil and gas leases, and by imposing a fee for the submittal of an expression of interest (EOI) for leasing Federal oil and gas. The rule also updates the bonding requirements for leasing, development, and production to address shortcomings identified in reports by the Government Accountability Office (GAO) and the Department of the Interior’s (DOI’s) Office of Inspector General (OIG). Collectively, the BLM proposed these changes to bring the regulations into compliance with the IRA and the Infrastructure Investment and Jobs Act (IIJA) mandates and to ensure that reclamation costs are not borne by the American public. The BLM is also adjusting its cost recovery mechanisms so that project applicants provide a more appropriate share of the BLM’s up-front costs for processing these applications. Finally, the BLM is implementing several changes to

focus leasing on areas with fewer resource conflicts. The BLM’s final rule will be the first comprehensive update to the Federal onshore oil and gas program’s regulatory framework since 1988.” The rule takes effect June 22, 2024. [Read more.](#)

Interior Department Bans Oil and Gas Drilling on 13.3 million acres in the National Petroleum Reserve

– Alaska. On April 19, the Biden administration finalized rulemaking that will making 13.3 million acres off limits to oil and gas drilling in the National Petroleum Reserve – Alaska (NPR-A). “I am proud that my Administration is taking action to conserve more than 13 million acres in the Western Arctic and to honor the culture, history, and enduring wisdom of Alaska Natives who have lived on and stewarded these lands since time immemorial,” President Joe Biden said in a statement. He said the decision was part of his administration’s push to “meet the urgency of the climate crisis.” [Read more.](#) The Interior Department’s Bureau of Land Management (BLM), which manages the NPR-A, said the “majority of the area closed to oil and gas drilling was determined to be medium or low potential for discovery or development of oil and gas resources.” According to the Interior Department, “The final rule codifies protections for 13.3 million acres encompassed by the existing Special Areas, limiting future oil and gas leasing and industrial development in the Teshekpuk Lake, Utukok Uplands, Colville River, Kasegaluk Lagoon, and Peard Bay Special Areas – places collectively known for their globally significant intact habitat for wildlife, including grizzly and polar bears, caribou and hundreds of thousands of migratory birds. The rule also codifies existing prohibitions on new leasing in 10.6 million acres, more than 40 percent of the NPR-A, consistent with the current NPR-A Integrated Activity Plan.” [Read more.](#)

Interior Department/BLM Proposed Resource Management Plan and Final Environmental Impact

Statement for the Central Yukon Planning Area –

Alaska. On April 26, the Interior Department’s BLM published a *Notice of Availability for the Central Yukon Proposed Resource Management Plan/Environmental Impact Statement, Alaska* (89 Fed. Reg. 32457). According to the BLM notice, “The Central Yukon Proposed RMP/Final EIS is a comprehensive framework for future public land management actions in the Central Yukon region of Alaska. The planning area consists of about 55.7 million acres of land, including approximately 13.3 million acres of public lands managed by the BLM Central Yukon Field Office. The Central Yukon RMP will guide management of these public lands for the benefit of current and future generations as part of the BLM’s multiple-use mission. This planning effort updates management decisions for public land uses and resources, including subsistence resources, mineral exploration and development, and recreation.” The notice opens a 30-day public protest period. [Read more.](#)

New FTC Rule Bans Non-compete Agreements. On April 23, the Federal Trade Commission (FTC) voted to finalize a new rule “to prohibit employers from enforcing non-competes against workers.” According to the FTC, the agency “has determined that non-competes are an unfair method of competition and therefore violate Section 5 of the Federal Trade Commission Act; The final rule prohibits employers from entering into new non-competes with workers on or after the effective date; [and] The rule also prohibits employers from enforcing existing non-competes with workers other than senior executives.” [Read an FTC Fact Sheet here.](#) Once the rule is officially published in the Federal Register it will take effect 120 days later. [Access the complete rule here.](#) The 570-page *Non-Compete Clause Rule* “makes clear that the non-compete ban will apply to any terms or conditions that require a worker to pay a penalty for engaging in competition, including liquidated damages, forfeiture-for-competition clauses, and severance agreements that condition payment of severance on compliance with a non-compete. Notably, however, the Final Rule also explains that non-competes during a period of garden leave, in which the worker is still employed and receiving the same total annual compensation and benefits on a pro rata basis, are *not* prohibited because such an agreement is not a

post-employment restriction.” [Read more.](#) The rule also revises the definition of worker, provides limits on the ban, and provides certain exceptions. [Read a full legal analysis of the rule from law firm Pillsbury Winthrop Shaw Pittman LLP here.](#) Additional resources are [available here from law firm Jackson Walker LLP](#) as well as various news articles [here](#) and [here](#) and [here](#). Almost immediately after the rule was released, the U.S. Chamber of Commerce, and other business groups, filed suit against the FTC. In [Chamber of Commerce v. Federal Trade Commission](#) (Case No. 6:24-cv-00148), the litigants argue that the rule is “not only unlawful but also a blatant power grab that will undermine American businesses’ ability to remain competitive.” The U.S. Chamber of Commerce said, “Since its inception over 100 years ago, the FTC has never been granted the constitutional and statutory authority to write its own competition rules. Non-compete agreements are either upheld or dismissed under well-established state laws governing their use. Yet, today, three unelected commissioners have unilaterally decided they have the authority to declare what’s a legitimate business decision and what’s not by moving to ban non-compete agreements in all sectors of the economy.” [Read more.](#) Additional legal challenges are expected and we will continue to closely watch these cases for AAPL members.

FEDERAL – Judicial

Interior Department Methane Emissions

Rulemaking. On April 24, several states filed suit against the U.S. Department of the Interior challenging a recently finalized rule aimed at reducing natural gas waste from oil and gas production from leases on federal and Native American land. In *North Dakota v. U.S. Department of Interior* (Case No. 1:24-cv-00066), Texas, North Dakota, Montana, and Wyoming challenge the U.S. Bureau of Land Management (BLM) rule “requiring drillers to develop plans to detect leaks, make repairs and minimize waste of methane, a potent greenhouse gas.” The rule “also requires drillers to pay royalties for natural gas lost during methane flaring or venting if those losses are considered to have been avoidable.” [Read more about the final rule here.](#) The states argue that the BLM “rule

special session to present a new budget, which leaders are currently negotiating. A vote on the new budget is expected to take place on May 15.

New Mexico Democratic Gov. Michelle Lujan Grisham has called for a special session starting July 18.

According to her [press release](#), the special session will take up additional public safety protections. Some issues that will likely be addressed include pedestrian safety on roads and in public spaces, laws allowing courts to intervene for those who need substance abuse or mental health help and enhanced penalties for felons in possession of guns, according to [KRQE](#). The session is expected to last several days.

Signing Deadlines (by date): **Idaho** Republican Gov. Brad Little had until April 22 to act on legislation or it became law without signature. **Kentucky** Democratic Gov. Andy Beshear had until April 26 to act on legislation or it becomes law without signature. **Georgia** Republican Gov. Brian Kemp has until May 7 to act on legislation or it becomes law without signature. **Iowa** Republican Gov. Kim Reynolds has until May 20 to act on legislation or it is pocket vetoed. **Florida** Republican Gov. Ron DeSantis has 15 days from presentment to act on legislation or it becomes law without signature. **Maryland** Democratic Gov. Wes Moore has 30 days from presentment to act on legislation or it becomes law without signature. **Nebraska** Republican Gov. Jim Pillen has five days upon presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings or studies: [Indiana](#), [Maryland](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [South Dakota](#), the [Texas House](#), [Utah](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

North Dakota is filing [bill drafts](#) for the 2025 session. ■

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