

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

House Methane Emissions Hearing. On June 8, the U.S. House of Representatives Committee on Science, Space, and Technology held a hearing, *Detecting and Quantifying Methane Emissions from the Oil and Gas Sector*. The purpose of the hearing was to continue the committee's work on methane emissions which began in early 2021 in which it "initiated an investigation into methane leaks and strategies for detecting them in the oil and gas sector. The purpose of the investigation was to inform the role of the Federal research and development enterprise in reducing and quantifying methane emissions." Witnesses included various scientific experts. To access a recording of the hearing and complete witness testimony, [Read more](#).

FEDERAL – Regulatory

Interior Department; U.S. Fish and Wildlife Service Information Collection. On June 1, the Interior Department's U.S. Fish and Wildlife Service (FWS) published a notice of information collection, *Agency Information Collection Activities; Non-Federal Oil and Gas Operations on National Wildlife Refuge System Lands* ([87 Fed. Reg. 33200](#)), proposing to revise an existing collection of information to regulate non-Federal oil and gas operations on National Wildlife Refuge System (NWRS). According to the FWS, "The collection of information is necessary for the Service to properly balance the exercise of non-Federal oil and gas rights within national wildlife refuge boundaries with the Service's responsibility to protect wildlife and habitat, water quality and quantity, wildlife-dependent recreational opportunities, and the health and safety of employees and visitors on NWRS lands." The public comment period is open through August 1, 2022. [Read more](#).

BLM Bears Ear National Monument Advisory Committee – Utah.

On June 3, the Bureau of Land Management (BLM) published a *Notice of Public Meeting, Bears Ears National Monument Advisory Committee, Utah* ([87 Fed. Reg. 33829](#)). The Committee will hold virtual meetings on June 29-30, 2022, and September 13, 2022, and an in-person meeting on December 7, 2022. The Committee provides "advice and information to the Secretary of the Interior through the Director of the BLM, and to the Secretary of the U.S. Department of Agriculture (USDA) through the Chief of the USDA Forest Service, to consider for managing the Bears Ears National Monument. The 15-member committee represents a wide range of interests including local and state government, paleontological and archaeological expertise, the conservation community, livestock grazing permittees, Tribal members, developed and dispersed recreation interests, private landowners, local business owners, and the public at large." Public comments will be received at 1:30 p.m. each meeting day and the meetings are open to the public. [Read more](#).

FEDERAL – Judicial

BLM Leasing. On June 1, the U.S. District Court for the District of Columbia denied as moot motions made by intervening states and industry groups, including Wyoming, Utah, the American Petroleum Institute, and Anschutz Exploration Corp., seeking that the court reconsider a settlement agreement in a case dating back to 2016. In *WildEarth Guardians v. Haaland* (Case No. 1:16-cv-01724), plaintiff conservation groups reached a settlement with the U.S. Department of the Interior regarding certain Bureau of Land Management (BLM) leasing. The states and industry groups intervened challenging the voluntary dismissal of the case. For background, as reported by

Bloomberg Government, “The conservation groups filed multiple lawsuits after the Bureau of Land Management approved lease sales on millions of acres of public lands in Wyoming, Utah, and three other western states [and argued] BLM’s oil and gas leasing program contributes to greenhouse gas pollution [...] contending the agency had failed to address the climate impacts. The court ruled in the groups’ favor in one lawsuit in 2019 and ordered BLM to take a hard look at the climate impacts of the lease sales. The Biden administration later agreed to reconsider the leasing decisions and conduct more environmental analysis under the National Environmental Policy Act.” In dismissing the intervenors’ action, the court noted that it “understands Intervenor’s frustration with the delay and uncertainty that this litigation has caused thus far. Still, it falls short of clear legal prejudice or undue prejudice.” Although “Anschutz argued the settlement could affect its contractual rights under the leases” the court held that “there’s nothing in the settlement that requires vacatur of the leases, blocks BLM from approving applications for drilling permits, or prevents any contractual claim Anschutz brings if the agency changes course.” Further, “The agency’s decision after it completes further NEPA review isn’t a foregone conclusion and future lawsuits regarding the adequacy of future NEPA analysis and any new decisions based on it is only speculative at this time.” [Read more.](#)

Independent Contractors – Texas. On May 11, the U.S. Court of Appeals, Fifth Circuit (Texas), issued its opinion in [Hargrave v. AIM Directional Services, L.L.C.](#) (Case No. No. 21-40496), “giving a big win to energy-sector companies by concluding that a directional driller was an independent contractor rather than an employee.” Though not a case specifically about landmen, here the plaintiff was a directional driller who claimed he was misclassified as an independent contractor rather than an employee under the Fair Labor Standards Act (FLSA) and New Mexico Minimum Wage Act. In finding “that the plaintiff’s classification as an independent contractor was proper” the court applied a five-factor test to affirm the lower court ruling. As noted by national employment law firm, Littler Mendelson P.C., “Though

the decision is limited to companies operating within the Fifth Circuit’s jurisdiction, the *Hargrave* holding should be seen as a victory for drilling or related companies in the energy sector with similar employment and contracting systems in place.”

[Read more.](#)

STATE – Legislative

Worker Misclassification – Colorado. (*Update to 5/9/22 Report*) On June 3, Gov. Jared Polis (D) signed SB22-161 into law. Sponsored by Sen. Sonya Jaquez Lewis (D), the Act “updates and modifies laws pertaining to the payment of wages, employee misclassification, and workplace safety, and the enforcement procedures and remedies for violations of those laws” and specifically establishes the worker and employee unit in the Department of Law to investigate and enforce wage theft, unemployment insurance and misclassification of employees. The Act also increases employer penalties for failure to provide certain information or denying access to premises for investigative purposes. The Act has multiple effective dates. [Read more.](#)

Oil and Gas Reporting – Colorado. (*Update to 4/25/22 Report*) On June 8, Gov. Jared Polis (D) signed HB22-1361 into law. Sponsored by Rep. Andrew Boesenecker (D), the Act requires that the Office of State Auditor conduct certain audits and specified reporting of oil and gas operations in the state. The Act is effective July 1, 2022. [Read more.](#)

Orphaned Wells – Colorado. (*Update to 4/25/22 Report*) On June 2, Gov. Jared Polis (D) signed SB22-198 into law. Sponsored by Sen. Stephen Fenberg (D), the Act 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. The Act is effective July 1, 2022. [Read more.](#)

Ad Valorem Credits; Severance Tax – Colorado.

(Update to 4/25/22 Report) On June 7, Gov. Jared Polis (D) signed HB22-1391 into law. Sponsored by Rep. Julie McCluskie (D), the Act changes the calculation of the ad valorem credit allowed against the state severance tax on oil and gas. The Act is effective 90 days following session adjournment. [Read more.](#)

Eminent Domain; Storage Facilities – Louisiana.

(Update to 4/11/22 Report) On May 26, Gov. John Bel Edwards (D) signed HB 267 into law. Sponsored by Rep. Neil Riser (R), the Act amended prior law to provide “that in Caldwell Parish, persons may be prohibited from drilling through a storage facility only when the following is satisfied: (1) A period of five years has elapsed from the drilling or operation of any oil or gas well within the boundaries of the storage facility to the underground reservoir below. (2) All reservoirs that were drilled to and produced in any oil or gas well located within the boundaries of the storage facility are no longer capable of producing minerals in paying quantities.” [Read more.](#)

Orphan Well Plugging – Louisiana. *(Update to 5/31/22 Report)* On June 3, [SB 23](#) was signed into law by Gov. John Bel Edwards (D). The Act takes immediate effect. The Act provides for the deposit of monies into the Oilfield Site Restoration Fund. According to Louisiana law firm Liskow & Lewis, “Congress has dedicated \$4.7 billion to orphan well plugging, remediation, and restoration activities nationwide through the Infrastructure Investment and Jobs Act (IIJA). A substantial portion of this money will be apportioned to the various states based on each state’s capacity and ability to effectively utilize the funds to plug orphan wells.” The bill is “designed to maximize Louisiana’s share of IIJA funds by streamlining the procedures for depositing monies into the Oilfield Site Restoration Fund and then utilizing those funds quickly and efficiently.” [Read more.](#)

Remote Notarial Acts – Louisiana. *(Update to 4/25/22 Report)* On May 25, Gov. John Bel Edwards

(D) signed HB 903 into law. Sponsored by Rep. Greg Miller (R), the Act amended existing notary law to provide that a remote online notarial act is deemed to be executed in any parish where the notary is physically located. The Act is effective August 1, 2022. [Read more.](#)

Russian Oil Imports – Louisiana. On May 31, Gov. John Bel Edwards (D) signed SB 196 into law. Sponsored by Sen. Stewart Cathey (R), the Act “prohibits the importation of crude oil and petroleum products from the Russian Federation into Louisiana.” The Act takes immediate effect. [Read more.](#)

Notarial Acts – Maryland. *(Update to 3/28/22 Report)* On May 29, Gov. Larry Hogan (R) signed HB 663 into law. Sponsored by Del. Anne Kaiser (D), the Act “(1) increases the maximum fees for an original notarial act and performance of a remote notarial act; (2) repeals an exception to remote notarization provisions that applies to wills and trust instruments; (3) clarifies the application of specified requirements for credential analysis and identity proofing as they pertain to remote notarial acts; (4) establishes requirements and procedures for remote notarial acts involving a tangible record; (5) specifies procedures by which a notary public may administer an oath or affirmation to a remotely located individual; (6) authorizes the Secretary of State (SOS) to adopt regulations prescribing the methods for reasonable confirmation of a tangible record; and (7) makes clarifying changes to communication technology requirements applicable to remote notarizations. Finally, the bill specifies that the notarization of any document under the requirements of specified executive orders authorizing remote notarizations must be deemed valid if the notarization occurred during the time that the orders were in effect.” The Act took effect on June 1, 2022. Companion Senate bill, [SB 317](#), was also signed into law on May 29 and took effect on June 1, 2022. [Read more.](#)

[STATE – Regulatory](#)

Railroad Commission Rulemaking – Texas. *(Update to 5/9/22 Report)* This update reflects the May 31 amendment by the Texas Railroad Commission

(RRC) that extends the public comment deadline date. As originally reported, the RRC published proposed amendments to [16 TAC Chapter 5](#) to implement [HB 1284 \(2021 Legislative Session\)](#) regarding carbon sequestration wells at its open meeting on May 3. According to the RRC, “The proposed amendments would modify various sections of RRC rules, including those describing the applicability of the rules, application requirements, notice and hearing requirements, permit standards and reporting, recordkeeping, and more.” Leslie Savage, RRC’s chief geologist said, “Clearly, there is concern today about levels of carbon dioxide in the atmosphere and its impact on the environment. Class VI injection wells have the potential to be part of the solution by trapping the CO₂ in appropriate geologic formations. We hope our program will be able to streamline the process and allow for the timely issuing of Class VI permits.” Public comments were originally to be accepted through June 20, but the RRC amended the deadline to extend the comment period through July 1, 2022 until 5:00 pm. The [proposal is available here](#). For further questions regarding the proposed rulemaking, you may contact Kellie Martinec, Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, by email: kellie.martinec@rrc.texas.gov or rulescoordinator@rrc.texas.gov. [Read more](#).

STATE – Judicial

Well Permitting; State Regulatory Authority – Texas. (*Update to 6/10/19 Report*) On June 10, the Texas Supreme Court finally issued its ruling in the long-running case, *Dyer v. Texas Commission on Environmental Quality* (Case No. 19-1104). [Read case background here](#). As reported by *Bloomberg Law*, in affirming the appellate court opinion, the court found that the Texas Commission on Environmental Quality (TCEQ) acted within its authority in granting an oil and gas well injection permit despite the Texas Railroad Commission (RRC) withdrawing a “no harm” letter. The court held that the TCEQ did not violate the Texas Administrative Procedure Act when it granted a company a permit to drill and operate four injection wells over the Cockfield Formation in the Conroe Oil Field, north of Houston. In the case, Conroe city

officials alleged that the TCEQ overstepped its authority when it granted the permit despite the RRC rescinding the “no harm” letter. As noted by the court, Texas law requires a RRC letter to be submitted with the TCEQ permit application, verifying the prospective wells don’t harm existing reservoirs. But as the court stated, the RRC’s rescission of the letter had not yet become effective so the existing letter satisfied the law’s requirement and TCEQ made its decision with “all of the relevant evidence before it.” [Read more](#).

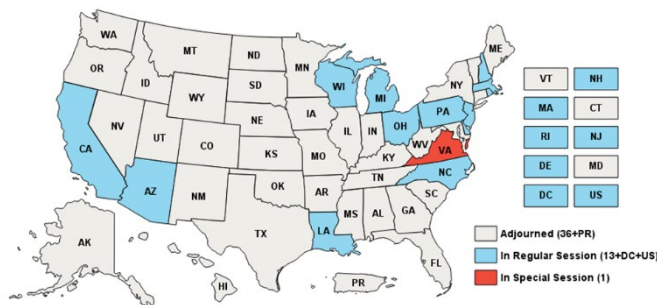
INDUSTRY NEWS FLASH

► **OPEC+ nations agree to 50% production increase.** On June 2, OPEC+ nations agreed to “increase oil output by about 50 percent for the next two months after initially standing by a 400,000-barrel release. Ministers announced an agreement to increase output in July and August by 648,000 barrels a day. The move represents a reversal after the oil-producing nations had previously refused to budge on output, even after oil prices soared following Russia’s invasion of Ukraine.” [Read more](#).

► **ExxonMobil and Chevron shareholders approve climate change proposals.** In late May, shareholders for both ExxonMobil and Chevron approved climate change related proposals. ExxonMobil shareholders approved “a proposal to examine the company’s long-term assumptions about prices and other business criteria, in light of the need to cut climate-warming emissions” and the owners of 98 percent of Chevron stock “approved a resolution to report on the reliability of the company’s measurements of methane.” [Read more](#).

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Arizona, California, Delaware, Louisiana, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, and Wisconsin are in regular session. The U.S. Congress is also in session.

The following states adjourned their 2022 legislative sessions on the dates provided: **Kansas** and **Minnesota** (May 23), **Iowa** (May 25), **Oklahoma** (May 27), **New York** (June 2), and **Louisiana** (June 6).

The **Virginia** General Assembly reconvened on June 1 to pass a two-year state budget that both cuts taxes and increases spending, reports [The Washington Post](#). The rival House and Senate bills were \$3 billion apart in March when the General Assembly tabled the bills, pushing the legislation to a special session. Legislators began the special session in April at the call of Republican Gov. Glenn Youngkin but gaveled in and out quickly as there was no compromise to vote on. The compromise budget boasts a sharp increase in the standard income tax deduction, eliminates the 1.5 percent state tax on groceries, makes 15 percent of the earned income tax credit refundable for low-income working families, and provides a five percent pay raise for teachers and state employees, delivering on many, but not all, of Governor Youngkin's priorities. The budget awaits approval and potential amendments from Governor Youngkin, and the state must have the budget in place by the start of the next fiscal year on July 1. The General Assembly originally expected to vote on other bills left over from the regular session, including a much-publicized measure to lure the

Washington Commanders football team to Virginia, but they never made it to the floor. Legislators did not formally conclude the special session, so work on those other pieces of legislation can continue.

Oklahoma lawmakers called themselves into a concurrent special session on May 18 to gain additional powers over the direction of \$1.87 billion in federal coronavirus relief funds under the American Rescue Plan Act, reports [Oklahoma Watch](#). The concurrent special session will reconvene at the call of the chair sometime in the legislative interim and can remain open after the regular session adjourns.

Oklahoma Republican Gov. Kevin Stitt held a [press conference](#) calling for a special session of the legislature on June 13 to eliminate the state sales tax on groceries and reduce the personal income tax "for all Oklahomans," reports [KFOR](#). Despite bipartisan legislation to end the state grocery tax, the final budget agreement omitted the proposals. Governor Stitt line-item vetoed two portions of the budget and criticized his exclusion from the budget negotiating process, requiring the proposals to eliminate the state sales tax on groceries be brought back to the table during the special session.

Signing Deadlines (by date): **Maryland** Republican Gov. Larry Hogan had until May 31 to act on legislation or it becomes law without signature. **Colorado** Democratic Gov. Jared Polis had until June 10 to act on legislation or it becomes law without signature. **Minnesota** Democratic Gov. Tim Walz had until June 10 to act on legislation or it is pocket vetoed. **Oklahoma** Republican Gov. Kevin Stitt had until June 11 to act on legislation or it is pocket vetoed. **Iowa** Republican Gov. Kim Reynolds has until June 24 to act on legislation or it is pocket vetoed. **Missouri** Republican Gov. Mike Parson has until June 27 to act on legislation or it becomes law without signature. **New York** Democratic Gov. Kathy Hochul has until July 2 to act on legislation or it is pocket vetoed. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, Sundays excluded, 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. **Illinois** Democratic Gov. J.B. Pritzker has 60 days from presentment to act on legislation or it becomes law without signature. **Kansas** Democratic Gov. Laura Kelly has 10 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. **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 2022 interim committee hearings: [Arkansas](#), [Colorado](#), [Connecticut](#), [Idaho](#), [Illinois House](#), [Indiana](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#). ■

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