

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

S. 2389 – Offshore Energy Security Act of 2023. On July 19, Sen. Bill Cassidy (R-LA) introduced [S. 2389](#), known as the Offshore Energy Security Act of 2023. The bill would mandate two offshore oil and gas lease sales in 2024 and two sales in 2025; provides certainty to offshore energy producers to continue investing in the United States; and preserves the value of the 5-year offshore leasing program. Regarding the latter, Sen. Cassidy says, “Despite a legal obligation to maintain an offshore leasing program, the Biden administration has delayed the finalization of the 5-Year Plan for offshore oil and gas. In doing so, they have publicly acknowledged the Bureau of Ocean Energy Management (BOEM) will not start any sale-specific environmental review—which can take up to two years—until the new 5-Year Plan is finalized in December 2023. That means the earliest an offshore oil and gas lease sale is likely to occur is some time in 2026.” Sen Cassidy added, “The Biden administration has been slow-walking offshore leases since day one. This helps OPEC+ and puts a smile on Vladimir Putin and Nicholas Maduro’s faces. What the administration is doing is against the law and increases oil prices to the delight of foreign dictators. We’re working to stop them.” [Read more.](#)

S. 2028 – Expediting Natural Gas Exports to Allies Act of 2023. On July 21, official bill text was made available for [S. 2028](#), known as the Expediting Natural Gas Exports to Allies Act of 2023. Sponsored by Sen. Marc Rubio (R-FL), the bill would “amend the Natural Gas Act to authorize expedited approval of applications to export natural gas to certain allies of the United States.” Sen. Rubio said, “Too many of our allies allowed themselves to become dangerously dependent on Russian natural gas, when American natural gas is the obviously safe and reliable

alternative. Expediting the approval of U.S. natural gas exports to allies and strategic partners is a common sense step to reduce our allies’ economic reliance on foreign adversaries while creating more jobs for Americans at home.” [Read more.](#)

H.R. 4824 – Energy Opportunities for All Act. (*Update to 6/26/23 Report*) On July 24, [H.R. 4824](#), known as the Carbon Sequestration Collaboration Act, was introduced by Rep. Jim Baird (R-IN). The bill would amend existing law to “require the Secretary of Energy to carry out terrestrial carbon sequestration research and development activities.” Specifically, the legislation would “enhance oversight of Department of Energy clean energy programs” and “authorize a program to better account for abandoned oil and gas wells.” [Read more.](#)

H.R. 4785 – Fracturing Responsibility and Awareness of Chemicals Act of 2023. On July 20, [H.R. 4785](#), known as the Fracturing Responsibility and Awareness of Chemicals Act of 2023, or FRAC Act, was introduced by Rep. Diana DeGette (D-CO). The bill would “authorize the Environment Protection Agency to regulate hydraulic fracturing to protect water resources.” According to Rep. DeGette, the bill “would close a loophole in the Safe Drinking Water Act that prevents EPA from regulating the notorious drilling process that involves injecting huge volumes of toxic chemicals deep into the ground to recover oil and natural gas, potentially contaminating the nation’s water supply and putting the public’s health at risk.” The bill is unlikely to advance out of committee in the Republican-controlled House of Representatives. [Read more.](#)

H.R. 4374 – Energy Opportunities for All Act. (*Update to 6/26/23 Report*) On July 19, [H.R. 4374](#), known as the Energy Opportunities for All Act advanced in the House Natural Resources Committee

following its introduction by Rep. Elijah Crane (R-AZ). The bill would nullify a recent Bureau of Land Management (BLM) order that blocked mineral development surrounding the Chaco Canyon National Historic Park for 20 years. For background, on June 2, the BLM announced the withdrawal of public lands surrounding Chaco Culture National Historical Park from future oil and leasing and mining. [Public Land Order No. 7923](#) “withdraws public lands within a 10-mile radius of the park for 20 years, subject to valid existing rights, and responds to decades of efforts from Tribes, elected officials, and the public to better protect the sacred and historic sites and Tribal communities currently living in northwest New Mexico.” (See *Public Land Order No. 7923 for Public Lands Withdrawal Surrounding Chaco Culture National Historical Park Boundary; San Juan, Sandoval, and McKinley Counties, New Mexico*; [88 Fed. Reg. 37266](#)) According to the BLM, the withdrawal applies only to public lands and federal mineral estate and does not apply to minerals owned by private, state or Tribal entities. It does not affect valid existing leases; during the 20-year withdrawal period, production from existing wells could continue, additional wells could be drilled on existing leases, and Navajo Nation allottees can continue to lease their minerals.” The order went into effect on June 7, 2023. [Read more.](#)

Senate Energy & Natural Resources Committee Hearing on Pipelines and Energy Production on Federal Lands. On July 26, the U.S. Senate Committee on Energy & Natural Resources held a hearing, *Full Committee Hearing to Examine Opportunities for Congress to Reform the Process for Permitting Electric Transmission Lines, Pipelines, and Energy Production on Federal Lands*, “to examine opportunities for Congress to reform the process for permitting electric transmission lines, pipelines, and energy production on federal lands.” Led by Chairman Joe Manchin (D-WV) and Ranking Member John Barrasso (R-WY), witnesses included representatives from power companies, the Petroleum Association of Wyoming, and other stakeholders. To access a full video recording of the hearing and witness testimony, [Read more.](#)

House Natural Resources Committee Hearing; Offshore Leasing Program. On July 27, the House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, held an oversight hearing titled, *Safeguarding American Jobs and Economic Growth: Examining the Future of the Offshore Leasing Program*. The hearing’s key message was that the Department of the Interior is “more than a year overdue in issuing a new five-year program for offshore oil and natural gas leasing. This delay not only jeopardizes energy investment and numerous American industries, but also allows our adversaries to take the lead in global energy production.” Witnesses included various industry stakeholders. To access a full video recording of the hearing and witness testimony, [Read more.](#)

Sen. Manchin Questions SEC Chairman over Proposed Climate Disclosure Rule. On July 19, before the U.S. Senate Appropriations Subcommittee on Financial Services and General Government, Sen. Joe Manchin (D-WV) questioned the U.S. Securities and Exchange Commission (SEC) Chairman Gary Gensler on the SEC’s proposed climate disclosure rule “that jeopardizes America’s economic and energy security” and the “insufficient time it provides for public comment.” Sen. Manchin has previously expressed “concerns with the SEC’s proposed climate disclosure rule, which would require companies of all sizes to disclose considerably more information about their carbon emissions. Senator Manchin said that the proposed rule could hinder the ‘all-the-above’ energy policy the country desperately needs, and expressed particular concern that reporting requirements could extend to small businesses down the supply chain indirectly contributing to emissions, also known as ‘Scope 3 emissions.’” SEC final climate disclosure rulemaking has been delayed multiple times by the agency in the wake of broad opposition and thousands of public comment submissions. News outlets report the final rule could be released by the end of 2023, but the SEC has yet to provide a date. [Read more.](#)

Senate Letter to U.S. Forest Service Regarding Climate Change Policies. On July 25, the Chairman of the Senate Committee on Energy & Natural

Resources, Sen. Joe Manchin (D-WV), and Ranking Member John Barrasso (R-WY), delivered a letter to the U.S. Department of Agriculture in response to advanced notice of proposed rulemaking from the U.S. Forest Service “adapting its current policies, or developing new policies, in an effort to address ‘climate resilience.’” The senators said they “have significant apprehension about this rulemaking initiative.” The senators added that “we worry that the advance notice of proposed rulemaking will only serve to create more barriers to success. Specifically, we are concerned that ‘develop[ing] new policies and actions to better anticipate, identify, and respond to rapidly changing conditions associated with climate-amplified impacts’ will add difficult-to-implement and litigation-prone complexity to internal processes that the Forest Service must undertake when preparing vital forest management projects. Likewise, it could serve to lengthen project preparation times, lead to policies that will tie the hands of land managers, and generally create more barriers to critical active management projects.” In short, the lawmakers questioned the need for more climate-related policies and requested that the Forest Service “not adapt current policies or develop any new policies that would hinder or curtail important forest management practices.” [Read more.](#)

Congressional Letter to U.S. Trade Representative Regarding Mexico Energy Policies. On July 20, congressional representatives sent a letter to U.S. Trade Representative Katherine Tai to express concern with the “Government of Mexico’s pursuit of discriminatory policies that favor state-run energy companies and directly undermine United States-Mexico-Canada Agreement (USMCA) commitments.” The lawmakers write, “These discriminatory policies exist throughout Mexico’s energy sector, including natural gas and oil exploration and production, electricity generation including solar and wind power, and retail sales. Mexico’s unfair actions threaten over \$10 billion in U.S. investment that have already been made and clearly run afoul of Mexico’s USMCA obligations. Ensuring there is a reliable market for U.S. energy production and infrastructure will help strengthen energy supply chains in North America and lower energy costs for consumers as Americans

continue to feel the impacts of volatile energy markets.” [Read more.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council Meetings –

California. On July 19, the Bureau of Land Management (BLM) published a notice of call for nominations “to request public nominations for the Bureau of Land Management’s (BLM) California Desert District Advisory Council (DAC), the Central California Resource Advisory Council (RAC), and the Northern California RAC to fill existing vacancies and member terms that are scheduled to expire. The Councils provide advice and recommendations to the BLM on public land use planning and management within their geographic areas.” One of the nomination categories includes those who “represent energy and mineral development.” Parties may self-nominate and the nomination period is open through August 18, 2023. [Read more.](#)

BLM Resource Advisory Council Meetings –

Missouri; Montana. On July 20, the BLM published a notice of call for nominations to request public nominations for the BLM’s “Missouri Basin and Western Montana Resource Advisory Councils (RACs) to fill existing vacancies, as well as for member terms that are scheduled to expire. The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.” One of the nomination categories includes those who “represent energy and mineral development.” Parties may self-nominate and the nomination period is open through August 21, 2023. [Read more.](#)

BLM Notice of Information Collection; Geothermal Resource Leases and Unit Agreements. On July 19, the BLM published a notice of information collection, *Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Geothermal Resource Leases and Unit Agreements (88 Fed. Reg. 46177)*, that seeks public input on certain information collected by the BLM that it uses “to issue geothermal leases in BLM-managed lands, and in national forests and other lands managed

by the U.S. Forest Service.” The public comment period is open through August 18, 2023. [Read more.](#)

BLM Oil and Gas Leasing Regulations. On July 24, the Bureau of Land Management (BLM) released a 300+ page proposed rulemaking, *Fluid Mineral Leases and Leasing Process* ([88 Fed. Reg. 47562](#)), that according to the BLM, would “revise the BLM’s oil and gas leasing regulations. Among other things, the proposed rule would reflect provisions of the Inflation Reduction Act pertaining to royalty rates, rentals, and minimum bids, and would update the bonding requirements for leasing, development, and production. The proposed rule would also improve the BLM’s leasing process to ensure proper stewardship of public lands and resources and would revise some operating requirements.” [Read the proposed rule here.](#) If finalized, the new rule “will increase bonding requirements, royalty rates and minimum bids for oil and gas drilling on public lands. Statements by the bureau on the proposed rules say they will lead to more responsible leasing and development processes. Critics say it’s just a step toward the elimination of oil and gas development on public lands.” William Perry Pendley, a Wyoming native who led the BLM during the Trump administration, “told *Cowboy State Daily* that despite the bureau’s claims that the rules are designed for responsible leasing, the ultimate goal is to stop oil and gas production.” Pendley says, “It’s going to increase the cost to the industry, and that gets passed onto the American people.” [Read more.](#) According to reporting in *The Hill*, the Biden administration’s proposal would “raise fees associated with drilling for oil on public lands — making it more costly to drill on lands owned by the federal government, but giving the government more cash when that drilling takes place.” However, according to BLM Director Tracy Stone-Manning, “This proposal to update BLM’s oil and gas program aims to ensure fairness to the taxpayer and balanced, responsible development as we continue to transition to a clean energy economy.” [Read more.](#) As reported by *Bloomberg Government*, “Federal onshore oil and gas royalty rates are historically consistently lower than on state-issued leases and federal offshore leases,” the Interior Department said in a statement. “The onshore royalty rate, which had been unchanged for over a century prior to Biden taking office,

will be raised to 16.67%.” The current rate is 12.5%. Regarding new bonding requirements, the new rule would raise bonds for a new oil or gas lease from the current level of \$10,000 to a minimum of \$150,000, the first increase in more than 60 years. The rule also seeks to increase the state-level blanket bond — a single bond that covers all of a company’s wells in a single state — from \$25,000 to \$500,000 and also proposes eliminating a national blanket-bond option. These changes come in part as a result of a 2019 U.S. Government Accountability Office report finding that 99% of federal oil and gas leases have bonds that fall short of the ability to pay for the full cost of orphaned and abandoned site cleanup and remediation. [Read more.](#) In addition to raising rates and fees, the rulemaking includes higher minimum bid requirements, as well as limits designed to steer development away from wildlife and cultural sites. [Read more details of the rulemaking provisions here.](#) The public comment period is open through September 22, 2023, and we urge AAPL members to make their voices heard. [Read more.](#)

BLM Oil and Gas Lease Sale – Nevada. On July 25, the BLM reported that the competitive oil and gas lease sale offering 4 parcels covering 4,720 acres in Nevada held that day received no bids. The next BLM oil and gas lease sale in Nevada is scheduled for Dec. 5, 2023. [Read more.](#)

BLM Geothermal Lease Sale – Nevada. On July 21, the BLM “opened a 30-day public comment period on four environmental assessments for 53 parcels totaling 161,503 acres across Nevada that have been nominated for a proposed statewide geothermal lease sale. The public comment period closes August 21, 2023.” All parcels included in the geothermal lease sale will be held on the EnergyNet platform on Nov. 14, 2023. [Read more.](#)

BLM Proposed Eastern Colorado Resource Management Plan. The BLM Royal Gorge Field Office has released a Notice of Availability for its Proposed Eastern Colorado Resource Management Plan and Final Environmental Impact Statement. [Read more.](#) The proposed management plan for 658,000 acres of public lands located in central Colorado, mostly along the

Arkansas River, between Salida and Cañon City, “will guide the use and management of these lands for decades to come, benefiting local communities, wildlife and the state. This BLM plan will manage wildlife, water, cultural resources, recreation areas, conservation areas, oil and gas development, road building and livestock management.” The release opens up a 30-day public protest period which ends on August 7, 2023.

[Read more.](#)

Interior Department Announces Offshore Wind Energy Lease Sale in the Gulf of Mexico. On July 20, the Interior Department announced “it will hold the first-ever offshore wind energy lease sale in the Gulf of Mexico, advancing the Biden-Harris administration’s work to deploy 30 gigawatts (GW) of offshore wind energy by 2030 and reach a carbon-free electricity sector by 2035. The areas to be auctioned on August 29, 2023, by the Bureau of Ocean Energy Management have the potential to generate approximately 3.7 GW and power almost 1.3 million homes with clean, renewable energy.” Interior Secretary Deb Haaland said, “Today’s announcement marks another historic step in the Biden-Harris administration’s efforts to create a clean energy future. By catalyzing the offshore wind energy potential of the Gulf of Mexico, we can tackle the climate crisis, lower energy costs for families and create good-paying jobs.” [Read more.](#)

U.S. Fish and Wildlife Service Rights-of-Way. On July 24, the U.S. Fish and Wildlife Service (FWS) published a proposed rule, *Streamlining U.S. Fish and Wildlife Service Permitting of Rights-of-Way Across National Wildlife Refuges and Other U.S. Fish and Wildlife Service-Administered Lands* ([88 Fed. Reg. 47442](#)), that reopens and revises a 2021 proposed rule “that would streamline our process for permitting of rights-of-way across National Wildlife Refuge System lands and other Service-administered lands. By aligning Service processes more closely with those of other Department of the Interior (DOI) bureaus, to the extent practicable and consistent with applicable law, we will reduce the amount of time the Service requires to process applications for rights-of-way across Service-managed lands. We originally proposed revisions that included requiring a preapplication meeting and use of a standard

application, allowing electronic submission of applications, and providing the Service with additional flexibility, as appropriate, to determine the fair market value or fair market rental value of rights-of-way across Service-managed lands.” The FWS proposed rule reopening the 2021 public comment period will be open through August 23, 2023. [Read more.](#)

U.S. Fish and Wildlife Service Seizure and Forfeiture Procedures. On July 25, the U.S. Fish and Wildlife Service (FWS) published a final rule, *Seizure and Forfeiture Procedures* ([88 Fed. Reg. 47808](#)), that revises FWS seizure and forfeiture regulations. According to the FWS, “These regulations establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision sets forth the procedures the Service uses for the seizure, bonded release, appraisal, administrative proceeding, petition for remission, and disposal of items subject to forfeiture under laws administered by the Service and reflects the procedures required by the Civil Asset Forfeiture Reform Act of 2000 (CAFRA) and [...] makes these regulations easier to understand using simpler language. This revision more clearly explains the procedures used in administrative forfeiture proceedings, makes the process more efficient, and makes the Service’s seizure and forfeiture procedures more uniform with those of other agencies subject to CAFRA.” This final rule is effective August 24, 2023. [Read more.](#)

U.S. Fish and Wildlife Service Lincoln National Forest Mineral Withdrawal – New Mexico. On July 21, the U.S. Fish and Wildlife Service (FWS) published a “preliminary environmental assessment (Draft EA) for a proposed mineral withdrawal in the Guadalupe Mountains. The Lincoln National Forest has submitted an application requesting the Secretary of the Interior to withdraw approximately 28,513 acres of National Forest System lands from location and entry under the United States mining laws and from leasing under the mineral leasing laws, subject to valid existing rights, for a period of 20 years.” [Read more.](#) The Draft EA details “26 threatened and endangered species in the area proposed for withdrawal that could be impacted by oil and gas drilling and mining.” The

Draft EA publishing opens a 30-day public comment period. To submit a public comment, [read more here](#). The “Department of Interior will make a final decision following that process. Should the proposal be denied by the DOI, its Bureau of Land Management would be allowed to consider proposals for exploration and extraction projects in the area.” [Read more](#).

White House Methane Summit. On July 26, the Biden administration held a White House Methane Summit that establishes a new Cabinet-level White House Methane Task Force that “will strengthen interagency and multi-stakeholder action to dramatically reduce methane emissions.” The task force “is gathering federal, state, tribal and local leaders involved in programs targeting methane emissions, as well as companies that have developed methane detection technology like optical gas imaging cameras and satellites.” [According to a White House Fact Sheet and press release](#), “The President’s Investing in America agenda is accelerating adoption of technologies and tools to address methane emissions and helping the U.S. unlock a win-win opportunity for communities and the economy.” In addition to the creation of the task force, the Summit also focused on: Detecting Emissions Using Innovative Technology; Taking Common-Sense Actions to Mitigate Methane Emissions; Responding to Emissions Events; and Leading International Efforts on Methane Management. Notably absent from the Summit were stakeholders from the oil and gas industry. “The U.S. oil and natural gas industry is responsible for, and committed to, achieving methane emissions reductions, yet is absent from the invitee list for the White House’s methane summit,” said Independent Petroleum Association of America President and CEO Jeffrey Eshelman. “Our members are committed to improving environmental performance. American producers are taking the right steps to produce energy cleanly and responsibly. We’re the envy of the world in reducing emissions and we have the cleanest air in more than two decades because of natural gas.” [Read more](#).

FEDERAL – Judicial

Interior Department; Office of Natural Resources Revenue Royalties – Texas. On July 24, the U.S. District Court for the Northern District of Texas ruled in favor of an energy company that owns and operates oil and gas platforms under federal leases off the Southern California coast. The company sought judicial review of an Office of Natural Resources Revenue (ONRR) order to pay over \$19 million in additional royalties on oil and gas produced between 2007 and 2013. In *DCOR, LLC v. U.S. Dept. of the Interior* (Case No. 3:21-CV-00120-N), the court found that the ONRR’s decision was “arbitrary and capricious in increasing royalties under the First Order and failing to address whether the audit complied with” Generally Accepted Governmental Auditing Standards (GAGAS). “While the ONRR Director may correct errors in an underlying order,” the court said, “he or she may not implement new reasoning outside of the statutory deadline.” Accordingly, the court vacated the \$2,370,400.62 in additional royalties due under the ONRR’s amended order and remanded this case back to the ONRR “for further proceedings to consider GAGAS compliance and the as-yet unaddressed arguments from DCOR’s First Statement of Reasons.” [Read more](#).

STATE – Legislative

Franchise Tax – Texas. On July 22, Gov. Greg Abbott (R) signed Special Session bill SB 3 into law. As provided by the legislature, “Current law requires taxable entities that do not owe any franchise tax due to the total revenue exemption to file a no tax due information report with the comptroller, placing an unnecessary administrative burden on the state’s small business owners.” Sponsored by Sen. Paul Bettencourt (R), SB 3 will reduce the franchise tax burden “by increasing to \$2.47 million the amount of the total revenue exemption for the franchise tax, thereby increasing the number of small businesses exempt from paying franchise taxes; and eliminating the requirement for a taxable entity that does not owe any franchise tax because of the total revenue exemption to file an information report with the comptroller, thereby reducing the administrative

burden on the state's small business owners." The Act takes effect on January 1, 2024. [Read more.](#)

STATE – Regulatory

Greenhouse Gas Emissions – Colorado. As a follow up to 2021 reporting, on July 20, the Colorado Air Quality Control Commission unanimously approved a new greenhouse gas intensity verification rule. According to the Commission, "The new rule defines how certain oil and gas facilities must calculate their greenhouse gas intensity, monitor operations to ensure compliance with intensity standards, and keep records to accurately account for emissions from their operations. The term 'intensity' refers to the ratio of a facility's amount of greenhouse gas emissions over the amount of oil and gas it produces. The rule is important because greenhouse gas emissions, like methane and carbon dioxide, cause climate change. Both environmental and industry workgroups played a major role in developing the final rule." Further, "The greenhouse gas intensity program applies to upstream oil and gas operations, which are also known as 'well sites' or 'production' facilities. The program includes two main parts: the new verification rule and greenhouse gas intensity standards. The new verification rule will ensure facilities adhere to the [greenhouse gas intensity standards adopted in 2021](#). The standards become more protective over time in accordance with the [2021 Colorado Greenhouse Gas Pollution Reduction Roadmap](#), which calls for the oil and gas industry to achieve a 36% reduction in greenhouse gases by 2025 and a 60% reduction by 2030." [Read more.](#) As reported, the intensity program – which was supported by the oil and gas industry – "will give oil and gas companies a free hand in how they reduce emissions, and will set the targeted cuts based on the amount of oil and gas produced." The rule, which considered various stakeholder interests, was "delicately balanced," according to Commissioner Curtis Rueter. "The agreement reached today is rooted in technical expertise across academia, technology providers, and industry, and will provide Colorado with a sound regulatory framework to verify greenhouse gas emissions," according to a joint statement by the

Colorado Oil and Gas Association and the American Petroleum Institute. [Read more.](#)

San Miguel County Oil and Gas Phase Out – Colorado. Following their July 5 meeting, San Miguel County Commissioners have decided "not to endorse a statewide ballot initiative that would phase out new oil, gas and fracking permits by the end of 2030." As reported, "Ultimately, the board of county commissioners decided that individual commissioners could endorse the ballot initiative but that collectively, they would not offer an endorsement given the different interests of people and livelihoods in the area." District Two Commissioner Lance Waring said, "This initiative coincides with a lot of our goals and values. On the flip side, there is a portion of the county that is oil-rich and there are some folks who would be affected." In short, the commissioners found "there were too many diverse interests represented in the county to endorse this particular ballot initiative." [Read more.](#)

Venting and Flaring – Louisiana. On July 20, the Louisiana Department of Natural Resources Office of Conservation published proposed rulemaking "to prohibit venting and flaring of natural gas except as authorized in Subpart 15. Benefits of these amendments include reducing natural gas waste and recovering reserves." [Read the proposed rulemaking here.](#) The public comment period is open through August 21, 2023. [Read more.](#) To see a comparative redline version of the proposed regulatory changes against the existing regulations, [Read more.](#)

Inactive Well Assessments – Louisiana. On July 20, the Louisiana Department of Natural Resources Office of Conservation published proposed rulemaking "to expand the applicability and amount of inactive well assessments. Benefits of these amendments include incentivizing operators to either return wells to active service or permanently abandon them which reduces the number of wells which could eventually become orphaned; increasing revenue for restoring existing orphaned sites and regulating oil and gas development to ensure protection of the environment and public safety." [Read the proposed rulemaking](#)

[here](#). The public comment period is open through August 21, 2023. [Read more](#). To see a comparative redline version of the proposed regulatory changes against the existing regulations, [Read more](#).

Emissions Monitoring – New Mexico. On July 18, the New Mexico Environment Department Air Quality Bureau announced that “a memo regarding conditional approval to use drones for OGI monitoring required under 20.2.50 NMAC (‘Part 50’) has been posted to the Air Quality Bureau’s Compliance & Enforcement webpage. [Access the memo here](#). According to the AQB, “The memo describes the conditions under which OGI monitoring may be performed using drones as a method to achieve compliance with the OGI monitoring requirements in Part 50. As long as the conditions in the memo are met, no alternative compliance plan needs to be submitted to NMED; this method is considered an approved method.” [Read more](#).

Environmental Quality Board Petition – Pennsylvania. At its July meeting, the Department of Environmental Protection Environmental Quality Board (EQB) “voted 18-0 — with one abstention — to dismiss a request from the Sierra Club and others to raise the bond amount for conventional wells. State regulators are rejecting a petition from environmentalists to increase a key cost for natural gas drillers. It’s not because they think current costs are appropriate. Trying to raise them now is against the law.” In its [recommendation to EQB on the petition](#), DEP said, “While the Department agrees the current bonding requirements for conventional oil and gas wells are insufficient, the EQB no longer has the statutory authority to take the action requested by the Petitioners. As a result, the Petition for Rulemaking must be denied.” [Read more](#).

Energy Utility Rate Increases – Wyoming. On July 17, the Wyoming Public Service Commission held a hearing to consider a proposal by Rocky Mountain Power to increase rates by more than 20 percent. As reported, “Rocky Mountain Power says rate increases are necessary to ensure reliable service even when the costs of fuels needed to heat and cool homes

spike.” Joelle R. Steward, Senior Vice President, Regulation and Customer/Community Solutions, said “the Company is facing increasing NPC [net power costs] driven by increases in regional market prices and fuel costs as well as new state and federal environmental compliance environmental requirements.” [Access the compete testimony here](#). We will keep members updated as the Commission’s process continues. [Read more](#).

STATE – Judicial

Allocation and Production Sharing Agreements; Pooling – Texas. On June 30, the Texas Court of Appeals, Third District (Austin), addressed the issue of Allocation and Production Sharing Agreements (PSAs) in [Railroad Commission of Texas v. Opiela](#) (Case No. 03-21-00258-CV) and “whether the specific facts of this case allowed for a PSA Well to be permitted under the existing standards” This appeal arose from the complaint by the Opielas “about a permit issued by the Railroad Commission of Texas to Magnolia Oil & Gas Operating LLC (collectively, Appellants) to drill a horizontal oil well from one parcel of land, through another, and into land with minerals leased in part from the Opielas. The dispute centers on the laws, regulations, and judicial and Commission decisions concerning pooling of tracts of land for purposes of oil production along with production-sharing agreements (PSAs) and allocation wells-methods of designating how to share production.” Here, the Opielas’ lease prohibited pooling “in any manner whatever” for oil production, and the Opielas did not sign a consent to pool or a PSA. Nevertheless, after a previous operator obtained an allocation-well permit, Magnolia obtained an amended permit to drill a PSA well upon the Commission’s finding that Magnolia had made a good-faith showing that it had the right to drill and operate a horizontal well in the minerals owned by the Opielas because at least 65% of their fellow interest holders had assented to share the production in some way.” The procedural history of the case shows that the “Commission denied the Opielas’ complaint that Magnolia lacked a good-faith claim to operate the Audioslave A 102H Well (the Well). The trial court reversed the Commission’s order and remanded

this cause to the Commission, concluding that the Commission erred in finding that Magnolia showed a good-faith claim of right to drill the Well. The trial court also concluded that the Commission erred in adopting and applying rules for PSA well permits, deciding that the Commission lacked the authority to review whether an applicant seeking a well permit has right under a lease or other relevant title documents to drill the Well, and failing to consider the pooling clause in the Opielas' lease." Here, the appellants argued on appeal "that existing rules adopted through formal notice-and-comment rulemaking provide an adequate framework for the Commission to issue well permits for unpooled multi-tract horizontal wells. The Commission contends that substantial evidence supported its conclusion that Magnolia was entitled to a drilling permit. Magnolia contends that the trial court erred by holding that the Commission is required to evaluate whether an operator has both a valid lease and pooling authority when drilling a horizontal well across multiple tracts. Magnolia also contends that the trial court required the Commission to exceed its jurisdiction by adjudicating disputes between private parties over the authority to drill horizontal wells." In sum, the appellate court affirmed the trial court in part, reversed in part, and sent the case back to the Commission for further proceedings. As noted by law firm Oliva Gibbs, "In short, the Court of Appeals holds that the RRC does not have the authority to 'adjudicate title' between parties. Further, the Commission was not required to account for the anti-pooling language in the Opielas' lease in making its 'good-faith' determination in favor of Magnolia. However, the Court takes a fairly narrow view of what passes for a PSA." [Read more.](#)

INDUSTRY NEWS FLASH

► **Solar and wind to supply over a third of all global power by 2030.** As reported on July 17 by *Rigzone*, "Solar and wind generation will continue increasing and supply over a third of all power by 2030, up from 12 percent currently, according to a report from RMI, a non-profit organization focused on the energy transition. Based on the organization's forecast, solar and wind could generate 12,000 to

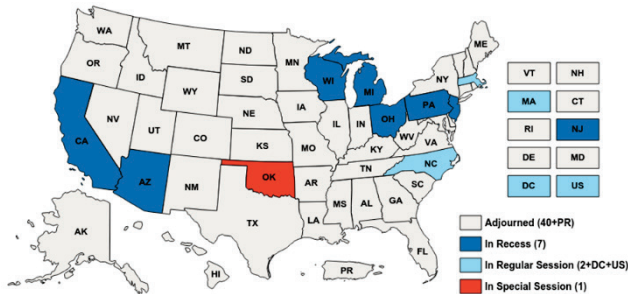
14,000 terawatt-hours by 2030, which is three to four times higher compared to 2022 levels. The projected levels would also exceed recent calls ahead of the COP28 climate summit to triple total renewable energy by 2030." [Read more.](#)

► **Environmentalist litigation stalls oil and gas drilling permits on BLM leased acres.** As reported in *Cowboy State Daily* on July 27, the "Bureau of Land Management is withholding oil and gas drilling permits on leased acres on public land, if the leased acres are in litigation. Pete Obermueller, president of the Petroleum Association of Wyoming, said the agency is doing this by its own choice. Nearly every lease and permit issued in Wyoming since 2021 has faced litigation from various anti-fossil fuel groups, he said. As a result, 2 million acres are languishing in this holding pattern awaiting court decisions that may take years." Further, the BLM "has been deferring leases in 'extraordinary numbers,' said Obermueller. As reported, "A total of 462 parcels covering more than 500,000 acres have been deferred without any explanation or guidance as to how to remove them from this limbo status." [Read more.](#)

► **Trump vows to end Green New Deal if reelected in 2024.** In a July 20 campaign video, former President Trump said that "if he returns to the White House, he would end President Biden's 'Green New Deal atrocities' on his first day." The Green New Deal, "a congressional resolution that laid out a framework for tackling climate change, has never been passed by lawmakers" but "Trump, however, uses the term more broadly to describe several Biden administration energy policies, including the Environmental Protection Agency's proposed limits on vehicle greenhouse gas emissions and the Department of Transportation's increase in fuel economy standards." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: North Carolina is in regular session. The **U.S. Congress** is out of session in the August summer recess. The **U.S. Senate** is back in regular session on September 5, 2023, and the **U.S. House of Representatives** is back in regular session on September 12, 2023. [Read more.](#)

The following states are in recess until the dates provided: **Arizona** (July 31), **California** (August 14), **Michigan** (August 22), **Wisconsin** (September 12), **Ohio** (September 13), The **Pennsylvania Senate** (September 18) and House (September 26).

The following states are currently holding 2023 interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Rhode Island](#), [South Carolina House](#), [South Dakota](#), [Tennessee](#), [Utah](#), [Vermont](#), [Virginia House](#), [Washington](#), [West Virginia](#) and [Wyoming](#). ■

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